Lee Hsien Loong *v* Roy Ngerng Yi Ling
[2014] SGHC 230

Case Number : Suit No 569 of 2014 (Summons No 3403 of 2014)

Decision Date : 07 November 2014

Tribunal/Court : High Court

Coram : Lee Seiu Kin J

Counsel Name(s) : Davinder Singh SC, Angela Cheng, Samantha Tan and Imran Rahim (Drew & Napier LLC) for the plaintiff; M Ravi (L F Violet Netto) and Eugene Thuraisingam (Eugene Thuraisingam) for the defendant.

Parties : Lee Hsien Loong — Roy Ngerng Yi Ling

Tort – Defamation

7 November 2014 Judgment reserved.

Lee Seiu Kin J:

Introduction

1 The present action arises out of the publication of an article entitled "Where Your CPF Money Is Going: Learning From The City Harvest Trial" ("the Article") on the blog "The Heart Truths to Keep Singaporeans Thinking by Roy Ngerng" ("the Blog") on or about 15 May 2014. The plaintiff is the Prime Minister of Singapore and the Chairman of GIC Private Limited ("GIC"). [note: 1] The defendant is the owner and writer of the Blog. [note: 2]

2 The plaintiff filed the writ of summons in this suit on 29 May 2014. The defendant filed his defence on 17 June 2014 and an amended defence on 27 June 2014. Pleadings closed on 4 July 2014 when the plaintiff filed his reply. On 10 July 2014, the plaintiff applied under Summons No 3403 of 2014 ("SUM 3403/2014") for the Court to determine the natural and ordinary meaning of the certain allegedly defamatory words and images pursuant to O 14 r 12 of the Rules of Court (Cap 322, R5, 2014 Rev Ed) and to grant summary judgment pursuant to O 14 r 1 on the basis that the defendant has no defence to the claim. Counsel for the parties appeared before me on 18 September 2014 to make submissions on SUM 3403/2014, at the conclusion of which I reserved judgment. I now give my decision on SUM 3403/2014.

Facts

3 On or around 15 May 2014, the defendant published the Article on the Blog. [note: 3] The parts of the Article that the plaintiff takes objection to are reproduced below ("the Disputed Words and Images"):

> The Heart Truths
>
> To Keep Singaporeans Thinking by Roy Ngerng
>
> ...

Where Your CPF Money Is Going: Learning From the City Harvest Trial

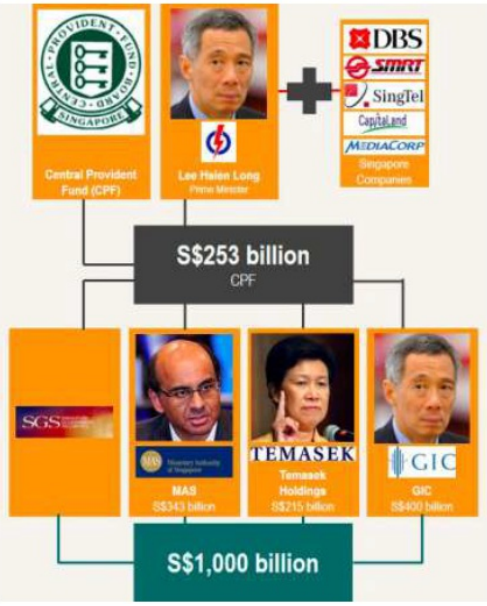
Last week, Channel NewsAsia reported about how, "The founder of City Harvest Church Kong Hee and his five deputies [are] accused of misusing millions of church building funds."

According to Channel NewsAsia, "The court accepted that there is evidence to show that the monies were moved from the church to the various firms to generate a false appearance that the church's investments were redeemed. The judge said the six had been dishonest in the use of the money."

It was also reported that, "Judge See said the auditors' opinions were "only as good as the information they were given"."

Below is the chart that Channel NewsAsia had created to show the relations of Kong Hee and his five deputies, and the funds that they have misappropriated.

Meanwhile, something bears an uncanny resemblance to how the money is being misappropriated.



Channel NewsAsia had reported that, "The court accepted that there is evidence to show that the monies were moved from the church to the various firms to generate a false appearance that the church's investments were redeemed. The judge said the six had been dishonest in the use of the money."

"Judge See said the auditors' opinions were "only as good as the information they were given"."

Meanwhile, the GIC claims that the "GIC manages the Government's reserves, but as to how the funds from CPF monies flow into reserves which could then be managed by either MAS, GIC or Temasek, this is not made explicit to us." The GIC also claims that, "The Government, which is represented by the Ministry of Finance in its dealings with GIC, neither directs nor interferes in the company's investment decisions. It holds the board accountable for the overall portfolio performance." However, the PAP prime minister, the two deputy prime ministers and the ministers for Trade and Industry and Education also sit on the board of directors. Lee Hsien Loong is the Chairman and Lee Kuan Yew is the Senior Advisor.

...

4 On the same day, the defendant published a link to the Article on his Facebook page and on The Heart Truths' Facebook page. [note: 4]

5 On 18 May 2014, the plaintiff, through his solicitors, issued a letter of demand to the defendant demanding that he: [note: 5]

(a) immediately remove the Article from the Blog;

(b) immediately remove the links to the Article on the defendant's Facebook page and on The Heart Truths' Facebook page;

(c) publish, at his own expense, within three days of the date of the letter of demand, an apology and an undertaking in terms of the draft which was enclosed to the letter of demand. The apology and undertaking were to be published without any amendment with prominence on the homepage of the Blog. The said apology and undertaking were to remain on the Blog for the

same number of days that the Article remained on it;

(d) compensate the plaintiff by way of damages; and

(e) agree to indemnify the plaintiff in respect of the costs and expenses which he would have incurred in connection with the matter.

6 The defendant was requested to confirm in writing that he would comply with the demands, and provide an offer for damages and costs, within three days from the date of the letter of demand. [note: 6] The plaintiff, through his solicitors, agreed to extend the deadline to 23 May 2014. [note: 7]

7 On 23 May 2014, the defendant published a statement on the Blog, stating that he recognised "that the Article means and is understood to mean that Mr Lee Hsien Loong, the Prime Minister of Singapore and Chairman of GIC, is guilty of criminal misappropriation of the monies paid by Singaporeans to the Central Provident Fund", that "this allegation is false and completely without foundation" and that he had caused the plaintiff "distress and embarrassment" by the allegation. [note: 8]

8 Also on 23 May 2014, the defendant's solicitors wrote to the plaintiff's solicitors stating that the defendant "recognises that the offending Article means and is understood to mean that Mr Lee Hsien Loong, the Prime Minister of Singapore and Chairman of GIC, is guilty of criminal misappropriation of the monies paid by Singaporeans to the Central Provident Fund" and that the defendant "admits and acknowledges that this allegation is false and completely without foundation", and that the allegation had caused the plaintiff "distress and embarrassment". [note: 9] On 27 May 2014, the defendant's solicitors wrote to the plaintiff's solicitor to offer $5,000 as damages. [note: 10]

9 In SUM 3403/2014, the plaintiff applied to the Court to:

(a) construe the natural and ordinary meaning of the Disputed Words and Images, and

(b) enter interlocutory judgment in favour of the plaintiff for damages to be assessed and restrain the defendant from publication or dissemination of the allegation on the basis that the defendant has no defence to the plaintiff's claim.

Issues

10 The issues before this Court are:

(a) whether the Disputed Words and Images, in the natural and ordinary meaning, are defamatory of the plaintiff;

(b) whether the defendant has any defence to the plaintiff's claim in defamation; and

(c) whether the plaintiff is entitled to an injunction.

11 In *Basil Anthony Herman v Premier Security Co-operative Ltd and others* [2010] 3 SLR 110 at [69]–[70], the Court of Appeal opined that:

(a) O 14 r 12 should be used in defamation for determination on meaning *in tandem* with the application for summary judgment; and

(b) the Court should refrain from making a ruling on the meaning pursuant to O 14 r 12 if there are triable defences.

In *ANB v ANF* [2011] 2 SLR 1 at [61]–[62], Steven Chong J followed this approach, reasoning that the underlying purpose of O 14 r 12 was the saving of time and costs for the parties.

12 In the present case, the plaintiff has applied under SUM 3403/2014 for the Court to determine the natural and ordinary meaning of the Disputed Words and Images pursuant to O 14 r 12, and to grant summary judgment pursuant to O 14 r 1, on the basis that the defendant has no defence to the claim. Accordingly, I first examine if there are any triable defences to the plaintiff's claim in defamation before I consider the natural and ordinary meaning of the Disputed Words and Images.

Whether the defendant has any defence to the plaintiff's claim in defamation

13 The sole defence, which is in para 17 of the amended defence, is that the law of defamation contravenes Art 14 of the Constitution of the Republic of Singapore (1985 Rev Ed, 1999 Reprint) ("the Constitution"). Paragraph 17 of the amended defence states as follows:

> Further and in the alternative the Defendant avers that by virtue of the provisions of Article 14 of the Constitution the Plaintiff has no cause of action against the Defendant as alleged in the Statement of Claim or at all.

14 The defendant submits that the plaintiff's claim in defamation, which is based on common law, cannot stand because the right to freedom of speech cannot be restricted unless Parliament, by law, specifically provides for it. [note: 11] The defendant's submission is premised upon Art 14(1)(*a*) and Art 14(2)(*a*) of the Constitution, which states:

> **14.**—(1) Subject to clauses (2) and (3) —
>
> (*a*) every citizen of Singapore has the right to freedom of speech and expression;
>
> ...
>
> (2) Parliament may by law impose —
>
> (*a*) on the rights conferred by clause (1)(*a*), such restrictions as it considers necessary or expedient in the interest of the security of Singapore or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or to provide against contempt of court, defamation or incitement to any offence;
>
> ...

15 The defendant argues that only the Parliament has the constitutional competence under Art 14(2)(*a*) of the Constitution to enact laws imposing restrictions on the right to freedom of speech under Art 14(1)(*a*) of the Constitution. [note: 12] This includes the law of defamation. [note: 13] Since the Parliament had not at any time enacted any law providing against defamation, the right to freedom of speech cannot be restricted by the law of defamation. It follows that the plaintiff has no cause of action in defamation against the defendant. The defendant says that the common law action of defamation is, in essence, unconstitutional.

16 This argument has in fact been considered in two cases before the Court of Appeal, namely

Jeyaretnam Joshua Benjamin v Lee Kuan Yew [1990] 1 SLR(R) 337 ("*JJB v LKY (1990)*") and *Jeyaretnam Joshua Benjamin v Lee Kuan Yew* [1992] 1 SLR(R) 791 ("*JJB v LKY (1992)*").

17 In *JJB v LKY (1990)*, the appellant appealed against the trial judge's decision to dismiss its application to amend its defence to plead Art 14(1)(*a*) of the Constitution as a defence to the respondent's claim in defamation. The proposed amendment reads (at [2]):

> This action of the plaintiff seeks to restrict the defendant's constitutional right given to him by art 14(1)(*a*) of the Constitution of the Republic of Singapore and is therefore an unlawful interference of the defendant's fundamental rights contained in the said article and for that reason not maintainable.

18 The Court of Appeal considered that the appellant's proposed amendment was in effect contending that the right to free speech is "unrestricted and wholly free of any restraint" (at [5]). In this regard, the Court of Appeal held at [5] that:

> ... *In our judgment, this contention is clearly untenable. The constitutional right of freedom of speech and expression is unarguably restricted by the laws of defamation*. Article 14(1)(*a*) is subject to cl (2), which provides that "Parliament may by law impose - (*a*) on the rights conferred by clause (1)(*a*) ... restriction ... to provide against ... defamation". The relevant enactment is the Defamation Act (Cap 75, 1985 Rev Ed). In addition, by enacting the Defamation Act, which was enacted by the Malaysian Federal Parliament as Act 20 of 1957 and was extended to Singapore (by way of modification) pursuant to s 74 of the Malaysia Act 1963 in May 1963, the Legislature has clearly intended that the common law relating to defamation, as modified by the Act, should continue to apply in Singapore. The Act is premised on that underlying assumption and has to be read against the matrix of the common law. Moreover, the definition of law in Art 2(1) of the Constitution includes "the common law in so far as it is in operation in Singapore". *In our view, it is manifestly beyond argument that Art 14(1)(a) is subject to the common law of defamation as modified by the Act and, accordingly, does not, in itself, afford a defence*. In our judgment, the proposed defence, as drafted, was doomed to fail. [emphasis added]

19 The Court of Appeal in *JJB v LKY (1990)* unequivocally held that the right to freedom of speech is restricted by the law of defamation. The decision in *JJB v LKY (1990)* was explicitly endorsed by the Court of Appeal in *JJB v LKY (1992)* at [59]–[61]:

> 59 *It has been decided by this court in [JJB v LKY (1990)] that the right of free speech under Art 14 is subject, inter alia, to the common law of defamation as modified by the Defamation Act (Cap 75, 1965 Ed).* ...
>
> 60 Across the causeway, the High Court in Malaysia has expressed a similar opinion: see [*Lee Kuan Yew v Chin Vui Khen* [1991] 3 MLJ 494] at 502-503.
>
> 61 *It therefore cannot be disputed that the freedom of speech and expression provided in Art 14 is not absolute or totally unrestricted.* Certainly Mr Gray is not disputing this, and is not contending that the appellant under Art 14 has the right to say "anything". An absolute or unrestricted right of free speech would result in persons recklessly maligning others with impunity and the exercise of such a right would do the public more harm than good. Every person has a right to reputation and that right ought to be protected by law. Accordingly, a balance has to be maintained between the right of free speech on the one hand, and the right to protection of reputation on the other. *The law of defamation protects such right to reputation, and, as we*

have shown, it was undoubtedly intended by the framers of our Constitution that the right of free speech should be subject to such law.

[emphasis added]

20 In addition, the Court of Appeal in *JJB v LKY (1992)* explained at [56]–[58] that:

56 ... the right of free speech and expression under cl 1(*a*) of Art 14 is expressly subject to cl 2(*a*) of the same article, and the latter provides that Parliament may by law impose on the rights of free speech and expression conferred by cl 1(*a*) two categories of restrictions: first, such restrictions as it considers *necessary and expedient* in the interest of the security of Singapore or any part thereof, friendly relations with other countries, public order or morality; and second, *restrictions designed* to protect the privileges of Parliament or *to provide against* contempt of court, *defamation* or incitement to any offence. While the first category of restrictions must satisfy the test of necessity and expediency in the interest of the various matters specified therein, the second category of restrictions is not required to satisfy any such test. Thus, Parliament is empowered to make laws to impose on the right of free speech restriction designed to provide against defamation. ...

57 In addition, we have Art 162 of the Constitution under which all existing laws continue in force on and after the commencement of the Constitution, and the term "law" under Art 2 includes "the common law in so far as it is in operation in Singapore". The common law of defamation as modified by the Defamation Act (then the Defamation Ordinance) was in operation at the time of commencement of the Constitution, and by virtue of Art 162 it continues in force. The question then is whether, as required by Art 162, any modification, adaptation, qualification and exception is *necessary* to be made to the law of defamation so as to bring it into conformity with the Constitution. We think not. The law of defamation is not inconsistent with the right of free speech under Art 14(1)(*a*) and accordingly, no such modification, adaptation, qualification and exception is necessary to be made thereto.

58 We are reinforced in our view by the circumstances in which the Defamation Act became part of the law of Singapore. It originated from Malaysia. On 1 July 1957, the Federation of Malaya enacted the Defamation Ordinance. The preamble states that it is a consolidating and amending ordinance, and it is clear from the terms of the ordinance that it is premised on the existence and continuation of the common law of defamation. The Federation of Malaysia incorporating Singapore as a constituent state came into legal existence by virtue of the Malaysia Act (Act 26 of 1963) which came into force on 16 September 1963, and the existing Federal Constitution as modified by the Act became the Constitution of Malaysia. Sections 73 and 74 of the Act governed the position of pre-Malaysia laws: s 73 provided for the continuation of those laws as though the Malaysia Act had never been passed, and s 74 gave to the Yang di-Pertuan Agong the power to order such modification to the pre-Malaysian laws as appeared necessary or expedient. The power to modify included the power to extend existing laws to, *inter alia*, Singapore. At that time, the Constitution governing and applicable to Singapore (which was a constituent state of Malaysia) was the Constitution of Malaysia, and Art 10 thereof provided for freedom of speech and expression in terms which, in all material respects, were identical with Art 14 of our Constitution. By the Modification of Laws (Defamation) (Modification and Extension to Borneo States and Singapore) Order 1965 made pursuant to s 74 of the Malaysia Act, the Defamation Ordinance 1957 was extended to Singapore on 22 February 1965. The extension also repealed the then Defamation Ordinance 1960 of Singapore. It was therefore intended by the Malaysian Parliament, acting by the Yang di-Pertuan Agong, that the common law of defamation, as modified by the Defamation Ordinance 1957, should continue to apply in Singapore where the

right of free speech was guaranteed by Art 10 of the Constitution. On separation, the Republic of Singapore Independence Act 1965 provided for the continuation of most of the articles of the Malaysian Constitution, including Arts 10 and 162, and also the continuation of the laws existing at the time of independence as the Constitution and laws of Singapore. The present Art 14 (with necessary modification) is Art 10 of the Malaysian Constitution. Thus, against this background of the development of our Constitution, ***it is implicit that the right of free speech under Art 14 is subject to the common law of defamation*** as modified by the Defamation Ordinance, now the Defamation Act (Cap 75) ("the Act").

[emphasis in italics in original, emphasis in bold italtics added]

21 In light of the Court of Appeal decisions in *JJB v LKY (1990)* and *JJB v LKY (1992)*, it is clearly settled law that the right to freedom of speech under Art 14 of the Constitution is restricted by the law of defamation.

22 The defendant appears to suggest that the decision of the Court of Appeal in *Review Publishing Co Ltd and another v Lee Hsien Loong and another appeal* [2010] 1 SLR 52 ("*Review Publishing*") casts doubt on the decisions in *JJB v LKY (1990)* and *JJB v LKY (1992)*. There, the Court of Appeal considered whether the privilege laid down by the House of Lords in *Reynolds v Times Newspapers Ltd and others* [2001] 2 AC 127 ("the *Reynolds* privilege") is part of Singapore law. One of the appellants' propositions was that the *Reynolds* privilege is and has always been part of the common law of Singapore. In support of this proposition, the appellant submitted, *inter alia*, that because Art 14(2)(*a*) of the Constitution provides that "Parliament may by law impose ... restrictions to provide against ... defamation", this effectively entails that (at [238(d)]):

> ... *Parliament and only Parliament may impose, explicitly, restrictions by the law of defamation on free speech. There is no power under Article 14 of the [Singapore] Constitution for the courts to restrict freedom of speech by common law methods in usurpation of Parliament's legislative function*. ... [The] *Reynolds* ... privilege is an emanation of the traditional common law[;] the courts have no power either to abolish it or [to] refuse to acknowledge it because it now conforms with the Constitutional guarantee [of freedom of speech]. Only Parliament may by legislation abolish any aspect of the common law of defamation, including public interest privilege [in the present context, the *Reynolds* privilege]. *Under [the Singapore] Constitution, restrictions on free speech must be made by Parliament and not the courts*. [emphasis in original]

The appellants argued that Parliament did not enact the requisite legislation to restrict the right to freedom of speech under Art 14 when it became a constitutional right in Singapore on 16 September 1963 (at [238(f)]), and it was in this regard that the appellants sought to question the decisions in *JJB v LKY (1990)* and *JJB v LKY (1992)*.

23 However, this argument was rejected. The Court of Appeal in *Review Publishing* held that the appellant's proposition is "completely wrong in law" as each of the submissions in support of it was "misconceived and unsound" (at [239]). Specifically, the Court of Appeal held that Parliament did enact legislation to expressly restrict the right to freedom of speech when the constitutional right came into existence in Singapore. The Court of Appeal explained at [249]–[250] that:

> 249 Another central tenet of the First Proposition is that Parliament did not enact any law to impose restrictions on constitutional free speech when this right came into existence in Singapore (see sub-para (f) of [238] above). ***This argument is untenable as it stems from a fundamental misunderstanding of the effect of Art 105(1) of the 1963 State Constitution (now Art 162 of the Singapore Constitution).*** Article 105(1) of the 1963 State Constitution

read as follows:

> **105.** (1) Subject to the provisions of this Article and to any provision made on or after Malaysia Day [*ie*, 16 September 1963] by or under Federal law or State law, all existing laws shall continue in force on and after the coming into operation of this Constitution and all laws which have not been brought into force by the coming into operation of this Constitution may, subject as aforesaid, be brought into force on or after its coming into operation, but all such laws shall, subject to the provisions of this Article, be construed as from the coming into operation of this Constitution *with such modifications, adaptations, qualifications and exceptions as may be necessary* to bring them into conformity with this Constitution and the Malaysia Act [*ie*, the Malaysia Act 1963 (No 26 of 1963) (M'sia), which was the statute providing for (*inter alia*) Singapore to become part of Malaysia]. [emphasis added]

From the Appellants' point of view, this provision entailed that all existing laws as at 16 September 1963 (including the then existing common law of defamation) had to be "*adjusted* ... to the Constitution [*ie*, the 1963 Singapore Constitution]" [emphasis added] (see also sub-para (c) of [238] above).

250 In our view, contrary to the Appellants' submission, Art 105(1) of the 1963 State Constitution was not simply an "adjustment" provision. By mandating that "all existing laws shall continue in force on and after the coming into operation of this Constitution", ***Art 105(1) in itself served as a law-enacting provision -*** *ie* ***, it had the effect of an enactment which expressly restricted the constitutional free speech enshrined in Art 10(1)(*** *a* ***) of the 1963 Federal Constitution by continuing in force the then existing law of defamation (defamation law being, by its very nature, a restriction on freedom of speech).*** To adopt the words used by the Appellants, Art 105(1) of the 1963 State Constitution was the "new law made expressly ... to derogate from a constitutional right". The imposition via Art 105(1) of this restriction on constitutional free speech was permitted by and also consistent with Art 10(2)(*a*) of the 1963 Federal Constitution (now Art 14(2)(*a*) of the Singapore Constitution). In our view, this is the correct interpretation of Art 105 of the 1963 State Constitution. ***It follows that the Appellants' contention that Parliament did not enact any law which derogated from the constitutional right in Art 10(1)(*** *a* ***) of the 1963 Federal Constitution is simply wrong.***

[emphasis in original in italics; emphasis in bold italics added]

24 In my view, *Review Publishing* does not cast a doubt on *JJB v LKY (1990)* and *JJB v LKY (1992)*. On the contrary, the Court of Appeal in *Review Publishing* agrees with *JJB v LKY (1990)* and *JJB v LKY (1992)* that the right to freedom of speech under Art 14 of the Constitution is restricted by the law of defamation.

25 The three decisions of the Court of Appeal discussed above have conclusively decided that the right to freedom of speech under Art 14 is restricted by the law of defamation. They are binding on me. Therefore, I am unable to accept the defendant's submission that the plaintiff has no cause of action in defamation against the defendant by virtue of Art 14 of the Constitution. Accordingly, I find that there is no triable defence against the plaintiff's claim in defamation.

Whether the Disputed Words and Images, in its natural and ordinary meaning, are defamatory of the plaintiff

26 Having found that there is no triable defence, I turn to determine the natural and ordinary meaning of the Disputed Words and Images pursuant to O 14 r 12. The parties are in agreement on

the applicable law, but differ on how it should be applied to the facts in the present case.

27 The test for determining the natural and ordinary meaning of the alleged defamatory words is well established in Singapore. In *Microsoft Corp and others v SM Summit Holdings Ltd and another and other appeals* [1999] 3 SLR(R) 465 ("*Microsoft Corp*"), the Court of Appeal summarised the test as follows (at [53]):

> The principles applicable in determining the natural and ordinary meaning of the words complained of in a defamation action are well established. The court decides *what meaning the words would have conveyed to an ordinary, reasonable person using his general knowledge and common sense*: *Jeyaretnam Joshua Benjamin v Goh Chok Tong* [1983-1984] SLR(R) 745 and *Jeyaretnam Joshua Benjamin v Lee Kuan Yew* [[1992] 1 SLR(R) 791]. *The test is an objective one: it is the natural and ordinary meaning as understood by an ordinary, reasonable person, not unduly suspicious or avid for scandal*. The meaning intended by the maker of the defamatory statement is irrelevant. Similarly, the sense in which the words were actually understood by the party alleged to have been defamed is also irrelevant. Nor is extrinsic evidence admissible in construing the words. The meaning must be gathered from the words themselves and in the context of the entire passage in which they are set out. *The court is not confined to the literal or strict meaning of the words, but takes into account what the ordinary, reasonable person may reasonably infer from the words*. The ordinary, reasonable person reads between the lines. ... [emphasis added]

28 This was reaffirmed by the Court of Appeal in *Review Publishing* at [27]. The court held that the "natural and ordinary meaning" includes reasonable inferences (at [28]–[29]):

> 28 It is important to reiterate that the natural and ordinary meaning of the offending words is not confined to their *literal* or *strict* meaning, ***but includes inferences or implications that the ordinary reasonable person may draw from those words in the light of his general knowledge, common sense and experience*** ... In this regard, it is instructive to refer to Lord Reid's comments in *Rubber Improvement Ltd v Daily Telegraph Ltd* [1964] AC 234 ... at 258 ... as follows:
>
> > What the ordinary man would infer without special knowledge has generally been called the natural and ordinary meaning of the words. But *that expression is rather misleading in that it conceals the fact that there are two elements in it*. Sometimes it is not necessary to go beyond the words themselves, as where the plaintiff has been called a thief or a murderer. But *more often the sting is not so much in the words themselves as in what the ordinary man will infer from them, and that is also regarded as part of their natural and ordinary meaning*. [emphasis added]
>
> 2 9 ***Inferences or implications which the ordinary reasonable person may draw based on his general knowledge, common sense and experience are entirely permissible*** . It must be appreciated that such inferences or implications are *not* the same as inferences or implications based on *extrinsic evidence*, which evidence is not admissible as a matter of law in the construction of the natural and ordinary meaning of the offending words ... The following passage by Lord Morris of Borth-y-Gest sets out the distinction between these two types of infererences or implications clearly (see *Gordon Berkeley Jones v Clement John Skelton* [1963] 1 WLR 1362 ... at 1370-1371):
>
> > The ordinary and natural meaning of words may be either the literal meaning or it may be an implied or inferred or an indirect meaning: *any meaning that does not require the support of*

> *extrinsic facts passing beyond general knowledge but is a meaning which is capable of being detected in the language used can be a part of the ordinary and natural meaning of words*. ... The ordinary and natural meaning may therefore include any implication or inference which a reasonable reader guided not by any special but only by general knowledge and not fettered by any strict legal rules of construction would draw from the words. [emphasis added]

[emphasis in original in italics; emphasis in bold italics added]

29 The Court of Appeal in *Review Publishing* also expounded on the characteristics of the ordinary reasonable person in the context of defamation (at [30]–[31]):

> 30 ... This court (in *Microsoft Corp* at [54] and *[Goh Chok Tong v Jeyaretnam Joshua Benjamin [1998] 2 SLR(R) 971]* at [25]) adopted the characterisation of the hypothetical ordinary reasonable person set out by the English Court of Appeal ... in *Skuse v Granada Television Ltd* [1996] EMLR 278 ... at 285, which was as follows:
>
> > The hypothetical reasonable reader ... is not naive but *he is not unduly suspicious*. *He can read between the lines. He can read in an implication more readily than a lawyer, and may indulge in a certain amount of loose thinking*. But he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. [emphasis added]
>
> 31 The ordinary reasonable person has also been described in many other colourful ways. ... Ultimately, all these descriptions seek to emphasise the point that the ordinary reasonable person is very much an average rational layperson, neither brilliant nor foolhardy, and not idiosyncratic in his behaviour or disposition. ...
>
> [emphasis in original]

30 With these principles in mind, I proceed to consider if the Disputed Words and Images, in their natural and ordinary meaning, are defamatory of the plaintiff.

31 Given that the state of the ordinary reasonable person's general knowledge plays a pivotal role in determining the natural and ordinary meaning of the Disputed Words and Images (*Review Publishing* at [33]), I start by addressing this point.

32 The state of general knowledge of the ordinary reasonable person would be "affected and shaped by what is common knowledge in the public domain and by significant (public) events": *Review Publishing* at [34]. In the present case, there is no dispute between the parties that the matters in relation to the City Harvest Church ("CHC") case were in the public domain on 15 May 2014. [note: 14] Specifically, these matters include the following:

(a) In mid-2012, six CHC leaders were charged, *inter alia*, for conspiracy to commit criminal breach of trust and conspiracy to falsify accounts. The six are Mr Kong Hee, Mr Chew Eng Han, Ms Tan Shao Yuen Sharon, Mr Tan Ye Peng, Mr Lam Leng Hung and Ms Serina Wee Gek Yin.

(b) The charges arose, *inter alia*, from the alleged dishonest appropriation of approximately $24 million belonging to the CHC Building Fund to further Mr Kong Hee's wife Ms Ho Yeow Sun's singing career. This was carried out through a series of purported bond investments.

(c) Four of the six CHC leaders were also accused of misappropriating approximately $26.6 million by transferring monies out of the CHC Building Fund to various entities to create the false impression that the purported bond investments had been redeemed.

(d) On 5 May 2014, the trial judge ruled that sufficient evidence had been adduced to support every element of the charges of criminal breach of trust and falsification of accounts against the six accused CHC leaders and called upon the six accused persons to give evidence in their defence.

33 The facts and circumstances of the CHC case have been extensively reported in the local media as the trial progressed. The Article was published in the midst of the highly publicised CHC case and soon after the trial judge ruled that there was sufficient evidence to support every element of the charges. [note: 15] Based on the evidence placed before me, I find that the matters relating to the CHC case would have been within the general knowledge of the ordinary reasonable person at the time the Article was published.

34 I turn now to examine what is the natural and ordinary meaning that the Disputed Words and Images would convey to an ordinary reasonable person with general knowledge of the matters relating to the CHC case.

35 According to the plaintiff, the natural and ordinary meaning of the Disputed Words and Images is that the plaintiff, the Prime Minister of Singapore and the Chairman of GIC, is guilty of criminal misappropriation of the monies paid by Singaporeans to the Central Provident Fund ("CPF"). The defendant accepts that the Disputed Words and Images, read on their own, may convey the meaning suggested by the plaintiff. [note: 16] However, the defendant submits that the Article when read as a whole cannot possibly convey such a meaning. [note: 17]

36 The Article juxtaposes the facts of the CHC case, along with a chart illustrating the relationship between the six accused persons, with a similarly constructed chart of the relationship between the plaintiff and various other persons and entities. The plaintiff submits that this implies that he is guilty of criminal misappropriation of the monies paid by Singaporeans to the CPF.

37 The idea of defamation by implication (through association and/or comparison) is explained in Doris Chia and Rueben Mathiavaranam, *Evans on Defamation in Singapore and Malaysia* (LexisNexis, 3rd Ed, 2008) ("*Evans*") at p 29 as follows:

> Defamatory imputations can also be conveyed by a comparison of a person's character and transactions with those of any treacherous, disgusting, odious, disreputable or contemptible person. Hence, to liken a man to Judas would be defamatory. Likewise, to call someone *Abu Jahal* is defamatory, as those words are used to denote a Muslim who has one of the qualities, character and attitudes of Amru bin Hisham, which would be understood by an ordinary, right thinking and reasonable Malay of ordinary intelligence to mean the person referred to was a very big liar and an irresponsible person.

38 *Gatley on Libel and Slander* (Alastair Mullis and Richard Parkes eds) (Sweet & Maxwell, 12th Ed, 2013) ("*Gatley*") at para 3.19 explained defamation by implication as follows:

> An obvious example of defamation by implication arises when the claimant is compared with an animal perceived to be treacherous or disgusting or with odious or disreputable persons, or with people perceived to be incompetent, whether they be historical or fictional. "Nothing is easier

than to bring persons into contempt by allusion to names well known in history, or by mention of animals to which certain ideas are attached", and the court "will take judicial notice that such words as 'Judas' have an application very generally known indeed, which application is likely to bring into contempt a person against whom it is directed".

39 The Court of Appeal in *Review Publishing* at [66] and [91] acknowledged that defamation can be established by implication:

> 66 ... Defamation by implication (through association and/or comparison) is a well-known principle in the law of defamation ...
>
> ...
>
> 91 ... the natural and ordinary meaning of the offending words *includes* any implication or inference that the ordinary reasonable person would draw based on his general knowledge. An obvious example of this form of defamation (*ie*, defamation by implication) would be where a defamatory association and/or comparison is made (for instance, where the plaintiff is compared with odious or disreputable persons, whether historical or fictional (see [*Gatley on Libel and Slander* (Patrick Milmo & W V H Rogers eds) (Sweet & Maxwell, 11thEd, 2008) ["*Gatley* (11th Ed)"]] … at para 3.18). Such a comparison was made in [*Hasnul bin Abdul Hadi v Bulat bin Mohamed* [1978] 1 MLJ 75], where the plaintiff was compared to "Abu Jahal", an expression commonly used and understood by Muslims all over the world to describe a person who is an enemy of Islam, an infidel, a troublemaker and a liar. Further, the learned authors of [*Gatley* (11th Ed)], in the section of the book that discusses the interpretation of the natural and ordinary meaning of offending words, cite *Hasnul* as an example of defamation by implication through a defamatory comparison (see [*Gatley* (11th Ed)] at para 3.18 ...). The Judge likewise referred to *Hasnul* for this same purpose ... In our view, given the Article's association and/or comparison of the NKF and/or Durai with the Respondents, the Judge ... was merely relying on the principle of defamation by implication in determining the natural and ordinary meaning of the Disputed Words.

40 In *Review Publishing*, the appellant published an article which used the National Kidney Foundation ("NKF") saga as a basis for comparing the way in which the NKF had been run during Mr T T Durai's tenure with the way in which Singapore had been governed by "Singaporean officials". At the time of publication, Durai had not yet been convicted. Nevertheless, the Court of Appeal held at [82], [84]–[85] that the ordinary reasonable person would associate the terms "NKF" and/or "Durai" with "corruption", and that the association and/or comparison of NKF and/or Durai with the Government and/or the respondents suggests to the ordinary reasonable person that the respondents were guilty of the same kind of wrongdoing that NKF and/or Durai were guilty of in the eyes of the general public.

41 Belinda Ang J adopted a similar approach in the earlier decision of *Lee Hsien Loong v Singapore Democratic Party and others and another suit* [2007] 1 SLR(R) 675 ("*LHL v SDP*"). In that case, the defendants published articles which made similar comparisons between NKF and/or Durai on the one hand and the Government and/or the plaintiffs on the other hand. Ang J held at [58]–[62] that the term "NKF" had become a byword for corruption and financial impropriety, and concluded that the articles, which associated the NKF and/or Durai with the plaintiffs, were defamatory of the plaintiffs.

42 In the present case, the Article was entitled "Where Your CPF Money Is Going: Learning From The City Harvest Trial". This immediately highlights to the ordinary reasonable reader that the Article is seeking to draw an association or a comparison between the CHC case and the governance of the CPF. It defines the essence of what the Article is seeking to convey to the reader.

43 The Article starts by informing the reader that the founder of the CHC (*ie*, Kong Hee) and his five deputies were "accused of misusing millions of church building funds", and reproducing a chart that was "created to show the relations of Kong Hee and his five deputies, and the funds that they have misappropriated" ("the CHC Chart"). The Article then goes on to state that "something bears an uncanny resemblance to how the money is being misappropriated". It is significant to note that the allegation that "money is being misappropriated" is unconditional and unequivocal. This is followed by a second chart which mimics the design, arrangement and colour scheme of the CHC Chart. This second chart replaces the contents of the CHC Chart with the name and picture of the plaintiff and the logo of the CPF ("the CPF Chart"). The figures which represented the amount allegedly misappropriated in the CHC case are also replaced in the CPF Chart with "S$253 billion" and "S$1,000 billion". I pause here to note that the words "uncanny resemblance" used in the Article is substantially similar in effect to the words "striking resemblance" used in *LHL v SDP*. Both sets of words have the effect of focusing the reader's attention to the similarities and directing him to make a comparison. It suggests to the reader that what he is about to see, *ie*, the CPF Chart, also concerns a case of criminal misappropriation of funds. The comparison is made easier with the use of the CPF Chart which mirrors the CHC Chart.

44 The Article then points out, in relation to the CHC case, that there is "evidence to show that the monies were moved from the church to the various firms to generate a false appearance that the church's investments were redeemed", and that "Judge See said the auditors' opinions were 'only as good as the information they were given'." Again, this is followed by a reference to, *inter alia*, GIC's statement that it was "not made explicit to [GIC]" how the funds from CPF "flow into reserves", and to the fact that the plaintiff is the Chairman of GIC. There is an implicit comparison between, on the one hand, the lack of information given to the auditors in the CHC case, and on the other hand, the lack of transparency with regard to the CPF monies. This implies that the plaintiff, as the Prime Minister of Singapore and the Chairman of GIC, is not willing to be transparent about the finances of the Government and GIC because he wants to conceal the evidence of the criminal misappropriation.

45 Even though the CHC leaders have not been convicted of the charges when the Article was published, I do not think that this affects the meaning of the Disputed Words and Images. In *Review Publishing*, the Court of Appeal had found that the terms NKF and/or Durai had come to "symbolise" financial impropriety and/or corruption in the mind of an ordinary reasonable person, even though Durai had not been convicted at the time of the publication (at [82]–[85]). The same was done in *LHL v SDP.* The key question is whether an ordinary reasonable person would understand the Disputed Words and Images to mean that the plaintiff is guilty of criminal misappropriation of the CPF monies. In the present case, the plaintiff contends that the ordinary reasonable person with the relevant general knowledge would read and understand the association of the plaintiff with the CHC case in the Disputed Words and Images as implying that the plaintiff is guilty of criminal misappropriation, and in this regard, the plaintiff cites a number of media reports published before the publication of the Article which stated that the CHC leaders were charged and a *prima facie* case has been made out against them for, *inter alia*, criminal misappropriation. Some of these media reports include:

(a) Straits Times, 28 June 2012: [note: 18]

> Through supposed investment in Xtron bonds, $13 million was allegedly misappropriated from the building fund of one of Singapore's largest churches.

(b) Business Times, 28 June 2012: [note: 19]

> The prosecution believes that S$13 million were misappropriated, from CHC's building fund

between 2007 and 2008 – disguised as investments in Xtron Productions bonds – to further Ms Ho's pop career.

(c) Today, 16 May 2013: [note: 20]

They allegedly used S$24 million of the church's Building Fund for sham investments. They then misappropriated another S$26.6 million of the church's money to cover up the initial act and "throw the auditors off the scent of the bogus bonds".

(d) Today, 22 May 2013: [note: 21]

Five of the CHC leaders allegedly used S$24 million of church building funds to purchase sham bonds from Xtron and another company, PT The First National Glassware.

Four of them then allegedly misappropriated another S$26.6 million of church funds in the guise of redeeming the bonds.

(e) Today, 6 May 2014: [note: 22]

On the element of misappropriation, which must be fulfilled for criminal breach of trust, the judge said there is evidence to show that sham, or false, investments took place.

46 Having regard to the widespread publicity that the CHC case had received before the Disputed Words and Images were published, I find that the CHC case has come to be associated with the criminal misappropriation of funds in the mind of an ordinary reasonable person. As such, it is immaterial that the CHC leaders have not, at the time of the publication, been convicted of criminal misappropriation.

47 I therefore find that the Disputed Words and Images convey the natural and ordinary meaning that the plaintiff, the Prime Minister of Singapore and the Chairman of GIC, is guilty of criminal misappropriation of the monies paid by Singaporeans to the CPF. There is no doubt that it is defamatory to suggest that the plaintiff is guilty of criminal misappropriation of the CPF monies: see *Gatley* at para 2.28; David Price, Korieh Duodu and Nicola Cain, *Defamation: Law, Procedure and Practice* (Sweet & Maxwell, 4th Ed, 2010) ("*Price, Duodu and Cain*") at para 2-19.

48 As mentioned earlier ([35] above), the defendant accepts that the Disputed Words and Images may convey the meaning suggested by the plaintiff, *ie*, the plaintiff is guilty of criminal misappropriation of the monies paid by Singaporeans to the CPF. [note: 23] However, the defendant submits that the Article, when read as a whole, would not convey such a meaning. [note: 24] It is apparent that the defendant's submission is guided by the discussions in *Gatley* at para 3.31, [note: 25] which reads:

> **Publication must be taken as a whole**. It follows from the fact that the context and circumstances of the publication must be taken into account, that the claimant cannot pick and choose parts of the publication which, standing alone, would be defamatory. This or that sentence may be considered defamatory, but there may be other passages which take away their sting. In this regard, the reasonable reader is assumed to have read the whole article complained of. If "in one part of the publication something disreputable to the plaintiff is stated, but that is removed by the conclusion, the bane and the antidote must be taken together". ...

I agree with the defendant that the whole publication must be examined in order to determine if it is defamatory of the plaintiff. If there is anything in a part of the publication that is, of itself, defamatory of the plaintiff, the Court must also consider if there is anything elsewhere that would put the publication in such a perspective that an ordinary reasonable reader would reach the conclusion that it is not defamatory of the plaintiff: *ABZ v Singapore Press Holdings Ltd* [2009] 4 SLR(R) 648 at [36]. The inquiry is whether the effect of the defamatory imputation "is overcome by contextual matter of an emollient kind so as to eradicate the hurt and render the whole publication harmless", and it is "a question of degree and competing emphasis": *Low Tuck Kwong v Sukamto Sia* [2014] 1 SLR 639 ("*Sukamto Sia*") at [44], citing *Morosi v Broadcasting Station 2GB Pty Ltd* [1980] 2 NSWLR 418 at 419–420.

49 However, I am unable to agree that the Article, when read as a whole, would not convey the meaning that the plaintiff is guilty of criminal misappropriation. The defendant says that the gist of the Article, when read as a whole, is that the Government legally enriches itself with a large proportion of the investment gains made by GIC and Temasek Holdings when they invest CPF monies. [note: 26] According to the defendant, this "puts in perspective, provides context and is the antidote" to the Disputed Words and Images. [note: 27] I find this argument wholly untenable. The defendant merely asserts that the Disputed Words and Images cannot bear the meaning proposed by the plaintiff when the Article is read as a whole. There is little explanation on how the rest of the Article affects the meaning of the Disputed Words and Images or acts as an antidote to the bane. In my view, the ordinary reasonable reader could not possibly arrive at the conclusion that the Article conveys any of the meanings proposed by the defendant unless he or she completely ignores the Disputed Words and Images (including the title of the Article). Contrary to the defendant's submission, I find that the rest of the Article is consistent with the finding that the Disputed Words and Images conveys the meaning that the plaintiff is guilty of criminal misappropriation ([47] above). As I have pointed out earlier ([44] above), the allegation that there is a lack of transparency in the manner which the CPF monies were being invested implies that the plaintiff, as the Prime Minister of Singapore and the Chairman of GIC, is not willing to be transparent about the finances of the Government and GIC because he wants to conceal the evidence of the criminal misappropriation, just like in the CHC case. Further, the parts of the Article which states, *inter alia*, that the CPF is one of the largest retirement funds but Singaporeans have one of the least adequate retirement funds in the world would serve to illustrate the point that CPF monies had been misappropriated. I also do not consider that the extracts from Christopher Balding or the allegations against the "PAP" would change the meaning of the Disputed Words and Images or neutralise the "sting". In my view, the ordinary reasonable person would understand the rest of the Article as flowing from the point that was made by the Disputed Words and Images, *ie*, the plaintiff is guilty of criminal misappropriation. Hence, I do not agree with the defendant that reading the Article as a whole would make a difference to the natural and ordinary meaning of the Disputed Words and Images. There is simply no antidote to the bane contained in the Article.

50 At this juncture, it should be recalled that extrinsic evidence would not be admitted to determine the natural and ordinary meaning of an allegedly defamatory statement ([27]–[28] above). As such, the parts of the defendant's affidavit that seeks to adduce extrinsic evidence to support its proposed meanings of the Disputed Words and Images will not be considered. I also note that the defendant had offered his views in the affidavit on why the Article would not convey the natural and ordinary meaning that the plaintiff is guilty of criminal misappropriation. In particular, the defendant states that he does not have the intention to accuse that the plaintiff is guilty of criminal misappropriation. [note: 28] It is trite law that the meaning intended by the publisher is irrelevant for the purposes of determining the meaning of the allegedly defamatory words: *Sukamto Sia* at [36]; *Review Publishing* at [27]; *Microsoft Corp* at [53]. The test is an objective one (*Sukamto Sia* at [36]).

Hence, I do not find it necessary to consider whether the intention of the defendant was to defame the plaintiff or otherwise.

51 For completeness, I should state that I do not agree with the defendant's assertion that the Disputed Words and Images cannot be understood to mean that the plaintiff is guilty of criminal misappropriation of the CPF monies because the defendant had "never accused [the plaintiff] of taking a cent of Singaporeans CPF monies". [note: 29] The ordinary reasonable person reading the Article would not undertake a legal analysis of the Disputed Words and Images and consider if the elements of the offence have been satisfied. As the Court of Appeal in *Review Publishing* observed at [79], the key question is how the ordinary reasonable person would perceive or understand the Article. In my view, the fact that the defendant had not accused the plaintiff of taking any part of the allegedly misappropriated monies would not have affected the manner in which an ordinary reasonable person would have read and understood the Article.

52 I therefore find that the Article, read as a whole, conveys the meaning that the plaintiff, the Prime Minister of Singapore and the Chairman of GIC, is guilty of criminal misappropriation of the monies paid by Singaporeans to the CPF. In my judgment, there is nothing in the Article that would put it in such a perspective that an ordinary reasonable reader would reach the conclusion that it is not defamatory of the plaintiff.

Whether the Plaintiff is entitled to an injunction

53 I now address the last issue. The plaintiff submits that an injunction should be granted to restrain the defendant from publishing or disseminating the allegation that the plaintiff is guilty of criminal misappropriation of the monies paid by Singaporeans to the CPF, or other allegation to the same effect, by any means whatsoever. [note: 30]

54 I should point out that there is a well-recognised distinction between an interim injunction and a final injunction preventing the future publication of defamatory materials: see, *eg*, *Evans* at p 211; *Gatley* at para 9.40. Such a distinction is implicitly acknowledged by the Court of Appeal in *Chin Bay Ching v Merchant Ventures Pte Ltd* [2005] 3 SLR(R) 142 (which dealt with interlocutory injunctions). The distinction is also recognised in jurisdictions such as England and South Africa: Dario Milo, *Defamation and Freedom of Speech* (Oxford University Press, 2008) at pp 257–259. The rationale for such a distinction is explained in Gary Chan Kok Yew and Lee Pey Woan, *The Law of Torts in Singapore* (Academy Publishing, 2011) at para 13.137:

> The courts are generally more cautious of issuing interlocutory injunctions, and will do so only where it is clear that the words complained of were libellous and no defence could possibly apply. The rationale lies in public interest in the freedom of speech. Caution should be exercised against interfering with such a right prior to the determination of the merits at trial. ...

55 A final injunction should only be granted when there are reasons to apprehend that the defendant will repeat the defamatory allegations: *Evans* at p 211; *Gatley* at para 9.41; *Duncan and Neill on Defamation* (Rt Hon Sir Brian Neill *et al* eds) (LexisNexis, 3rd Ed, 2009) ("*Duncan and Neill*") at para 24.14; *Carter-Ruck on Libel and Privacy* (Alastair Mullis and Cameron Doley gen ed) (LexisNexis, 6th Ed, 2010) at para 15.97; *Price, Duodu and Cain* at para 21-08. I note that such an approach is consistent with the earlier decisions on final injunctions granted in cases of defamation: *LHL v SDP* at [85]; *Chiam See Tong v Xin Zhang Jiang Restaurant Pte Ltd* [1995] 1 SLR(R) 856 at [10]–[11]; *Sukamto Sia* at [101]. In my view, the apprehension of further publication is the touchstone for deciding whether a final injunction ought to be granted for the following reasons. The defendant published words which I have found to be defamatory of the plaintiff. He has not pleaded the defence

of justification and therefore does not claim the defamatory allegations to be the truth. The sole defence that the defendant pleaded is that Art 14 of the Constitution protects his right to publish such defamatory words even if they are not truthful. I have found this defence to be baseless. The defendant therefore has had the opportunity to defend his right to publish the Disputed Words and Images and a finding has been made against him. Where a defendant has manifested a propensity to repeat the same defamatory allegation of a plaintiff, it is not right that the latter should be put to further distress and expense of bringing another action should the defendant repeat the defamation.

56 The next question to be decided is whether the plaintiff has proven that the defendant has a propensity to repeat the defamatory allegation so that an injunction ought to be granted. The plaintiff submits that there are reasons to apprehend further publication by the defendant in light of the events preceding this suit. In this respect, the plaintiff highlights the following sequence of events:

(a) On 18 May 2014, the plaintiff (through his solicitors) issued a letter of demand to the defendant demanding, *inter alia*, that the defendant removes the Article from the Blog and undertake not to make any further allegations to the same or similar effect. [note: 31]

(b) On 20 May 2014, the defendant (through his solicitors) informed the plaintiff that the "alleged defamatory material" had been removed. [note: 32]

(c) On 20 May 2014, the defendant published an article entitled "YOUR CPF: The Complete Truth And Nothing But The Truth", which included a link to the article entitled "How Is Your CPF Money Being Used And Taken Away?" dated 22 May 2013, which in turn contained a link to the article entitled "How We Are Not Told that Our CPF Monies are Used to Invest in GIC" dated 22 July 2012 which contained a comparison between the CHC case and the CPF. [note: 33]

(d) On 23 May 2014, the defendant published the apology and undertaking (which included an undertaking not to make any further allegations to the same or similar effect). [note: 34]

(e) On or around 24 May 2014, the defendant published an article on the Blog claiming, *inter alia*, that the apology was made only in relation to the "perceived suggestion" of misappropriation. [note: 35]

(f) On or around 24 May 2014, the defendant posted a video on YouTube and on the Blog ("the Video") asserting, *inter alia*, that: [note: 36]

(i) he was "right" to make the allegation of criminal misappropriation against the plaintiff;

(ii) the allegation was "the truth";

(iii) the plaintiff had used the law to suppress the fact of his criminal misappropriation;

(iv) the plaintiff sent his letter of demand and is seeking damages and costs not to enforce his legal rights but to assassinate the defendant's character and to discredit the defendant; and

(v) the defendant did not "regret" making the allegations against the plaintiff.

(g) On or about 24 May 2014, the defendant published an article entitled "Roy Ngerng's Message: Defamation Suit From Singapore Prime Minister", which included a link to the article

entitled "YOUR CPF: The Complete Truth And Nothing But The Truth" dated 20 May 2014 ([(c)] above). [note: 37]

(h) On or about 26 May 2014, the defendant (through his solicitors) informed the plaintiff that he would remove the Video; however he merely made the Video private and accessible to a selected group of people. [note: 38]

(i) On or about 26 May 2014, the defendant sent two emails to members of the local and international media notifying them of where they could continue to read some of the posts (which the defendant agreed to remove due to their defamatory contents) after the removal. [note: 39]

57 Based on the above, the plaintiff submits that there are reasons to apprehend that the defendant will repeat the defamatory allegation or words and/or images to the same effect. In response, the defendant submits that there is no need for an injunction as there is no evidence of further publication by the defendant since 27 May 2014.

58 On the evidence before me, I find that there are reasons to apprehend further publication by the defendant. The defendant had republished links to the comparison between the CHC case and the CPF after the letter of demand was issued; once before and once shortly after the apology and undertaking ([56(c)] and [56(g)] above). In addition, the defendant referred the local and international media to a website that had republished the Article when he knew at that point in time that he had to comply with the plaintiff's demand to remove the defamatory materials from the Blog ([56(i)] above). The defendant had also asserted that the allegation of criminal misappropriation was the truth ([56(f)] above). I appreciate that there has been no evidence of further publication by the defendant since 27 May 2014. However, I note that the defendant had previously taken deliberate steps to conceal his actions ([56(h)] above). I find that the defendant has manifested a propensity to repeat the defamatory allegation and therefore a final injunction should be granted.

59 The last issue is the scope of the final injunction. This would cover the defamatory words and/or images that form the subject-matter of the claim as well as words and/or images to the same effect: *Gatley* at para 9.41; *Duncan and Neill* at para 24.14. In this respect, the observations in *Price, Duodo and Cain* at para 21-09 is pertinent:

> **Breach of an injunction**
>
> The common form of an injunction restrains the defendant from publishing or causing the publication of the same words as those forming the subject matter of the claim or *words to "similar effect". This prevents the defendant from defeating the spirit of the injunction.* Care should be taken not to re-assert indirectly or by inference the truth of the original publication since this will amount to a breach of the injunction. ... [emphasis added]

60 However, the court must bear in mind that the injunction should be carefully worded and sufficiently circumscribed such that it would not overreach and thereby infringe upon the right to freedom of speech or have a chilling effect. The plaintiff has included in his prayer the words "... or other allegation to the same effect, by any means whatsoever" ([53] above). I am not inclined to use such wide words in the injunction and would replace them with the words "... or any words and/or images to the same effect". This leaves no room for ambiguity, and makes it clear that the defendant remains free to exercise his right to freedom of speech under Art 14 of the Constitution, save for the repetition of the allegation that has been found to be defamatory in these proceedings.

Conclusion

61 Pursuant to O 14 r 12, I have made a determination that the natural and ordinary meaning of the Disputed Words and Images is defamatory of the plaintiff ([47] above).

62 I therefore grant interlocutory judgment to the plaintiff with damages to be assessed. I also order that the defendant be restrained from publishing or disseminating the allegation that the plaintiff is guilty of criminal misappropriation of the monies paid by Singaporeans to the CPF, or any words and/or images to the same effect.

63 I will hear counsel on the issue of costs.

[note: 1] Statement of claim ("SOC") at para 1.

[note: 2] SOC at para 2.

[note: 3] SOC at para 4.

[note: 4] SOC at para 6; amended defence at para 5.

[note: 5] SOC at para 16; amended defence at para 14.1.

[note: 6] SOC at para 17; amended defence at para 14.1.

[note: 7] Amended defence at para 14.2.

[note: 8] Amended defence at para 14.3, Lee Hsien Loong's first affidavit ("LHL's 1st affidavit") at para 31–32.

[note: 9] SOC at paras 18(i)–18(iii); amended defence at para 15.1.

[note: 10] Further & better particulars of SOC at para 2.2(b); amended defence at para 14.6.

[note: 11] Amended defence at para 17; defendant's written submissions on Art 14 of the constitution ("DWS (Art 14)") at para 1.

[note: 12] DWS (Art 14) at paras 4 and 5.

[note: 13] DWS (Art 14) at para 5.

[note: 14] Amended defence at para 2.1.

[note: 15] SOC at para 9(c); amended defence at para 8.4.

[note: 16] Defendant's written submissions on the meaning of the Article ("DWS (Meaning)") at paras 27–29; defendant's reply submissions on the meaning of the Article ("DRS (Meaning)") at para 3.

[note: 17] DWS (Meaning) at paras 27–29; DRS (Meaning) at para 3.

[note: 18] Muhammad Imran Bin Abdul Rahim's affidavit ("MIAR's affidavit") at p 44.

[note: 19] MIAR's affidavit at p 46.

[note: 20] MIAR's affidavit at p 60.

[note: 21] MIAR's affidavit at p 68.

[note: 22] MIAR's affidavit at p 81.

[note: 23] DWS (Meaning) at paras 27–29; DRS (Meaning) at para 3.

[note: 24] DWS (Meaning) at paras 27–29; DRS (Meaning) at para 3.

[note: 25] DWS (Meaning) at paras 24 and 27; DRS (Meaning) at paras 12–13.

[note: 26] DWS (Meaning) at paras 5, 20, 30 and 32; DRS (Meaning) at para 13.

[note: 27] DRS (Meaning) at para 13.

[note: 28] Roy Ngerng Yi Ling's affidavit ("RNYL's affidavit") at para 17.

[note: 29] RNYL's affidavit at para 17; DWS (Meaning) at para 6.

[note: 30] Plaintiff's written submissions at para 195(b).

[note: 31] LHL's 1st affidavit at para 26.

[note: 32] Lee Hsien Loong's 2nd affidavit ("LHL's 2nd affidavit") at pp 10–11.

[note: 33] LHL's 1st affidavit at pp 104–106; RNYL's affidavit at RNYL-8.

[note: 34] LHL's 1st affidavit at paras 31–32.

[note: 35] LHL's 1st affidavit at p 105.

[note: 36] LHL's 1st affidavit at pp 104–106.

[note: 37] LHL's 1st affidavit at pp 104–106; RNYL's affidavit at RNYL-8.

[note: 38] LHL's 2nd affidavit at pp 14–15, 25–26.

[note: 39] LHL's 2nd affidavit at pp 16–17, 23.