

Lai Swee Lin Linda v Attorney-General
[2015] SGHC 268

Case Number : Originating Summons No 1246 of 2013 (Summons No 5748 of 2014)
Decision Date : 19 October 2015
Tribunal/Court : High Court
Coram : Woo Bih Li J
Counsel Name(s) : The plaintiff is in person; Zheng Shaokai, Ruth Yeo and Germaine Boey (Attorney-General's Chambers) for the defendant.
Parties : Lai Swee Lin Linda — Attorney-General

Civil Procedure – Discovery

Civil Procedure – Striking out

19 October 2015

Woo Bih Li J:

1 Summons No 5748 of 2014 (“SUM 5748/2014”) was filed by the plaintiff, Linda Lai Swee Lin (“Mdm Lai”), under Originating Summons No 1246 of 2013 (“OS 1246/2013”) on 14 November 2014 praying for the following two reliefs:

(a) That the judgment/order of Assistant Registrar James Elisha Lee (“AR Lee”) in Summons No 2297 of 2014 (“SUM 2297/2014”) be appealed against and set aside (“Prayer 1”);

(b) Discovery of the following documents (“Prayer 2”):

(i) The record of proceedings before the Appeals Board and the Public Service Commission (“PSC”);

(ii) Mdm Lai’s leave forms and forms where she had applied for courses and were approved by her superior, Liew Choon Boon (“Liew”); and

(iii) The recommendation by Mr P Ramanathan, Deputy Director (Human Resource) to Permanent Secretary, Ministry of Law, to extend Mdm Lai’s probation by a further one year.

2 The documents stated in [1(b)] above will be collectively referred to as “the Documents”.

3 SUM 5748/2014 first came before me on 26 February 2015. At that hearing, I dismissed Prayer 2. The matter was then adjourned to 14 July 2015. At the hearing on 14 July 2015, I dismissed Prayer 1. Mdm Lai has appealed against both decisions and I now set out the grounds for my decisions.

Background

4 SUM 5748/2014 arose out of a protracted and complicated legal dispute between Mdm Lai and the Government over the circumstances surrounding the termination of her employment with the Land Office of the Ministry of Law (“the Land Office”). I set out the relevant portions of the history of this

dispute.

5 Mdm Lai was appointed as a Senior Officer Grade III at the Land Office on 28 November 1996 on a one-year probationary period. This meant her probationary period was supposed to end on 27 November 1997. On 1 June 1998, Mdm Lai was informed by the then Commissioner of Lands that he would not be recommending her confirmation. Subsequently, Mdm Lai received a letter from the human resources division of the Land Office dated 19 August 1998 officially stating that she would not be confirmed in her appointment. The letter also informed Mdm Lai that her probation would retrospectively be extended for another year, *ie*, from 28 November 1997 to 27 November 1998. On 17 December 1998, Mdm Lai's services were eventually terminated by the Senior Personnel Board F constituted under the Public Service (Special and Senior Personnel Boards) Order 1994 and she was given one month's remuneration in lieu of notice. Mdm Lai then appealed to the Appeals Board on 23 January 1999, but the Appeals Board dismissed her appeal. On the advice of the Appeals Board, Mdm Lai further appealed to the PSC on 10 June 1999. However, that too was unsuccessful.

6 Dissatisfied with the outcome, Mdm Lai then filed Originating Summons No 96 of 2000 ("OS 96/2000") on 20 January 2000 for leave to bring judicial review proceedings against the PSC. OS 96/2000 eventually went up to the Court of Appeal ("CA") in Civil Appeal No 69 of 2000 ("CA 69/2000"), which held that the matters complained of involved private rights arising from the contract of employment between Mdm Lai and the Government (through the PSC) and were not susceptible to judicial review (see *Public Service Commission v Lai Swee Lin Linda* [2001] 1 SLR(R) 133). Mdm Lai was denied leave to commence judicial review proceedings.

7 Mdm Lai subsequently commenced Suit No 995 of 2004 ("S 995/2004") on 17 December 2004 against the Government for, *inter alia*, damages arising from the alleged wrongful termination of her employment contract. She also sought declarations that her purported termination was illegal, void and inoperative, and that she be reinstated as a Senior Officer Grade III. [\[note: 1\]](#)

8 Before S 995/2004 was heard, the Attorney-General took out an application to strike out certain parts of Mdm Lai's Statement of Claim in S 995/2004 because Mdm Lai attempted to re-litigate matters which had been determined in OS 96/2000. Assistant Registrar Yeong Zee Kin ("AR Yeong") heard the application and allowed it. AR Yeong's decision was substantially affirmed by Tan Lee Meng J on appeal. Mdm Lai then filed an appeal against Tan J's decision (Civil Appeal No 87 of 2005 ("CA 87/2005")). In response, the Attorney-General filed Notice of Motion No 81 of 2005 ("NM 81/2005") to set aside Mdm Lai's appeal. The CA allowed the Attorney-General's application and held that insofar as Mdm Lai's Statement of Claim pertained to judicial review, those matters had already been determined by the CA in previous proceedings and were *res judicata* (see *Lai Swee Lin Linda v Attorney-General* [2006] 2 SLR(R) 565 at [50] and [51]).

9 Mdm Lai then filed her amended Statement of Claim in S 995/2004 on 8 February 2007. However, as neither party had taken any steps in the proceedings for one year between August 2005 and August 2006, S 995/2004 was deemed discontinued pursuant to O 21 r 2(6) of the Rules of Court (Cap 322, R5, 2006 Rev Ed). At a pre-trial conference on 1 March 2007, Assistant Registrar Kenneth Yap directed Mdm Lai's amended Statement of Claim to be expunged and directed Mdm Lai to file an application to reinstate S 995/2004, failing which no further document was to be accepted for filing.

10 On 25 June 2008, Mdm Lai filed an application to reinstate S 995/2004. Her application went before Belinda Ang Saw Ean J who allowed the reinstatement (see *Lai Swee Lin Linda v Attorney-General* [2009] SGHC 38) and ordered that Mdm Lai's amended Statement of Claim filed on 8 February 2007 be allowed to stand. The Attorney-General was also directed to file and serve its Defence by 8 October 2008, which the Attorney-General complied with.

11 S 995/2004 eventually proceeded to trial before Lai Siu Chiu J on 16, 19 and 20 August 2010. On 24 November 2010, Lai J dismissed S 995/2004 on the ground that Mdm Lai's termination had been in accordance with the terms of her employment contract (see *Lai Swee Lin Linda v Attorney-General* [2010] SGHC 345 at [42]). Lai J also held that the Land Office had valid and cogent reasons for terminating Mdm Lai's employment, which were that Mdm Lai's work performance was not up to expectations and that she was unable to work well with her colleagues (at [78]–[83]). Mdm Lai did not appeal Lai J's decision. According to Mdm Lai, she did not appeal Lai J's decision because she was of the view that Lai J was biased and that the former Chief Justice was intent on covering up the full facts of what transpired in the termination of her employment such that it was "pointless to appeal". [\[note: 2\]](#)

12 About one year later, Mdm Lai filed Summons No 5332 of 2011 ("SUM 5332/2011") on 23 November 2011 for an order that the CA "reopen and rehear its earlier decisions" in relation to Mdm Lai's dispute, *ie*, CA 69/2000, CA 87/2005, and the decision of Lai J in S 995/2004. SUM 5332/2011 was heard and dismissed by Choo Han Teck J. This time, Mdm Lai appealed against Choo J's decision. On 2 April 2012, she filed Civil Appeal No 31 of 2012 ("CA 31/2012"). However, Mdm Lai failed to comply with various directions before the hearing of her appeal and the hearing of CA 31/2012 scheduled for the week commencing 13 August 2012 had to be vacated.

13 On 10 September 2012, Mdm Lai informed Assistant Registrar Shaun Leong ("AR Leong") at a pre-trial conference (for CA 31/2012) that she would comply with various outstanding directions by 17 September 2012 and another outstanding one by 24 September 2012. On 10 December 2012, AR Leong noted at a case management conference that certain directions still remained outstanding, *ie*, that Mdm Lai had failed to file four hard copies of her Appellant's Core Bundle with the Supreme Court Registry ("the Registry") and pay \$2,400 for filing that Core Bundle. He directed her to comply with these directions by 5pm on 12 December 2012 failing which CA 31/2012 "shall be struck out without any further order" ("the Unless Order"). Although Mdm Lai purported to comply with the Unless Order at about 4pm on 12 December 2012, AR Leong rejected the attempt. In his view, there were "quite a few not insubstantial discrepancies". One of the discrepancies was that the papers in the hard copies of the Core Bundle did not correspond with the papers in the soft copy of the Core Bundle which she had submitted earlier on 1 June 2012. Accordingly, CA 31/2012 was struck out pursuant to the Unless Order.

14 Mdm Lai did not appeal against the Unless Order or AR Leong's rejection of her attempt to comply with it. Her alleged reason for not doing so was similar to the reason she gave for not appealing Lai J's decision in S 995/2004, *viz*, that AR Leong was biased. She argued that this rendered his decision a "non-decision" such that there was nothing to appeal against. [\[note: 3\]](#) She also alleged that it was illogical for her to pay for a Registrar's Appeal "merely to have a chance to re-tender the [Core Bundle] and the filing fees". [\[note: 4\]](#)

15 About one year later, Mdm Lai filed OS 1246/2013 on 10 December 2013. OS 1246/2013 was addressed directly to the CA. It did not set out clear prayers for relief, but it contained the following three main parts:

- (a) The first part was entitled "the [CA] rule on the following questions of law" and was in relation to the Unless Order and Mdm Lai's dissatisfaction with it. In particular, Mdm Lai sought a declaration or ruling by the CA that AR Leong's decision to make the Unless Order, which resulted in the striking out of her appeal in CA 31/2012, was illegal, wrongful, *ultra vires* and void such that CA 31/2012 was not struck out but still alive ("Part 1"). [\[note: 5\]](#)

(b) The second part was entitled "Fundamental issues/questions of law of public interest are involved in the appeal proper" and was in relation to her dissatisfaction with the circumstances of her termination from the Land Office. In particular, Mdm Lai wished for the CA to revisit its previous decisions on the ground that they were "egregious" as the full facts of her case have not "come to light". Mdm Lai did not specify which decisions of the CA she was seeking the CA to revisit. ("Part 2"). [\[note: 6\]](#)

(c) The third part was entitled "Special circumstances for the CA to hear this application" under which she alleged that the Supreme Court had been biased. In particular, Mdm Lai sought a direction that OS 1246/2013 be heard by the CA at first instance because it was the only independent forum to hear her case and that the CA has the jurisdiction and power to do so ("Part 3"). [\[note: 7\]](#)

16 The Attorney-General then filed SUM 2297/2014 on 5 May 2014 to strike out OS 1246/2013 in its entirety under O 18 r 19(1) of the Rules of Court (Cap 322, R 5, 2014 Rev Ed) ("Rules of Court"). On 31 October 2014, AR Lee struck out OS 1246/2013 in its entirety because it disclosed no reasonable cause of action; was scandalous, frivolous and vexatious in that it raised baseless allegations of bias against the Supreme Court and its officers; and/or was otherwise an abuse of the process of the court in its attempt to re-litigate matters which are *res judicata*.

17 On the same day, *ie*, 31 October 2014, the Attorney-General filed Originating Summons No 1014 of 2014 ("OS 1014/2014") under s 74 of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed) for orders that Mdm Lai shall not commence legal proceedings against the Government without the leave of the High Court with respect to matters arising from and/or connected with, *inter alia*, Mdm Lai's termination of employment from the Land Office.

18 Mdm Lai then filed SUM 5748/2014, *ie*, the present application, on 14 November 2014.

19 For ease of reference, I have summarised the abovementioned proceedings in Schedule A attached to my grounds of decision.

My decision on Prayer 2

20 I heard Prayer 2 first since Mdm Lai was suggesting that she needed discovery of the Documents for OS 1246/2013 which had been struck out. Mdm Lai made the following arguments in support of Prayer 2:

(a) The record of proceedings before the Appeals Board and the PSC were documentary proof that Mdm Lai was denied the opportunity to be heard and had no opportunity to meet the allegations against her, and therefore her employment was wrongfully terminated; [\[note: 8\]](#)

(b) Mdm Lai's leave forms and forms where she had applied for courses which were approved by Liew were documentary proof that, contrary to the Attorney-General's argument in S 995/2004, she was never downgraded and Liew was her superior; [\[note: 9\]](#)

(c) The recommendation by Mr P Ramanathan to the Permanent Secretary of the Ministry of Law to extend Mdm Lai's probation by one year was documentary proof that there were serious irregularities and breaches of the Public Service Instruction Manual; [\[note: 10\]](#)

(d) The Attorney-General had breached its discovery obligations in not producing the

Documents in S 995/2004; [\[note: 11\]](#) and

(e) Mdm Lai will not have “the opportunity to be heard” for OS 1014/2014 if she was deprived of the Documents. [\[note: 12\]](#)

21 In response, the Attorney-General made the following arguments:

(a) By virtue of AR Lee’s order to strike out OS 1246/2013, there was no valid or pending cause or matter under O 24 r 1 or r 5 of the Rules of Court for Mdm Lai to seek discovery under; [\[note: 13\]](#)

(b) Prayer 2 was an abuse of process because it seeks to raise matters which were *res judicata*; [\[note: 14\]](#)

(c) The Documents were neither necessary for the fair disposal of the matter nor the saving of costs; [\[note: 15\]](#)

(d) The Attorney-General had not breached any of its discovery obligations in the prior legal proceedings;

(e) Mdm Lai had numerous opportunities to file a specific discovery application in relation to the Documents but had not done so until now; [\[note: 16\]](#) and

(f) In any event, the Documents are not relevant to OS 1246/2013.

22 It was apparent from Mdm Lai’s arguments that the reason why she sought the Documents was so she could address issues and matters that arose in CA 69/2000 and S 995/2004. In my view, Mdm Lai’s application for discovery was bound to fail.

23 First, it was improper for Mdm Lai to seek discovery of the Documents in OS 1246/2013 when her real motive was to address issues and matters that were raised in CA 69/2000 and S 995/2004. If she was of the opinion that the Documents were necessary for the disposal of CA 69/2000 and S 995/2004, then she should have applied for discovery in those proceedings. However, she had not done so and it was not open to her to do so through a completely different route, *ie*, OS 1246/2013.

24 Second, the issues and matters that Mdm Lai was seeking to address with the Documents were, contrary to Mdm Lai’s arguments, comprehensively and finally dealt with by the CA and the High Court respectively and are caught by the doctrine of *res judicata* (see *Lee Tat Development Pte Ltd v Management Corporation Strata Title Plan No 301* [2009] 1 SLR(R) 875 (“*Lee Tat 2009*”) at [58]). With respect to CA 69/2000, the CA held that Mdm Lai’s claims for, *inter alia*, wrongful termination were not susceptible to judicial review. With respect to S 995/2004, Lai J considered and dismissed Mdm Lai’s claims based on contract. Mdm Lai did not appeal against Lai J’s decision. If Mdm Lai needed the Documents in order to bring an appeal, that would be a separate question. Presently, Mdm Lai’s application for discovery was faced with the insurmountable hurdle of *res judicata* and it therefore failed.

25 In any event, the Documents sought by Mdm Lai were not relevant to her prayers set out in OS 1246/2013. As mentioned at [15] above, OS 1246/2013 could be divided into three main parts.

26 Part 1 dealt with the issue of the Unless Order. Mdm Lai alleged that she had substantially

complied with the directions in CA 31/2012 and invited the CA to decide whether the Unless Order contravenes the Supreme Court Practice Directions, whether AR Leong was biased, had abused his power and the court process in making the Unless Order, and whether the Unless Order was illegal, wrongful, *ultra vires* and void. It appeared to me that the crux of Part 1 of OS 1246/2013 was Mdm Lai's dissatisfaction with the Unless Order and AR Leong's decision to reject her attempt to comply with the order. The appropriate course of action for Mdm Lai to take would have been to file an appeal and not take out an originating summons almost one year later to invite the CA to answer certain "questions of law". If she needed the Documents to support that appeal, then she should have applied for discovery in the appeal proceedings. In any event, the Documents sought by Mdm Lai, which pertained to her employment at the Land Office and the termination thereof, were completely irrelevant to any purported appeal against AR Leong's decisions.

27 Similarly, the Documents sought by Mdm Lai were not relevant to the issues she raised in Part 3 of OS 1246/2013. Part 3 dealt with Mdm Lai's allegations that the Supreme Court was biased against her. Specifically, she alleged that the Attorney-General was allowed four years to file its Defence in S 995/2004 whereas she was disallowed even a few days to comply with the directions in CA 31/2012, which resulted in her appeal being struck out. Furthermore, her actions were dismissed or struck out multiple times by the Supreme Court. She claimed that this was evidence of the Supreme Court's bias against her. She also raised conflicts of interests with certain judges of the Supreme Court. In my view, documents pertaining to her employment at the Land Office and the termination thereof would not have assisted her case in any manner in this regard.

28 Part 2 dealt with issues that arose out of Mdm Lai's termination of employment from the Land Office. I have already mentioned that these issues were *res judicata* and cannot be re-litigated.

29 Furthermore, Mdm Lai had a number of opportunities to make an application for specific discovery of the Documents but she chose not to do so until the present summons. During a pre-trial conference for S 995/2004 held on 17 March 2010, an assistant registrar had informed Mdm Lai that if she wanted discovery of the Documents, she had to make a formal application under O 24 r 5 of the Rules of Court. [\[note: 17\]](#) In a case management conference ("CMC") for OS 1246/2013 on 21 May 2014, Mdm Lai was similarly informed by an assistant registrar to file an application for discovery before the next CMC. However, Mdm Lai did not do so in either case. She even confirmed at the next CMC for OS 1246/2013 that she would not be filing any specific discovery application. [\[note: 18\]](#)

30 I also accepted Ms Boey Yi Ling Germaine's assertion in her affidavit that, contrary to Mdm Lai's allegation, there was no previous court order requiring the record of proceedings before the Appeals Board and the PSC to be disclosed. [\[note: 19\]](#)

31 For the above reasons, the Documents do not assist Mdm Lai as the issues for which she sought discovery of the Documents were *res judicata*. I therefore dismissed Prayer 2.

My decision on Prayer 1

32 Prayer 1 of SUM 5748/2014 was essentially an appeal by Mdm Lai against AR Lee's decision in SUM 2297/2014 to strike out OS 1246/2013 in its entirety.

33 Mdm Lai made the following arguments:

- (a) The CA had the jurisdiction and power to hear OS 1246/2013 because the merits of Mdm Lai's claim had not been determined in CA 69/2000. The CA had dismissed her claim without a

hearing on the merits and this amounted to a breach of natural justice; [\[note: 20\]](#)

(b) The issues raised in Part 2 of OS 1246/2013 were not *res judicata*; [\[note: 21\]](#)

(c) Mdm Lai's amended Statement of Claim in S 995/2004 contained clauses and sentences pertaining to judicial review which were not struck out by the Attorney-General. Hence, her judicial review claim was still alive; [\[note: 22\]](#) and

(d) Mdm Lai did not appeal Lai J's decision because she was of the view that Lai J was biased and this rendered the decision a "non-decision". [\[note: 23\]](#)

34 In response, the Attorney-General argued as follows: [\[note: 24\]](#)

(a) Prayer 1 was not an appeal because O 56 r 1(2) of the Rules of Court required an appeal to be brought by way of a Notice in Form 112 and not by way of a summons; [\[note: 25\]](#)

(b) The CA was not seized of jurisdiction to hear OS 1246/2013 and as such the entire originating summons did not disclose any reasonable cause of action;

(c) Part 1 of OS 1246/2013 was entirely unsustainable and/or an abuse of process as AR Leong had the power to make the Unless Order. Even if Mdm Lai wanted to challenge the AR's decision, the proper procedure would have been to file an appeal;

(d) Part 2 of OS 1246/2013 was an abuse of process as Mdm Lai was attempting to re-litigate matters which were *res judicata*; and

(e) Part 3 of OS 1246/2013 was scandalous, frivolous and/or vexatious as it raised irrelevant and unfounded allegations in support of Mdm Lai's request to have the OS heard by the CA.

35 It is true that an appeal against an assistant registrar's decision should not be brought by way of summons. However, in the present case, Mdm Lai only did so because she was instructed by the Registry to do so. The reason for the Registry's direction was that OS 1246/2013 was filed directly to the CA. This meant that strictly speaking, an assistant registrar should not be hearing SUM 2297/2014. Consequently, a registrar's appeal could not be filed as well. It was with this consideration in mind that the Registry directed Mdm Lai to file a summons instead to appeal against the decision of AR Leong, which would eventually be fixed before a judge of the High Court. Therefore, despite Mdm Lai's appeal being brought by way of summons, I proceeded to consider her appeal.

36 It must be remembered that Mdm Lai was applying for the CA to hear OS 1246/2013 at first instance. The CA in *Re Naplon Zero Geraldo Mario* [2013] 3 SLR 258 ("*Re Naplon Zero*") at [14]–[15] reiterated that the CA is a creature of statute and can only be seized of jurisdiction that is conferred by statute. In this regard, s 29A(1) of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed) ("SCJA") provided as follows:

Jurisdiction of Court of Appeal

29A.—(1) The civil jurisdiction of the Court of Appeal shall consist of *appeals from any judgment or order of the High Court* in any civil cause or matter whether made in the exercise of its original or of its appellate jurisdiction, subject nevertheless to the provisions of this Act or any other written law regulating the terms and conditions upon which such appeals may be brought.

[emphasis added]

Further, in *Au Wai Pang v Attorney-General and another matter* [2014] 3 SLR 357, the CA held that “none of the provisions in the SCJA [conferred] *original* jurisdiction on the [CA]” [emphasis in original]. The CA was only seized of jurisdiction when there was an “[appeal] from any judgment or order of the High Court”. As there was no “judgment or order of the High Court” that Mdm Lai was presently appealing, the CA did not have the jurisdiction to hear OS 1246/2013.

37 Mdm Lai relied on the following passage from the CA’s decision in *MCST Plan No 301 v Lee Tat Development Pte Ltd* [2011] 1 SLR 998 (“*Lee Tat 2011*”) at [55] to argue that the CA had jurisdiction to hear OS 1246/2013:

In our view, the CA *has* inherent jurisdiction to reopen and rehear an issue which it decided in breach of natural justice as well as to set aside (in appropriate cases) the whole or part of its earlier decision founded on that issue. If the CA (or, for that matter, any other court) has decided an issue against a party in breach of natural justice, it cannot be said that the CA was fully apprised or informed at the material time of all the relevant considerations pertaining to that issue, and, therefore, the CA cannot be said to have applied its mind judicially to that issue. In other words, the CA would not have exercised its jurisdiction properly *vis-à-vis* that issue, and, therefore, it cannot to be said to be *functus officio* in the sense of having exhausted its power to adjudicate on that issue. Nothing in the SCJA prescribes for this situation, and we see no justification to circumscribe the inherent jurisdiction of this court (which would be the effect if we were to rule that the CA has no inherent jurisdiction to reopen an issue which it decided in breach of natural justice) as that could potentially result in this court turning a blind eye to an injustice caused by its own error in failing to observe the rules of natural justice. [emphasis in original]

However, this passage was clarified by the CA subsequently in *Re Naplon Zero* at [36]:

... we also note that the Singapore cases which have used the phrase “inherent jurisdiction” are in fact referring to the exercise of an inherent power. For example, in *MCST Plan No 301 v Lee Tat Development Pte Ltd* [2011] 1 SLR 998, this court held that it had the “inherent jurisdiction” to reopen and rehear an issue that it had decided in breach of natural justice as well as to set aside the whole or part of its earlier decision founded on that issue. In law, this was no more than an instance of a court re-examining a matter that it originally had jurisdiction to hear. It can be viewed as a continuation of the earlier proceedings. Therefore, since it was already seized of the jurisdiction required to determine the dispute, it would be inaccurate to state that the court had to invoke an inherent “jurisdiction” to give the authority to determine the dispute. In fact, what the court had to do was to invoke an inherent “power” to reopen and rehear the issue, since such a power was not provided for statutorily.

Mdm Lai’s reliance on *Lee Tat 2011* was therefore incorrect. *Re Naplon Zero* made it clear that the passage in *Lee Tat 2011* was referring to an *inherent power* of the CA to reopen and rehear an issue which it had previously decided. The CA could only exercise this inherent power when it had been seized of the jurisdiction required to determine the issue. As already mentioned, the CA did not have the jurisdiction to hear OS 1246/2013 at first instance.

38 Even if the CA could seize jurisdiction such that it could exercise its inherent power to reopen and rehear an issue that it decided in breach of natural justice, I did not accept Mdm Lai’s argument that the CA had decided CA 69/2000 and NM 81/2005 in breach of the rules of natural justice because there was no hearing on the merits. Although it is true that there was no hearing of the

merits in those instances, this was because the CA was of the view that her claim did not lie in administrative law and denied her leave to bring judicial review proceedings under O 53 r 1 of the Rules of Court. In other words, there was simply no merit to be heard with respect to Mdm Lai's claim in judicial review. In any event, the CA did not have the jurisdiction to hear OS 1246/2013 at first instance, and on this basis alone, OS 1246/2013 should be struck out in its entirety under O 18 r 19(1)(d) of the Rules of Court. Nonetheless, I proceeded to consider the three parts of OS 1246/2013 and whether any or all of them should be struck out.

39 With respect to Part 1 of OS 1246/2013, I agreed with AR Lee that AR Leong's decisions to make the Unless Order and to reject her attempt to comply with the order were *prima facie* valid. If Mdm Lai was dissatisfied with that decision, the proper course of action for her was to file an appeal to a judge of the High Court under O 56 r 1 of the Rules of Court. If the time to appeal had lapsed, Mdm Lai ought to have applied for an extension of time to file a notice of appeal. Mdm Lai had also not provided any valid reason for filing OS 1246/2013 instead of a registrar's appeal. Therefore, I was of the view that Part 1 should be struck out under O 18 r 19(1)(d) of the Rules of Court.

40 With respect to Part 2 of OS 1246/2013, I was of the view that the issues raised therein were subject to the principle of *res judicata*. Mdm Lai's argument, as I understood it, was that the CA's decision in CA 69/2000 and NM 81/2005 contained an egregious error (insofar as they held that the matters Mdm Lai complained of were not susceptible to judicial review) and on the authority of *Lee Tat 2009*, the issues raised in Part 2 of OS 1246/2013 were therefore not *res judicata*.

41 The exception to the principle of *res judicata* as enunciated in *Lee Tat 2009* (at [78]) and clarified in *Lee Tat 2011* (at [95]–[100]) was that there must be "special circumstances" that justified such a departure. The CA in *Lee Tat 2009* emphasised at [78] that "it will be rare for the ... exception to be invoked successfully as it would be difficult to establish that any judicial error by itself would qualify as 'special circumstances' which justify a departure from the doctrine of issue estoppel".

42 In my view, there were no special circumstances which justified departing from the principle of *res judicata* in this case. Insofar as the issues raised in Part 2 related to Mdm Lai's claim in judicial review, the CA had already ruled in CA 69/2000 that her claim did not lie in administrative law and that judicial review was not available. This was again confirmed by the CA in NM 81/2005. The position remained the same regardless of whether Mdm Lai's amended Statement of Claim contained sentences and clauses pertaining to her judicial review application. Insofar as the issues raised in Part 2 related to Mdm Lai's claim in contract, Lai J had already decided the claim in S 995/2004. If Mdm Lai was unhappy with the result in S 995/2004, the proper course would be for her to apply for an extension of time to file an appeal. I did not accept Mdm Lai's reason for not appealing Lai J's decision, *viz*, that Lai J was biased. Even if it were true that Lai J was biased, which I did not accept, Mdm Lai's recourse would have been to file an appeal. She did not. She later alleged that she saw no point in filing an appeal as she was of the view that Lai J was acting under instructions from the former Chief Justice who was also biased because he was allegedly a member of the Senior Personnel Board F when Mdm Lai's services were terminated. [\[note: 26\]](#) I found such a vague reason scandalous and without merit. There was no objective evidence that the former Chief Justice was a member of the Senior Personnel Board F. Even if he had been appointed as a member, this did not in itself mean that he was biased or that he was giving instructions to Lai J about S 995/2004. Indeed, Mdm Lai herself did not suggest that there was any bias in the High Court or in the CA simply because of such an appointment when she sought leave to bring judicial review proceedings against the PSC in OS 96/2000 and when she filed S 995/2004. It was only after she had lost in those two proceedings that she then suggested bias. Therefore, I was of the view that Part 2 of OS 1246/2013 should be struck out as it disclosed no reasonable cause of action, was scandalous and was an abuse of process under O 18 r 19(1)(a), (b) and (d) of the Rules of Court.

43 I note that during the period between my decision on Prayer 1 of SUM 5748/2014, ie, 14 July 2015, and the release of this grounds of decision, the CA delivered *The Royal Bank of Scotland NV (formerly known as ABN Amro Bank NV) and others v TT International Limited and another matter* [2015] SGCA 50 ("*TT International*") on 30 September 2015, its latest judgment on the exception to the principle of *res judicata* as enunciated in *Lee Tat 2009* and *Lee Tat 2011*. *TT International* was decided by the CA after I had given my decision on Prayer 1 of SUM 5748/2014. It suffices for present purposes to state that, in any event, the decision in *TT International* would reinforce my decision on Prayer 1.

44 With respect to Part 3 of OS 1246/2013, I have already mentioned that the CA did not have the jurisdiction to hear OS 1246/2013 at first instance. Furthermore, Part 3 raised multiple unfounded and baseless allegations against the impartiality of the Supreme Court and its officers. These allegations did *not* support Mdm Lai's argument that there were special circumstances to warrant the CA to hear OS 1246/2013. I rejected her allegation that the Supreme Court was biased towards the Attorney-General by allowing it four years to file its Defence in S 995/2004. The reason why the Attorney-General only filed its Defence on 8 October 2008 was because of Mdm Lai's delay in filing her amended Statement of Claim in 2007 that led to S 995/2004 being deemed discontinued (see [9] above). It was only after Ang J ordered the reinstatement of Mdm Lai's claim that the Attorney-General was directed to file its Defence, which it duly did. Further, I note that this was not the first time that Mdm Lai had sought to have the CA reopen and rehear previous decisions by the High Court and the CA. Mdm Lai had attempted to do so in her application before Choo J in SUM 5332/2011, which Choo J dismissed. Accordingly, I was of the view that Part 3 of OS 1246/2013 should be struck out under O 18 r 19(1)(b) of the Rules of Court because it was scandalous, frivolous and vexatious.

45 I therefore dismissed Prayer 1.

Conclusion

46 In summary, SUM 5748/2014 was dismissed in its entirety.

47 I did not make any order on costs in respect of SUM 5748/2014 at the time of its dismissal pending the hearing of OS 1014/2014. That has since been done. If either party wishes to make any submission on costs in respect of SUM 5748/2014, the submission is to be in writing and to be submitted within 21 days from the date of the present Grounds of Decision.

Schedule A

Case Number	Summary
OS 96/2000 7 Aug 2000 (decision)	Mdm Lai's application for leave to bring judicial review proceedings against the PSC. Outcome: MPH Rubin J allowed Mdm Lai's application partially and granted leave to her to seek the quashing order only.
CA 69/2000 29 Jan 2001 (decision)	PSC's appeal against Rubin J's decision. Outcome: appeal allowed. Judicial review not available.
S 995/2004 24 Nov 2010 (decision)	Mdm Lai's claim under her employment contract. Outcome: Lai Siu Chiu J dismissed Mdm Lai's claim.

SIC 123/2005 23 Feb 2005 (decision)	AG's application to strike out parts of Mdm Lai's Statement of Claim in S 995/2004 that pertained to judicial review. Outcome: AR Yeong Zee Kin allowed the application.
RA 66/2005 5 Apr 2005 (decision)	Mdm Lai's appeal against AR Yeong's decision. Outcome: Tan Lee Meng J substantially affirmed AR Yeong's decision.
CA 87/2005 7 Dec 2005 (decision)	Mdm Lai's appeal, <i>inter alia</i> , against Tan J's decisions in RA 66/2005.
NM 81/2005 7 Dec 2005 (decision)	Attorney-General's application to set aside Mdm Lai's appeal against Tan J's decision in RA 66/2005. Outcome: CA allowed the Attorney-General's application.
SUM 2767/2008 17 Feb 2009 (decision)	Mdm Lai's application to reinstate S 995/2004. Outcome: Belinda Ang Saw Ean J allowed the reinstatement.
SUM 5332/2011 6 Mar 2012 (decision)	Mdm Lai's application for an order that the CA "reopen and rehear its earlier decisions" in CA 69/2000, CA 87/2005 and Lai J's decision in S 995/2004. Outcome: Choo J dismissed the application.
CA 31/2012 12 Dec 2012 (appeal struck out)	Mdm Lai's appeal against Choo J's decision. Appeal was struck out pursuant to AR Leong's Unless Order.
OS 1246/2013 31 Oct 2014 (OS struck out)	Mdm Lai's application for the CA to rule of a number of questions of law in relation to, <i>inter alia</i> , the Unless Order and the termination of her employment.
SUM 2297/2014 31 Oct 2014 (decision)	The Attorney-General's application to strike out OS 1246/2013 in its entirety. Outcome: AR James Elisha Lee allowed the application.
SUM 5748/2014 26 Feb; 14 Jul 2015 (decision)	Mdm Lai's application for discovery of certain documents and her appeal against AR Lee's decision to strike out OS 1246/2013. Outcome: Woo Bih Li J dismissed her application for discovery and her appeal against AR Lee's decision.
OS 1014/2014	The Attorney-General's application under s 74 of the SCJA.

[\[note: 1\]](#) 1st Affidavit of Boey Yi Ling Germaine ("Pf's 1st Affidavit") at p 87.

[\[note: 2\]](#) Linda Lai's 8th Affidavit ("LLA8") at paras 25–29.

[\[note: 3\]](#) LLA8 at paras 51–56.

[\[note: 4\]](#) LLA8 at para 56.

[\[note: 5\]](#) Originating Summons No 1246 of 2013 ("OS 1246/2013") at paras 1(1)–1(17).

[\[note: 6\]](#) OS 1246/2013 at paras 2(1)–2(34).

[\[note: 7\]](#) OS 1246/2013 at paras 3(1)–3(30).

[\[note: 8\]](#) Linda Lai's Affidavit of Evidence in Chief in S 995/2004 ("LLAEIC") at para 142.

[\[note: 9\]](#) LLAEIC at para 152.

[\[note: 10\]](#) LLAEIC at para 181.

[\[note: 11\]](#) Linda Lai's 7th Affidavit ("LLA7") at para 122.

[\[note: 12\]](#) LLSS at para 73.

[\[note: 13\]](#) Attorney-General's Skeletal Submissions in SUM 5748/2014 dated 23 February 2015 ("AGSS-5748") at para 5.

[\[note: 14\]](#) AGSS-5748 at para 6.

[\[note: 15\]](#) AGSS-5748 at para 10.

[\[note: 16\]](#) AGSS-5748 at para 10.

[\[note: 17\]](#) Boey Yi Ling Germaine's 2nd Affidavit dated 18 July 2014 ("BYLA2") at para 8.

[\[note: 18\]](#) BYLA2 at para 8.

[\[note: 19\]](#) BYLA2 at para 8.

[\[note: 20\]](#) LLSS at para 11.

[\[note: 21\]](#) LLSS at paras 3 and 4.

[\[note: 22\]](#) LLSS at paras 19–21.

[\[note: 23\]](#) Linda Lai's 8th Affidavit at para 27.

[\[note: 24\]](#) Attorney-General's Skeletal Submissions in SUM 2297/2014 dated 25 July 2014 ("AGSS-2297") at para 5.

[\[note: 25\]](#) AGSS-5748 at para 4.

[\[note: 26\]](#) LLA8 at para 20(18).

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