IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2020] SGHC 210

District Court Appeal No 12 of 2020

Between

Ong Kian Peng Julian

… *Appellant*

And

Serene Tiong Sze Yin

… *Respondent*

JUDGMENT

[Tort] — [Defamation] — [Justification]

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Introduction

1 This is an appeal against the decision of the District Judge ("the DJ") in *Ong Kian Peng Julian v Serene Tiong Sze Yin* [2020] SGDC 94 dismissing the appellant's claim in libel.

2 The primary focus on appeal is to examine the correctness of the DJ's key findings in her Grounds of Decision ("GD") in relation to the respondent's pleaded defence of justification *viz* whether the allegedly defamatory words were substantially true. The other pleaded defences of privilege and fair comment were abandoned at the stage of closing submissions in the proceedings below and in this appeal.

3 As a preliminary matter, the respondent had initially filed HC/SUM 20003/2020 for the appeal to be stayed pending provision of security for her costs of this appeal (in the form of payment of her taxed costs below) by the appellant. The respondent withdrew SUM 20003/2020 on the date of the appeal.[1]

Background facts

4 The main background facts are not disputed. At the material time, the appellant was a consultant general and colorectal surgeon in private practice at Julian Ong Endoscopy & Surgery,[2] and the respondent was a business development manager with Thomson Medical Centre.[3]

5 Dr Chan Herng Nieng ("Dr Chan") and the respondent were in an extra-marital relationship from about January 2017[4] till about 29 May 2018.[5] At the material time, Dr Chan was a Senior Consultant in the Department of Psychiatry at the Singapore General Hospital ("SGH").[6] Dr Chan and the appellant are close friends.[7]

6 At the point when Dr Chan and the respondent entered into a relationship, the respondent was still legally married. According to Dr Chan, the

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1 Minute Sheet (HC/SUM 20003/2020)

2 Record of Appeal ("RA") Vol III(B) at p 181 para 3

3 RA Vol III(B) at p 182 para 5

4 RA Vol III(C) at p 50 para 17

5 Defence (Amendment No. 2) at para 3(a); Reply to Defence (Amendment No. 2) at para 3

6 RA Vol III(C) at p 48 para 12

7 RA Vol III(B) at p 182 para 4

respondent had told him that she intended to divorce her then-husband.[8] Dr Chan and the respondent regularly spent time with each other during this time, and their relationship was described by Dr Chan to be "generally smooth-sailing". Dr Chan averred that despite being in a relationship with the respondent, he had no intention of settling down, and was under the impression that the respondent shared the same understanding. In the Agreed Bundle of Documents ("ABD"), the respondent exhibited various photographs, claiming that she had been invited by Dr Chan for festive celebrations, birthdays and family outings.[9] However, their relationship broke down during a trip they took together to Eastern Europe between 7 April and 25 April 2018.[10]

7 On or around 23 April 2018, whilst Dr Chan and the respondent were on vacation in Prague, the respondent suspected that Dr Chan was meeting other women. She accessed Dr Chan's phone without his knowledge and consent, and took screenshots of various WhatsApp messages between the appellant and Dr Chan in relation to the two men's sexual exploits.[11] The respondent then confronted Dr Chan about these messages.[12] According to Dr Chan, the respondent threatened to make the screenshots that she took public. She also made multiple demands of him and sent messages to harass his family members. Dr Chan stated that he wrote the respondent a formal apology, but rejected her demands when they became "extortionate".[13] On 13 June 2018, the respondent

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8 RA Vol III(C) at p 50 para 18

9 ABD 166, in RA Vol V at p 234

10 RA Vol III(C) at p 50 paras 18-20

11 Respondent's Case at paras 18-19

12 RA Vol III(C) at p 51 para 24

13 RA Vol III(C) at p 51 para 25; p 52 paras 26–28

looked for Dr Chan at SGH where they had an argument. Dr Chan claimed that the argument was recorded by the respondent without his knowledge, and annexed to complaints she later made to the Singapore Medical Council ("SMC").[14] Dr Chan made several police reports regarding the respondent's alleged behaviour, including the 13 June 2018 incident.[15] Further, the appellant also claimed that the respondent had contacted his wife via WhatsApp and Facebook, informing her about the sexual exploits of the appellant and Dr Chan with other women.[16]

8 Between 19 to 23 June 2018, the respondent sent various emails to several of Dr Chan's colleagues in SGH and in private practice. According to Dr Chan, these included at least six senior doctors at SGH, including the Head of the Psychiatry department.[17] The emails stated that the respondent had "made an official complaint" to the SMC against Dr Chan for his "professional misconduct", and attached in-text a copy of the 19 June 2018 SMC complaint.[18] The emails contained the offending words, reproduced as follows:[19]

> (a) "I found out that he has been colluding with Dr Julian Ong, a surgeon from the private practice to take advantage of other vulnerable woman patients";

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14 RA Vol III(C) at p 54 para 33

15 RA Vol III(C) at pp 52-55

16 Certified Transcript (26 December 2019) at pp 10-11; ABD 57, in RA Vol V at p 81; RA Vol III(B) at p 201 paras 77-78

17 RA Vol III(C) at p 54 para 35

18 RA Vol III(C) at p 54 para 35; pp 213-231

19 Statement of Claim (Amendment No. 1) at paras 3-4; Defence (Amendment No. 2) at para 10

(b) "I suspect Dr Chan uses his reputation as a platform, together with Dr Ong to "source" and "groom" the patients turned victims"; and

(c) "Both doctors exchanged potential patients and colleagues who are deemed to be easily taken advantage to satisfy their immoral desires".

9 These emails came to the attention of Dr Chan when some of the recipients forwarded them to him. He then informed the appellant about them.[20]

10 The respondent filed complaints with the SMC on 13 and 19 June 2018 (the "SMC complaints"). In the SMC complaints, she alleged that she suffered from many side effects after taking medication that Dr Chan had given her, and that she was addicted to the medication. She claimed that her relationship with Dr Chan had become more intimate as a result, and that Dr Chan had taken advantage of her knowing that she was emotionally unstable and under the influence of the medication. The SMC complaints also contained the offending words as reproduced at [8] above. Further, the respondent claimed in the SMC complaints that Dr Chan wrote her an apology letter (presumably the one referred to at [7] above) and offered her a compensation sum of $10,000 to settle the matter, but that she had declined the offer.[21]

11 The appellant instructed Dentons Rodyk & Davidson LLP to write a letter to the respondent dated 27 June 2018, demanding that she cease publication of defamatory allegations against him.[22] The appellant claimed that

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20 RA Vol III(C) at p 54 para 35

21 ABD 140-143, in RA Vol V at pp 197-201

22 RA Vol III(B) at p 186 para 17; pp 248-250

despite this letter, the respondent continued to send emails containing such defamatory allegations. This included one email sent to Dr Chan's colleague, one Dr P, informing Dr P that she was mentioned in the WhatsApp messages between the appellant and Dr Chan.[23]

12 The appellant commenced proceedings against the respondent in DC Suit No. 1894 of 2018 on 4 July 2018 (the "DC suit"), alleging that the offending words in the emails sent by the respondent were defamatory of the appellant.[24] The DC suit did not concern the SMC complaints. The appellant sought damages for libel to be assessed and an injunction restraining the respondent from publishing or causing to be published the offending words or other words similarly defamatory of the appellant.[25]

13 According to the appellant, the respondent continued to send emails to Dr Chan's colleagues containing defamatory allegations even after the commencement of the DC Suit.[26]

14 In the appellant's Statement of Claim, it was pleaded that the natural and ordinary meanings of the offending words were that:[27]

(a) the appellant had taken advantage of vulnerable female patients sexually;

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23 RA Vol III(B) at p 187 para 18; p 253

24 Appellant's Case at para 5; Statement of Claim (Amendment No. 1) at para 4

25 Statement of Claim (Amendment No. 1)

26 RA Vol III(B) at p 187 para 20

27 Statement of Claim (Amendment No. 1) at para 5

(b) the appellant had used his position as a doctor to "source" and "groom" vulnerable female patients to engage in sexual activities with him; and

(c) the appellant had provided Dr Chan with the contact information of female patients and colleagues with the intention that Dr Chan take advantage of those female patients and colleagues sexually.

15 The respondent did not dispute that these were the natural and ordinary meanings of the offending words.[28] As stated at [2] above, the respondent had pleaded, *inter alia*, the defence of justification.

The decision below

16 The respondent submitted no case to answer at the close of the appellant's case at trial. By doing so, the respondent adduced no further evidence to rebut the appellant's case. Her Affidavit of Evidence-in-Chief ("AEIC") was expunged from the record. Following a two-day trial, the DJ found that the respondent had succeeded in her defence of justification.

17 The DJ found the natural and ordinary meanings of the offending words to be that:[29]

(a) Dr Chan colluded with the [appellant] to take advantage of vulnerable female patients;

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28 Defence (Amendment No. 2) at para 10

29 GD at [13]

(b) The [respondent] suspected that the [appellant] and Dr Chan used their position as doctors to source for patients to have sexual activities with; and

(c) Both doctors exchanged information about patients and colleagues that they could potentially have sexual activities with.

18 The DJ, following the test as set out in *Aaron Anne Joseph and others v Cheong Yip Seng and others* [1996] 1 SLR(R) 258 at [51], found that the offending words were defamatory as they tended to lower the appellant's reputation in the estimation of right-thinking members of society.[30]

19 The DJ then found that the respondent had succeeded in her defence of justification for the following reasons. First, the appellant had sought to engage in sexual activities with the respondent, who was Dr Chan's *de facto* patient as he had supplied her with Xanax. The appellant had admitted during cross-examination that he had suggested having a foursome with Dr Chan involving the respondent. As such, the appellant and Dr Chan had sought to collude to have sexual activities with the respondent. Whether or not the appellant eventually engaged in sexual activities with the respondent did not "detract from the substance of the sting" of the offending words.[31]

20 Second, the WhatsApp messages showed that the appellant had forwarded the contact details of his patient, one 'K', to Dr Chan, for the latter to attempt to engage in sexual activities with her. The DJ relied mainly on the

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30 GD at [14] – [15]

31 GD at [20(a)]

WhatsApp messages at ABD3 and ABD43.[32] Third, the DJ referred to other screenshots of WhatsApp messages, and concluded that the appellant and Dr Chan looked for women to engage in sexual activities with.[33]

21 According to the DJ, there was "undisputed evidence" that the appellant and Dr Chan had colluded to take advantage of the respondent and at least one other female patient K. The DJ held that "taken as a whole", the WhatsApp messages involving the respondent, K, and other women, reinforced her finding that the appellant and Dr Chan had colluded to take advantage of the respondent and at least one other female patient K, and had passed the contact details of these women to each other. The offending words were therefore substantially true.[34]

22 The DJ also found that "any doctor who seeks to have sex with his patient or pass a patient to another doctor to have sex with that patient, is interacting with a vulnerable person vis-à-vis that doctor" (GD at [21]). Finally, the appellant and Dr Chan exchanged information through their WhatsApp messages of colleagues whom they could potentially have sexual activities with. These colleagues were a nurse whom the appellant claimed he engaged in sexual activities with, one Dr P and one G who were allegedly Dr Chan's colleagues, and a psychologist whom the two men discussed potentially having sexual activities with.[35]

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32 GD at [20(b)]

33 GD at [20(c)]

34 GD at [20(c)]

35 GD at [24]

The issues arising in the appeal

23 According to the appellant, the appeal ought to be allowed for the following primary reasons:[36]

(a) the DJ had wrongly adjudicated on the natural and ordinary meaning of the offending words;

(b) the DJ had wrongly found that the respondent was Dr Chan's patient and that the appellant had colluded with Dr Chan to take advantage of her;

(c) the DJ had wrongly found that the appellant had provided the contact details of his patient K to Dr Chan for Dr Chan to attempt to have sexual activities with her;

(d) the DJ had therefore wrongly found that there was undisputed evidence that the appellant and Dr Chan had colluded to try to take advantage of two patients, being the respondent and K;

(e) the DJ had wrongly found that the appellant and Dr Chan exchanged information about colleagues they could potentially have sexual activities with; and

(f) the DJ had thereby failed to recognise that the respondent had not met the burden of proof to succeed in her defence of justification.

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36 Appellant's Case at para 10

My decision

24 Just as the trial court did, the appellate court would need to assess the internal and external consistency of the appellant's case. The ABD tendered by the parties is not undisputed as the documents are agreed only as to their authenticity and not the truth of their contents. Equally, not all the evidence offered by the appellant and his witness Dr Chan was unchallenged or deemed to be indisputable.

25 The DJ relied substantially, if not entirely, on the various screenshots of WhatsApp messages in the ABD. At the outset, I note that the contexts and meanings of the WhatsApp messages were not always obvious and unambiguous. It was also not clear precisely when the various messages were sent and what their chronological order was.

26 What is clear is that all the messages that the respondent had extracted are focused on the sexual activities of the appellant and Dr Chan. There is no evidence regarding the contents of any other WhatsApp messages but it should be assumed that they are not relevant since the respondent did not deem them to be so despite taking numerous screenshots from Dr Chan's handphone. Otherwise, there would be no end to speculation as to what the other messages contained, since they have been deleted.

27 The respondent submitted that the messages are incomplete as the appellant had "destroyed the evidence", resulting in the full facts not being placed before the court.[37] However, I draw no adverse inference against the appellant for deleting these messages as this was done spontaneously in April

[37] Respondent's Case at para 90

2018,[38] well before the appellant commenced the DC suit in July 2018 (see [12] above). The appellant testified that he deleted the messages as a "knee-jerk response" when his wife called him on 25 April 2018 to question him about what was going on, and there was no reason to disbelieve his account.[39] This phone call would have taken place not long after the respondent had accessed Dr Chan's phone and taken screenshots of the WhatsApp messages implicating the appellant (see [7] above). The appellant had also adduced evidence to show that the respondent had contacted his wife on 24 April 2018 regarding his sexual exploits while the respondent was still vacationing abroad with Dr Chan.[40] Further, as stated at [26], since the respondent had not deemed the other messages to be relevant, there is no basis to draw an adverse inference against the appellant for not producing the other messages sent between him and Dr Chan.

Natural and ordinary meanings of the offending words

28 The appellant submitted that the DJ had erred by unilaterally determining the natural and ordinary meanings of the offending words, instead of adopting the version as set out at [14] above which was pleaded by the appellant and not disputed by the respondent.[41]

29 In response, the respondent submitted that the differences between the meanings of the offending words as pleaded by the appellant and what was considered by the DJ were merely a matter of semantics. Further, the court was

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38 Appellant's Skeleton Arguments at para 32

39 Certified Transcript (26 December 2019) at p 43

40 RA Vol III(B) at p 201 paras 78–79; RA Vol III(C) at p 20–22

41 Appellant's Case at para 11

not constrained to adopt the meanings attributed by the parties to the offending words. The appellant also did not contend that the meanings adopted by the DJ were incorrect, and as such, the appellate court should be slow to overturn the DJ's findings.[42]

30 The law in this area is well-settled. The court is to decide what meaning the words complained of would have conveyed to an ordinary, reasonable person using his general knowledge and common sense (*Microsoft Corp v SM Summit Holdings Ltd and another and other appeals* [1999] 3 SLR(R) 465 at [53]).

31 To succeed in the defence of justification, the sting of the charge has to be proven. As stated by the Court of Appeal in *Chan Cheng Wah Bernard and others v Koh Sin Chong Freddie and another appeal* [2012] 1 SLR 506 at [44]:

> The defendant has only to prove the "sting" of the charge, and some leeway for exaggeration and error is given. As stated by Burrough J in Edwards v Bell (1824) 1 Bing 403 at 409:
>
> > …it is sufficient if the substance of the libellous statement be justified; it is unnecessary to repeat every word which might have been the subject of the original comment. As much must be justified as meets the sting of the charge, and if anything be contained in a charge which does not add to the sting of it, that need not be justified.

32 While the court need not "engage in a meticulous examination of every word in question or every detail of fact" (*Oei Hong Leong v Ban Song Long David and others* [2005] 1 SLR(R) 277 at [94]), the defence of justification would not be made out if a defendant's attempt to show that the defamatory

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42 Respondent's Case at paras 80-83

statements are true rested "largely on unsubstantiated assertions of fact, tenuous circumstantial evidence and inferences" (see *Arul Chandran v Chew Chin Aik Victor* [2001] 1 SLR(R) 86 at [37]). The justification must "meet the sting of the charge" (*Lim Eng Hock Peter v Lin Jian Wei and another* [2009] 2 SLR(R) 1004 at [127]).

33 For the respondent to succeed in her defence of justification, she must show that the allegations contained in the offending words were substantially true. The DJ was entitled to summarise the offending words to capture the sting or the gravamen therein. I do not view her summary as a material departure from the version pleaded by the appellant.

34 With reference to whether the offending words were justified, the court must examine whether the evidence showed that (i) the appellant and Dr Chan were colluding to take advantage of (ii) other "vulnerable woman patients", (iii) sourcing and grooming these "patients turned victims", and (iv) exchanging information of patients and colleagues whom they had deemed could be easily taken advantage of.

35 The main allegation is that of "colluding … to take advantage of" "vulnerable woman patients". This would include taking preparatory steps to do so, *ie*, the respondent need only show that the appellant and Dr Chan had colluded to *attempt* to take advantage of such patients. The offending words referred to "other vulnerable woman *patients*" (emphasis added) and referred to "patients" in the plural form in all three statements. As such, the respondent would need to show that there were multiple female patients (or potential "victims") who were targeted by the appellant and Dr Chan.

36 "Colluding" in its ordinary meaning refers to deliberately conspiring,

cooperating or working together in secret, usually for deception and/or to secure unlawful gain or improper advantage. I do not accept that there was evidence of any collusion to take advantage of colleagues and I shall explain my reasons for taking this view in due course.

37 To "take advantage" of female patients in the sense that the respondent had alleged does not simply mean "looking for women to have sex". The respondent clearly linked this to exploitative and predatory behaviour involving "vulnerable woman patients", *ie*, patients who were known to the appellant and Dr Chan and who might have been deemed to be more susceptible to becoming their sex targets, such as through manipulation or grooming. Consent to sexual activity as such is not a material consideration if they had been targeted to be taken advantage of in this manner.

38 On the subject of "taking advantage" of female patients, it cannot be reasonably disputed that as doctors and professional men, the appellant and Dr Chan should not be having sexual relations with their patients, or facilitating each other in their efforts to bed women who are their patients or subordinate colleagues, such as nurses or junior doctors. It is both ethically and morally objectionable to do so, leaving aside for the moment the question of whether any of the females was in a vulnerable position such that they could be easily taken advantage of.

39 Doctors are in a position of trust in relation to *all* their patients. Whether a female patient is in a vulnerable position vis-à-vis her male doctor is fact-specific. Given the context in the present case, this involves inquiring into whether the appellant's and Dr Chan's female patients were identified through the doctors' interactions with them as patients who could be their potential sex targets, or for the purpose of one doctor passing them to the other to have sex

with.

40 The sting in the offending words lies in the appellant and Dr Chan colluding by using their positions as medical professionals to take advantage of and/or to attempt to take advantage of "vulnerable woman patients". The key issue is whether the respondent has proven the sting of this charge. In this regard, no other "woman patients" were named by the respondent apart from K and the respondent herself. I turn first to consider whether the appellant could be said to have colluded with Dr Chan to take advantage of the respondent.

Findings in relation to the respondent

41 The appellant submitted that Dr Chan had only provided medication to the respondent after she had discovered the WhatsApp messages on his phone. The respondent was therefore not a *de facto* patient at the point the messages were sent.[43] There was also no evidence that the appellant knew that Dr Chan had provided Xanax to the respondent.[44] Further, the appellant maintained that there was no meeting of minds between him and Dr Chan in relation to the WhatsApp message that allegedly mentioned a foursome involving the respondent, and therefore, they could not be said to have colluded to take advantage of her. The appellant had sent the message as a joke, whereas Dr Chan had understood the message to be a reference to the respondent's likely reaction if she saw the appellant with someone else other than his wife.[45]

42 The appellant also argued that a message which the two men did not act

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43 Appellant's Case at paras 24–26

44 Appellant's Case at paras 31–32

45 Appellant's Case at paras 19–23

upon would not justify the main charge that they had colluded to take advantage of the respondent.[46] In this regard, Dr Chan averred that he had never suggested the idea of a foursome to the respondent.[47] Finally, given that Dr Chan and the respondent were in a pre-existing relationship, it could not be the case that any sexual relations between them after Dr Chan had supplied her with medication would be construed as Dr Chan taking advantage of a vulnerable patient.[48]

43 In response, the respondent submitted that the appellant had suggested to Dr Chan that they engage in a foursome involving her.[49] She argued that she was Dr Chan's *de facto* patient as it was undisputed that Dr Chan had supplied her with Xanax. Dr Chan did not register her as a patient so that he could supply Xanax to her without leaving records of having done so. Making a finding that the respondent was not a *de facto* patient because she was not registered in the patient database would be tantamount to condoning Dr Chan's wrongful action of obtaining medication for her without leaving any records.[50] The respondent further submitted that it was in fact irrelevant whether she was a *de facto* patient at the point in time when the messages were sent, as "what matters is that the [two doctors] had an agreement to exchange sex partners".[51]

44 The messages in question involving the respondent read as follows:[52]

Dr Chan: Same girl?

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46 Appellant's Skeleton Arguments at para 18(a)

47 RA Vol III(C) at p 62 para 58

48 Appellant's Skeleton Arguments at para 18(b)

49 Respondent's Case at para 63

50 Respondent's Case at paras 65-66

51 Respondent's Case at para 98

52 ABD 37, in RA Vol V at p 54

Appellant:	Yeah Foursome just a one off
Dr Chan:	Oh man I haven't tried that
Appellant:	Hahaha
Dr Chan:	With [E]?
Appellant:	I'm really enjoying this girl Back to my old shit again Mojo back
Dr Chan:	Good good :)
Appellant:	*Anyway we can always meet one day if serene is open minded enough to see me with someone rise (sic)* *Else*
Dr Chan:	*I think she is ok with it*

(emphasis added)

45 From the objective and incontrovertible evidence, the appellant and Dr Chan were constantly scouting for sex targets. Although whether a particular patient is vulnerable remains a question of fact, presumptively every female patient of the appellant and Dr Chan could be deemed to be vulnerable if the appellant or Dr Chan should initiate steps which were clearly intended as a means to have sexual activities with the patient as the end goal. If it had been established that the respondent was Dr Chan's patient and that she was reliant on him for medical advice or medication, she was *ipso facto* vulnerable and would have been deemed to be more susceptible to Dr Chan's suggestions.

46 With respect, I do not agree with the DJ's findings in relation to the respondent. To begin with, it is not clear that there was any collusion to take advantage of the respondent. The context of the message about allegedly having

a foursome involving the respondent was explained by the appellant and Dr Chan. The appellant did not dispute that the message he sent to Dr Chan which mentioned "meet[ing] one day with serene" was a reference to a foursome, but he maintained that it was made purely in jest. Dr Chan had a more literal understanding of the appellant's message and he apparently did not see any connection to the appellant's earlier message mentioning a foursome with one 'E'. He thought that the appellant was asking him whether the respondent was "open-minded enough" to meet if he (the appellant) was with someone else other than his wife. Their explanations suggest that they could have been talking at cross-purposes and are not inherently unbelievable given the text and context of the messages.

47 Fundamentally, the DJ had adopted the premise that the respondent was indeed Dr Chan's *de facto* patient at the time, and thus saw the message taking on a different complexion. However, I do not see how the respondent can be considered to be one among the "vulnerable woman patients" since it was not established when she even became a *de facto* patient of Dr Chan. The DJ found that the respondent was a *de facto* patient on the basis that Dr Chan had prescribed her Xanax, and that he had "exercised his professional medical judgment and adhered to treatment guidelines when he assessed the suitable dosage and the number of the tablets that she should take".[53] However, *when* Dr Chan had supplied the respondent with the medication was not the subject of any express finding by the DJ. Unless the respondent was at least able to show that Dr Chan had provided her the medication before or at the time the messages were sent, the allegation that the appellant had colluded with Dr Chan to take advantage of her as a "vulnerable woman patient" cannot stand.

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53 GD at [20(a)].

48 The respondent's AEIC was expunged from the record, and there is no reliable evidence that Dr Chan had supplied her with Xanax at any time before April 2018. Dr Chan admitted to supplying her with Xanax, but maintained that this only happened after they had returned from their trip to Prague, and only after their relationship had broken down.[54] Even if the respondent had been taking Xanax since 2017 as she claimed, there was no evidence that Dr Chan was the one who supplied her with Xanax (apart from Dr Chan's admission, which related only to the period after April 2018). The respondent adduced photographs in ABD 165[55] which she claimed were "medication which Dr Chan…prescribed to [her], using his SGH staff benefits". However, I note that the photographs only show Trazodone (or Trittico) and Fluconazole in Dr Chan's name with one box indicating 22 March 2018 as the prescription date. Even so, there is no objective evidence to support her claim that Dr Chan had supplied her with either Xanax or any of these medications *before* April 2018.

49 When I queried whether there was evidence of any specific timeframe as to when Dr Chan had allegedly started giving the respondent Xanax, the respondent's counsel, Mr Ong, referred to a letter from Resilienz Clinic prepared by one Dr Thomas Lee Kae Meng ("Dr Lee") dated 4 February 2019. Mr Ong submitted that the letter states that the respondent first went for consultation at the clinic in July 2018,[56] and that she must have been taking the medication for a significant period before July 2018 in order to have developed an addiction to it. The report further states that the respondent "reported that she

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54 Certified Transcript (27 December 2019) at p 24 ln 13-21; p 25 ln 10-16

55 In RA Vol V at p 233

56 ABD 151 at para 1, in RA Vol V at p 213

had been given various medications to treat her anxiety and emotional disturbances by a psychiatrist with whom she had been embroiled in the ongoing legal proceedings". The respondent "reportedly experienced adverse reactions from these medications such as increased anxiety, headaches and amnesia".[57] I note that a subsequent letter written by Dr Lee dated 25 April 2019 in response to a request for further information is exhibited in the ABD, wherein Dr Lee gave his opinion that the respondent "developed physical dependence to Xanax during the period between mid-2017 and mid-2018".[58]

50 Mr Ong then further referred me to the SMC complaints (see [10] above), wherein the respondent had stated that she had shared with Dr Chan "last November 2017" that she was experiencing memory loss, was having suicidal thoughts, and had become more aggressive, easily agitated and restless as a result of consuming medication which Dr Chan had obtained for her. I also note that the respondent had stated in the SMC complaints that Dr Chan had prescribed her with medication at the beginning of January 2017.[59]

51 In response, the appellant's counsel, Mr Jeyaretnam SC, submitted that the court could not rely on the letter dated 4 February 2019 for the truth of its contents. Parties did not agree on the truth of the contents in the document, Dr Lee did not give evidence during the trial, and the respondent, who did not take the stand, also did not give evidence on what she had said to Dr Lee. In any event, the letter written by Dr Lee was vague, and did not state when the medications were allegedly prescribed to her by Dr Chan. The same concerns

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57 ABD 151 at para 5, in RA Vol V at p 213

58 ABD 156 at para 4(c), in RA Vol V at p 220

59 ABD 140–141 and 142–143, in RA Vol V at p 197–198, 200–201

arose in relation to relying on the SMC complaints as evidence of the truth of their contents. The statement in the SMC complaints that the respondent had informed Dr Chan in November 2017 that she was suffering from symptoms as a result of consuming medication was never agreed to by both parties and was not put to Dr Chan in the course of trial proceedings.

52 I agree with the appellant's counsel that the SMC complaints and the Resilienz Clinic letters are not evidence of the truth of their contents. The Resilienz Clinic letters were based on self-reported statements, since Dr Lee would have prepared the letters solely on the basis of the respondent's account of events. The SMC complaints similarly record the respondent's version of events. Based on the Resilienz Clinic letter, the respondent's diagnosis also took place only in July 2018. In any event, the respondent was not prepared to offer evidence or undergo cross-examination, or to call any witnesses in support of her defence. I am therefore of the view that the SMC complaints and the Resilienz Clinic letters do not aid the respondent in proving her claim that Dr Chan had supplied medication to her in 2017 or at any time before April 2018.

53 Further, there is no evidence that the appellant had known that Dr Chan had supplied the respondent with Xanax. The appellant averred that he was not aware that Dr Chan was providing medication to the respondent,[60] and there is no evidence to show that the appellant in fact had such knowledge. It could not be inferred that the appellant must have known that the respondent was Dr Chan's patient. Thus, the allegation of "collusion" between the appellant and Dr Chan to take advantage of the respondent as a female patient is also not made out.

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60 RA Vol III(B) at pp 189–190

54 Unlike all the other women who have been mentioned in the WhatsApp messages, the respondent was in a unique position. She was already in an existing intimate relationship with Dr Chan. On the available evidence, this relationship developed well before she became his *de facto* patient. Even assuming she was Dr Chan's *de facto* patient all along since 2017, she had never at any time complained about being vulnerable or being taken advantage of by Dr Chan until her surreptitious discovery of his WhatsApp messages in April 2018. Moreover, Dr Chan did not divulge any confidential personal information pertaining to the respondent which he had obtained *qua* their doctor-patient relationship. These considerations greatly attenuated her argument that she was among the vulnerable "patients turned victims". The respondent clearly considered herself to be one such victim, but apparently only when she realised that she was not Dr Chan's exclusive lover as she thought she might have been.

55 If there was any relationship of trust between Dr Chan and the respondent in the circumstances, it was not founded on the doctor-patient relationship but on their existing intimate relationship. This necessarily meant that any such relationship of trust would more likely than not have existed before the respondent could claim to be his patient. Dr Chan's decision not to register the respondent as a patient is not the subject matter of this trial even if it could be considered to be an incontrovertible breach of professional ethics.

56 In any case, taking the respondent's case at its highest, the appellant's WhatsApp message was a suggestion about a possible foursome which might involve the respondent. This standalone message was still at least one step removed from a plan between the appellant and Dr Chan which could amount to collusion to take advantage of the respondent. The idea may have been conceived by the appellant but no further deliberation or preparatory step was

taken beyond an isolated message where the appellant had bounced the idea off Dr Chan. Dr Chan may have said that he thought the respondent would be "ok with it" but no further discussions ensued and nothing else developed from this.[61]

57 Accordingly, I would respectfully disagree with the DJ's finding that the respondent was a "vulnerable female patient" whom the appellant and Dr Chan had colluded to take advantage of.

Findings in relation to K

58 I turn next to the DJ's findings in relation to K, who was the appellant's patient.[62] The appellant testified that he had passed K's contact to Dr Chan on the day that he discharged K from his clinic.[63]

59 The DJ found that ABD43 must have been an earlier set of WhatsApp messages after which ABD3 followed in chronological order. ABD43 and ABD3 read as follows:[64]

ABD43

Dr Chan:	But it still gives her enuff time to meet u wat
Appellant:	*Yup…let's see her game*
Dr Chan:	Funny how they make life Complicated for themselves …
Appellant:	I let you fuck her already. Obviously I'm ok with

61 RA Vol III(C) at p 60 para 53, p 62 para 58

62 RA Vol III(B) at p 193 para 43

63 Certified Transcript (26 December 2019) at p 45

64 RA Vol V at p 14, 65

it. Why the need to lie
But we need to meet more of these sluts leh
Have to say you haven't provided many recently bro
Better buck the fuck up
Oh btw. I'm gna get xanax 5 for myself
These few days anxiety attacks
Chest tightness

Dr Chan: I'll try bro (in response to the appellant's message to "Better buck the fuck up")

ABD3

Dr Chan: U r just too stretched ..
Can ask her for drinks instead?

Appellant: *[Contact details of K]*
Feel free to play your game
Sure (in response to Dr Chan's message "Can ask her for drinks instead?")

Dr Chan: Me? Out of the blue ask her?

Appellant: *I can recommend dilatation of her anus after her wounds heal*
She's expecting you re the property mah (in response to Dr Chan's message "Me? Out of the blue ask her?")

Dr Chan: *I can't decide to go thru the property route*

(emphasis added)

60 The appellant submitted that he and Dr Chan had no sinister or dishonourable motives in their WhatsApp exchanges relating to K. She was a property agent, and the appellant had passed on her handphone number to C ostensibly so that C could play his "low-ball" property price offer "game". The appellant had also passed K's contact details to Dr Chan with K's consent.[65] In support of her finding that the WhatsApp exchanges related to sexual activities,

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65 Appellant's Case at paras 46-47; RA Vol III(B) at p 194 para 46

the DJ had found that the appellant's suggestion in ABD3 that Dr Chan "feel free to play his game" was made after the appellant had used the word "game" in reference to sexual activities in ABD43.[66] However, the appellant argued that the DJ had wrongly linked the WhatsApp messages at ABD3 and ABD43 when they were not connected,[67] and there was no basis to infer that the word "game" used in ABD3 was used in the same context as that in ABD43.[68] The appellant contended that the reference to "anal dilatation" was merely a "bad joke", and there was no evidence to contradict the appellant's explanation.[69] Even if the DJ did not misread the messages, there was also no evidence that K was deemed to be easily taken advantage of. Dr Chan did not meet K, and there was no evidence that she would have been a vulnerable victim vis-à-vis Dr Chan should they have met.[70]

61 The respondent argued that the appellant had failed to respect doctor-patient confidentiality by releasing the contact details of K to Dr Chan. More importantly, he had done so in order to enable Dr Chan to meet K under the pretext of purchasing a property, and potentially engage in sexual activities with her. The explanation given by the appellant that the WhatsApp exchanges related to a property purchase must be rejected for the following reasons. First, sexual topics dominated the messages sent between the two men. Second, the text of the messages showed that Dr Chan and the appellant were discussing meeting up with K for sexual activities. Dr Chan's reaction asking "Me? Out of

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66 GD at [20(b)]

67 Appellant's Case at paras 34–43

68 Appellant's Case at para 51

69 Appellant's Case at para 44

70 Appellant's Skeleton Arguments at para 19

the blue ask her?" suggests that he did not in fact have any plans to purchase a property, as it would not otherwise be "out of the blue" to ask her out for drinks. Similarly, his reaction that he "can't decide to go thru the property route" showed that he did not have any intention of purchasing a property. Third, K was expecting Dr Chan to contact her regarding a property purchase only because the appellant had told K that Dr Chan would do so, as a pretext for Dr Chan to contact her to attempt to engage in sexual activities.[71]

62 The respondent further argued that K only consented to the release of her contact details because she did not know that Dr Chan and the appellant harboured improper motives. It also did not matter that Dr Chan did not eventually meet up with K, as the offending words are substantially justified on the basis that the appellant had passed K's contact details to Dr Chan for him to attempt to engage in sexual activities with her.[72]

63 Viewing the exchange of messages in context, I note that the appellant did not divulge any confidential personal information pertaining to K, such as details of her medical condition which he had obtained *qua* their doctor-patient relationship. It is fairly common knowledge that property agents advertise their services widely and their contact numbers are hardly sacrosanct or confidential information. Assuming that K is still a property agent, it would be reasonable to assume that a quick Internet search will probably enable anyone to locate her contact information.

64 I accept the appellant's submission that the DJ had wrongly linked

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71 Respondent's Case at para 58

72 Respondent's Case at paras 59–60

together the contents of the two messages in ABD3 and ABD43. On the face of the messages, they appear to be exchanges about two very different fact situations concerning different individuals. The fact that the word "game" appears in both ABD3 and ABD43 is insufficient to enable any inference that the messages are related. As stated at [25] above, the chronological order and context of WhatsApp messages, which are often abbreviated, disjointed and sometimes ungrammatical, may not always be clear. However, even if that were the case, I am not persuaded by the appellant's attempts to characterise the exchange in ABD3 as an entirely innocuous one. The "game" was allegedly about making offers for property, but this reference to the "game" was followed with purportedly joking lewd banter by the appellant about "dilatation of her anus after her wounds heal". I do not accept that this was nothing more than a meaningless and distasteful attempt at levity. It is irrelevant whether Dr Chan responded to it; the fact that he apparently did not is neither here nor there.

65 In my view, the more probable inference is that the appellant was sharing K's contact details with Dr Chan so that he could meet her to play his "game" and try his luck at getting her to have sex with him. This finds support in Dr Chan's reply that he could not decide to "go thru the property route". The explanations given by the appellant and Dr Chan in fact contradict this reply as they strenuously tried to suggest that Dr Chan was genuinely interested in meeting K as a prospective property purchaser. However, if Dr Chan had no immediate interest in any properties K was marketing (as he claimed), he could easily have said so directly. He did not. Instead, he said that he could not *decide* (whether) to "go thru the property route". This presupposes that there were *other* possible "routes" in their playbook. It could only mean that there was an existing understanding between them that meeting K via the "property route" was a convenient pretext to facilitate a possible sexual liaison. Tellingly, Dr Chan did

not say that he had *decided not to take that route*. Dr Chan's message expressing indecision suggests that he might have had second thoughts, or he might have been considering some other "route".

66 Notwithstanding that Dr Chan did not proceed to meet up with K, the DJ was not wrong in her finding. By Dr Chan showing ostensible interest in a possible property purchase, this was a mere pretext to meet K. Unlike the one-off message allegedly alluding to a foursome with the respondent, there had already been prior discussions about Dr Chan taking the "property route", as shown clearly from the appellant's remark that K was "expecting [Dr Chan to contact her] re the property". The appellant had also told K that Dr Chan would contact her. It followed that the "game" they spoke so knowingly of was not being explored for the first time. It would have involved Dr Chan making a 'low-ball' offer for property, and the likely inference was that this "property route" was part of a strategy to meet and seduce more "sluts" (a term used in their text messages at ABD43 and ABD51[73]) by first setting up the charade of Dr Chan being a genuine property purchaser who was prepared to make some offer as an expression of interest.

67 Dr Chan took no further steps to try to meet K but this does not change the intent and complexion of the appellant's seeded idea – which was for Dr Chan to use the "property route" as a means to an end. On top of seeding the idea, the appellant gave Dr Chan her contact information and seemingly egged him on to act on the idea. In short, K was being set up by the appellant for Dr Chan's possible benefit.

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[73] In RA Vol V at pp 65, 73

68 The appellant's act of giving Dr Chan K's contact for Dr Chan to try his luck through the "property route" was, in my view, correctly assessed by the DJ as being tantamount to colluding to take advantage of K. It did not matter that K consented to the appellant, her doctor, giving Dr Chan her contact information as she must have thought that this was intended for a completely different and legitimate purpose.

69 In my assessment, it was undoubtedly unscrupulous and impermissible for the appellant to try to target K, his former patient, in this manner with full knowledge that she was a property agent who would be ready and willing to meet potential clients. I do not accept the appellant's argument that K was not a "vulnerable woman patient" merely because the doctor-patient relationship between the appellant and K had ended, and I do not agree that K was not vulnerable vis-à-vis Dr Chan. Neither does it matter that Dr Chan did not eventually meet up with K. That said, the DJ's holding at [21] of her GD (see [22] above), which leads to the conclusion that any patient would be vulnerable vis-à-vis her doctor, is perhaps an overstatement. Vulnerability is a fact-specific assessment and the facts and context in each case have to be examined to determine whether a particular patient was a "vulnerable woman patient" targeted by the appellant and/or Dr Chan.

70 In these circumstances, K was vulnerable since the appellant had previously interacted with her and, knowing her vocation, must have assessed that she would be more susceptible to being set up for a meeting with Dr Chan. She would hence become easy prey for Dr Chan to work his charms on, through the "property route". K was thus vulnerable vis-à-vis the appellant, and the appellant's attempt to set up a meeting for her with Dr Chan was driven by an ulterior and insidious motive. The appellant, by passing K's contact to Dr Chan and discussing means by which he could meet up with K for sexual activities,

had colluded with Dr Chan in an attempt to take advantage of a female patient.

71 The appellant's argument that K was not a vulnerable patient because she was not vulnerable vis-à-vis Dr Chan cannot hold: the offending words state that Dr Chan and the appellant had *colluded* with each other to take advantage of patients and had exchanged the contact details of such patients. The patient in question would be vulnerable vis-à-vis her own doctor if the factual circumstances support such a finding, and the offending words made out because there was collusion between the two men to take advantage of the said patient. By the appellant's logic, no patient that one doctor aided the other to meet with the aim of engaging in sexual activities would be deemed vulnerable. That K was no longer a patient of the appellant also did not assist him. The appellant had gotten to know K, obtained her contact details, and assessed her suitability as a target by virtue of his status as her doctor. He had also passed on K's contact details to Dr Chan on the day that he discharged her, and he could not possibly argue that the nexus between his knowledge of K and the doctor-patient relationship had already been extinguished.

72 Assuming that K had actually gone on to meet Dr Chan through the "property route" and eventually agreed to have sex with him, it would still mean that this must have arisen only because the appellant and Dr Chan had colluded for Dr Chan to take advantage of K. The appellant had suggested targeting K and had given Dr Chan her contact details, knowing that K would not be likely to refuse to meet Dr Chan. Meanwhile, K would have remained blissfully unaware that Dr Chan's only objective was sex and not a property purchase. Given the context, K was vulnerable. She would have been deceived into meeting Dr Chan who was masquerading as a bona fide purchaser. Even if she had consented to have sex with Dr Chan, such consent would not make her any

less vulnerable vis-à-vis the appellant.

73 Fortuitously for Dr Chan, for reasons best known to him, he apparently did not traverse the "property route" or any other route to meet K. It may well be that he simply ran out of time to act on the idea after the respondent had accessed his handphone and seen the various WhatsApp messages.

74 I agree with the DJ that there was justification in the instance where K was targeted. There was evidence that the appellant and Dr Chan had colluded to try to take advantage of her. In terms of the respondent's defence, I view this as partial justification at best given that the offending words refer to "other vulnerable woman patients" (*ie*, in the plural form). The sting of the offending words is primarily that the appellant and Dr Chan had abused their positions of trust to take advantage of vulnerable female *patients*, and the nature and extent of the allegations made against the appellant and Dr Chan would no longer be *substantially true* if the evidence shows that only *one* such patient had been targeted.

75 The respondent submitted that if she could show that the offending words were justified in respect of K, it would be enough for her to succeed in her defence of justification. This is because the passing of a patient's information to a third party for the purposes of engaging in sexual activities is the "most serious" of the offending words.[74]

76 However, either the offending words are *wholly* justified because what was said is substantially true, or not at all. There must be evidence of more than

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[74] Respondent's Skeletal Submissions at para 17

one patient who had been targeted, as K's case may have been purely a one-off instance of a patient who became a possible sex target. It is not open to the court to speculate that because one patient had been targeted, there must have been others in the past or that there will be others in the future.

77 Leaving aside discussion of K and the respondent for the moment, the undisputed evidence before the court is that whatever sexual shenanigans the appellant and Dr Chan were involved in were all consensual. No evidence was adduced of any improper means used by the duo to obtain such consent. No minors were involved. Some of the messages hint at predatory behaviour. Lasciviousness and promiscuity may be morally questionable to some, but dubious morals are not sufficient per se to indicate that any of their other sex partners had been manipulated or deceived.

Messages relating to 'colleagues'

78 For completeness, I should add that the DJ wrongly found support from irrelevant evidence relating to the appellant and Dr Chan's conduct in relation to "colleagues". The four instances that the DJ provided at [24] of her GD (see [22] above) are all doubtful. Information might have been passed between them relating to some 'colleagues' but wrong findings were made.

79 First, it was conceded on appeal that there was no evidence that the psychologist was a colleague of either Dr Chan or the appellant. The messages relating to the psychologist read as follows:[75]

> Appellant: I won't touch your girl lol (in response to Dr Chan's message "Maybe try foursome")

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[75] ABD 25, in RA Vol V at p 37

> Wait, which psychologist is this. (in response to Dr Chan's message "U know that psychologist I talked to you about?")
> Another chick uh
> How you find the energy siah
>
> Dr Chan: This one the one I wanted to fuck her
> But she say cannot cuz she knows [C]
> So u can fuck her while I fuck whoever u bring
> At least we both try someone new

80 Next, Dr P, who was Dr Chan's colleague, was not a potential target whom they had colluded to take advantage of. I note that Dr Chan did admit to having had designs on Dr P and having touched her inappropriately but not, according to him, "anything critical".[76] The messages involving Dr P read as follows:

> Appellant: *So apparently [Dr P] told [J] that she wasn't comfortable you touched her*
> Maybe you been misreading her signals man
>
> Dr Chan: Fuck…
> Really fucked
> Thanks man
> *Thank god I didn't touch anything critical*
> But thanks for letting me know
>
> Appellant: Was thinking the same thing meself (in response to Dr Chan's message "Thank god I didn't touch anything critical)
> Better be careful with her
>
> Dr Chan: I will bro…I will
> *I apologised to [S] face to face*
>
> (emphasis added)

81 As for G, she was upset with Dr Chan but G was also not a potential

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[76] ABD 36, in RA Vol V at p 52

target of their collusion.[77] Again, there was no evidence that G was a colleague. The relevant messages read:

Appellant:	I hope you didn't react in your usual manner
Dr Chan:	No I didn't I'm so fucked
Appellant:	Wtf why. Did she assume you were with someone else? (in response to Dr Chan's message "[G] sent a text last week telling me I'm toxic and asked me to fuck off") Did you fuck her since getting back in contact?
Dr Chan:	Once or twice Both time didn't come I think she suspects…don't blame her
Appellant:	Yeah well, better to just stay away in that case You just need to get over it in your head (in response to Dr Chan's message "I'm so fucked")

82 Finally, according to the appellant, the nurse who featured in his boast of a past conquest on her matrimonial bed was his former nurse.[78] She was also not a potential target of collusion. The relevant messages read:[79]

Dr Chan:	I like married sluts who let other people fuck them Makes me rock hard [J] is like tat but u not too hot about her (in response to appellant's message "I mean…They pretend they're not sluts. But actually they love being slutty")
Appellant:	They always fuck me with their wedding rings on (in response to Dr Chan's message "I like married sluts who let other people fuck them")

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77 ABD 44, in RA Vol V at p 66

78 Certified Transcript (26 December 2019) at p 25

79 ABD 51, in RA Vol V at p 73

> My nurse fucks me on his bed in front of his pictures
> …think [E] will end up doing the same when he goes overseas
> She just asked if I've shared with you before. I said nope.
> Please sing the same tune
>
> Dr Chan: I'll sing

83 With respect, the DJ's misplaced reference to these four examples indicates that there was a likelihood that the DJ's views were tainted. The DJ took into account the WhatsApp messages in relation to other women to support her finding that the appellant and Dr Chan had colluded to take advantage of the respondent and at least one other patient K (see [22] above). However, the only pattern these four examples reveal is that the appellant and Dr Chan were both consummate opportunists, constantly looking out for women with sex in mind. But these examples did not show any *collusion* between them to take advantage of vulnerable women or colleagues. It was also hardly clear that these were instances where information as to potential targets was "source(d)" or "exchanged". At the most, the four instances at [24] of the GD were examples of the appellant and Dr Chan's individual efforts to source for potential targets – not all of which succeeded.

Conclusion

84 In summary, there is sufficient evidence of the appellant having capitalised on his trusted position as a doctor by targeting K as a possible object of Dr Chan's sexual gratification. However, I am not persuaded that the same can be said in relation to the respondent. The respondent was already having an affair with Dr Chan. There is insufficient evidence to support her claim that she was his patient. The evidence in relation to the respondent disclosed no more than a single ad hoc reference within one WhatsApp message exchange. The

respondent shot out her missives to the SMC and others on her own admitted 'impressionistic view', but her view was somewhat jaundiced and not wholly sustainable.

85 As the respondent has not succeeded in her defence of justification, the appeal is allowed. The appellant shall have judgment for his claim in libel and damages are to be assessed by the District Court. I shall also grant the appellant an injunction restraining the respondent from publishing or causing to be published the offending words or other words similarly defamatory of him.

86 Nevertheless, I am unable to say that the appellant has been fully vindicated. What the appellant and Dr Chan have done outside their professional roles with their various sex partners is entirely a matter of their own personal choice. But the appellant and Dr Chan do not have any reason to hold their heads high, for there is no moral victory that either they or the respondent can lay claim to.

87 I recognise that the appellant's hand was forced towards litigation but this may well prove to be a Pyrrhic victory for him. In seeking to protect his reputation, he has had to subject his private sexual life to the glare of full public scrutiny in the courtroom.

88 No doubt the WhatsApp messages are private exchanges between old friends, but it is often only in private exchanges, where one's guard is down, that true colours reveal themselves. Ostensibly for the sake of protecting his reputation, the appellant has been compelled to come clean on having repeatedly cheated on his spouse on multiple occasions. Dr Chan has admitted to touching his colleague (one Dr P) inappropriately in the past. The incident(s) involving Dr P may be a matter for the SMC to consider looking into further,

notwithstanding Dr Chan indicating (see [80] above) that he had apologised to one 'S' (who, in the context of the messages, is presumably Dr P).

89 The appellant and Dr Chan's smug boasts of their trysts with various women, as well as the demeaning terms in which they gloatingly describe their sexual conquests, speak to their true character. They may be perfectly competent doctors and their sex lives are of course private matters. But their blatant treatment of women as sex objects sullies whatever professional reputation they might have built up for themselves. On the evidence before me, the appellant and Dr Chan have not harmed any patients directly by their conduct. There was however potential harm to K and thus the respondent was justified in her statements where K was concerned.

90 I shall hear the parties' submissions on the costs of this appeal and of the proceedings below.

See Kee Oon
Judge

Philip Jeyaretnam SC, Christopher Chong Fook Choy, Aw Sze Min and Mark Lewis Shan (Dentons Rodyk & Davidson LLP) for the appellant;
Ong Ying Ping and Chua Kok Siong, Kenneth (Ong Ying Ping Esq) for the respondent.