De Souza Tay & Goh (suing as a firm) v Singapore Press Holdings Ltd and another action [2001] SGHC 134

Case Number : Suit 858/2000, 859/2000, RA 24/2001, 23/2001

Decision Date : 16 June 2001

Tribunal/Court : High Court

Coram : Lee Seiu Kin JC

Counsel Name(s) : Engelin Teh SC and Thomas Sim (Engelin Teh & Partners) for the plaintiffs; Philip Fong and Melanie Ho (Harry Elias Partnership) for the defendants in both suits

Parties : De Souza Tay & Goh (suing as a firm) — Singapore Press Holdings Ltd

Tort – Defamation – Libel – Natural and ordinary meaning – Innuendos meaning – Applicable principles – Whether words and graphics of article defamatory in their natural and ordinary meaning – Whether words and graphics of article defamatory in their innuendos

: The plaintiffs are a partnership carrying on business as a law firm. The partners in the plaintiffs are David De Souza, Cedric Tay Yat Hock and Goh Kok Yeow. The defendants in Suit 858/2000 are the owners of The Straits Times (`TST`), the principal daily English newspaper in Singapore. The defendant in Suit 859/2000 is a journalist with TST.

In these actions, the plaintiffs claim damages from both defendants for libel in respect of the publication of an article (`the Article`) which appeared in the 27 September 2000 edition of TST. The plaintiffs assert that the words, together with the photographs and graphical representations (collectively called `the graphic`) of the Article are, in their natural and ordinary meaning, defamatory of the plaintiffs. The plaintiffs also assert that the said material, when read in the light of an earlier article published in the 26 September 2000 edition of TST (`the 26 September article`), is also defamatory of the plaintiffs in their innuendo meaning.

On 4 December 2000, the plaintiffs filed separate applications in these actions under O 14 r 12 for the determination of:

(1) the natural and ordinary meaning; and

(2) the innuendo meaning,

of the words and the graphic of the Article.

The plaintiffs have pleaded in their statement of claim that the words and the graphic, in their natural and ordinary meaning and/or in their innuendo meaning, meant that:

(1) the plaintiffs are participants and/or are directly or indirectly involved in the suspected illegal and/or fraudulent activity of Lernout & Hauspie and/or its co-founders and/or its licensees which activity is being investigated into by the United States Securities and Exchange Commission; and

(2) the plaintiffs` conduct when contacted by the defendants prior to the publication of the words, the graphic illustration and the captioned photograph was evasive, thus lending further weight and credence to the above allegation.

The senior assistant registrar who heard the applications below disagreed with this and held that the 27 September article was not defamatory of the plaintiffs. Consequently, he ordered the plaintiffs` statement of claim in both actions to be struck out on the ground that there was no reasonable

cause of action against the defendants in both actions and accordingly dismissed those actions.

Before me, the plaintiffs appealed against the whole of that decision.

The 27 September article

The subject matter of these actions was published in the `Money` section of the 27 September 2000 edition of TST, at p 88. The Article can be divided into two parts: (1) the words; and (2) the graphic. Together they cover 32%, or almost a third, of the entire page. The graphic appears at the top of the Article. It comprises a flow chart indicating transactions between a number of companies with accompanying words and a photograph that appears to be the name plate of the plaintiffs` office. The words of the Article comprise a headline in large bold print, a sub-headline in medium bold print and the text of the Article.

The principal subject of the Article is a Belgian company known as Lernout & Hauspie (`L&H`). The following self-explanatory description is found on its internet home page:

> *Lernout & Hauspie is the world`s leading provider of speech and language technology products, solutions, and services to businesses and individuals worldwide. It is our mission to break down language barriers through advanced translation technology and to enable people to interact by voice-in any language-with the machines that empower them. Through such enhanced communication, we believe people will lead richer, more fulfilling lives.*

The graphic itself has a headline and it proclaims `Belgian-Singapore Connection`. This is followed by a flowchart which indicates a circular flow of transactions between various entities inside four boxes. Beginning with the principal subject, the first box states as follows:

> *Lernout & Hauspie (L&H)*
>
> *Belgian maker of Speech recognition software.*
>
> *Listed on Nasdaq. Asia-Pacific HQ in Singapore*

An arrow emanates from this box towards the second box which states as follows:

> *L&H co-founders Messrs Lernout & Hauspie*
>
> *are among the investors who started FLV Fund.*

A second arrow emanates from this box to the third box which says:

> *FLV Fund*
>
> *Listed in Brussels*

A third arrow emanates from this box to the fourth box which states:

> *15 Singapore registered companies*

Accompanying this third arrow are the following words:

> *Paid millions last year for stakes in some companies. Sold the stakes months later to a South Korean company.*

These words would be understood to mean that FLV Fund had, in the previous year, paid the `millions` for stakes in the 15 Singapore-registered companies which it subsequently sold to a South Korean company.

From the fourth box, a fourth arrow emanates towards the first box with the following words next to it:

> *Pays US$57 million, boosting L&H`s Singapore revenue from US$29,000 in 1998 to US$80.3 m last year.*

These words would be understood as asserting that the 15 companies had paid out US$57m in total to L&H, causing its revenue to rise from US$29,000 to US$80.3m the previous year.

There is a fifth arrow emanating from the first box towards the fourth box and this is accompanied by the words: `Sells software rights`. This would be understood to mean that the software rights were sold by L&H to those 15 companies in consideration for the US$57m.

At the bottom of the fourth box relating to the 15 companies are the following words: `Common address in law firm De Souza Tay & Goh in Shenton Way`. Underneath those words is the photograph of what appears to be the name plate of the plaintiffs` office.

Finally, at the bottom left corner of the graphic are the following words in bold print:

> *FLV FUND`S INVOLVEMENT IN THE SINGAPORE COMPANIES RAISES THE POSSIBILITY THAT L&H`S FAST SALES GROWTH MAY NOT BE ALL THAT IT APPEARS - Asian Wall Street Journal*

This would be understood to be a quote from the Asian Wall Street Journal.

Below the graphic is the headline of the Article which states, in large bold print: `L&H licensees: Two sat on 678 boards`.

And below that is a sub-headline in smaller bold print which states:

> *They were directors for just a couple of weeks in many instances; the figures*

are high but legal, says lawyer

Below all that, the text of the Article appears. I reproduce it in full below (with paragraph numbers added for ease of reference):

> *1 Two of the shareholders of Lernout & Hauspie`s (L&H`s) licensees here have been directors of a total of some 670 companies in the past few years, according to official records.*
>
> *2 The pair are Messrs Soh Leng Woon and Lee Li Ching, according to a check with the Registry of Companies and Businesses yesterday.*
>
> *3 Going by their identification numbers, both are in their mid-30s.*
>
> *4 They are listed as shareholders of at least three L&H licensees in Singapore: I-Mail, I-News and I-Office.*
>
> *5 These companies are among the 15 sharing a single address in Shenton Way, which L&H said paid it US$57 million (S$100 million) last year for rights to L&H`s speech-recognition software.*
>
> *6 They and another four also relatively unknown companies helped propel L&H`s revenue from Singapore to US$80.3 million last year from a mere US$29,000 the year before, making the Republic the Nasdaq-listed company`s biggest customer.*
>
> *7 L&H said it had experienced a jump in revenue from Asia. But a cloud has been cast over this with the launch of a probe into the recent surge in its Asia sales by the US` Securities and Exchange Commission.*
>
> *8 The Asian Wall Street Journal (AWSJ) had reported the investigation which has since been confirmed.*
>
> *9 It had also said that some of these Singapore companies had in fact received millions in investments from a venture-capital fund set up by the two L&H co-founders.*
>
> *10 In Singapore, L&H Asia-Pacific president Louis Woo, when asked about what the 19 companies registered here did or who owned or managed them, told The Straits Times: "I`m not familiar with the shareholders of these companies."*
>
> *11 Official records show that Messrs Soh Leng Woon and Lee Li Ching have been directors briefly - a couple of weeks in many instances - of over 500 and 178 companies respectively.*
>
> *12 A lawyer said these are high figures but legal.*
>
> *13 "So long as the law allows, why can`t a citizen lend his name for a fee? But he is liable should anything go wrong in the company," he said.*

14 It is not uncommon for people to be appointed directors to form companies and then replaced when long-term shareholders are found.

15 Many of the 678 firms are not listed in the telephone directory, and some could be shell companies.

16 Details on the 15 Singapore licensees of L&H`s software are hard to come by. What is known is that they have a common registered address in a law firm at UIC Building in Shenton Way.

17 Ms Tan Lee Chin who works in the law firm, is listed as their secretary and director but she declined to comment when contacted by The Straits Times.

18 Attempts to reach the partners of the law firm, De Souza Tay & Goh, were unsuccessful.

19 Other lawyers said it was common for companies to use law firms or accountancy firms as their registered addresses.

20 Explained one: "It`s a matter of convenience. They may not be active here and they appoint the law firm`s lawyers as company secretaries and sleeping directors. The address is for the purpose of official correspondence and public notices."

21 L&H has declined to say where the 15 licensee companies operate.

22 An AWSJ report quoted a L&H spokesman in Belgium saying they have operations "in Belgium and other parts of the world".

23 But he could not provide exact addresses for the operations of any of the companies, said the journal.

24 He also said that the journal`s report had raised doubts unfairly about whether the start-up companies had real operations. [Paragraphs are numbered for ease of reference.]

At the last page of that edition of TST there is a reference to the Article (`the blurb`). It occupies a small central block at the top of the page. It is placed there to attract the reader`s attention to the Article and direct him to the relevant page. The blurb comprises (1) a colour photograph of what appears to be the entrance to the plaintiffs` office showing their name plate; and (2) a caption which reads as follows:

Keeping Busy

Two shareholders of Lernout & Hauspie`s licensees have been directors of 670 companies.[emsp]PAGE 88

NATURAL AND ORDINARY MEANING OF THE ARTICLE

The plaintiffs pleaded that the words and the graphic of the Article have the same meaning in their natural and ordinary meaning and innuendo meaning. I first consider the natural and ordinary meaning of the Article. In **Microsoft Corp v SM Summit Holdings** [1999] 4 SLR 529 , the Court of Appeal stated that the general principles pertaining to the determination of the natural and ordinary meaning of words in a defamation action were well established. The court summarised these principles as follows (at [para]53 and 54):

> *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*** *[1984-1985] SLR 516 [1985] 1 MLJ 334 and* ***Jeyaretnam Joshua Benjamin v Lee Kuan Yew*** *, supra. 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. This court in the latter case said at pp 318-319:*
>
> *`In determining the natural and ordinary meaning of the words complained of, the sense or meaning intended by the appellant is irrelevant. Nor for such purpose is the sense or meaning in which the words were understood by the respondent relevant. 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 speech made by the appellant on that occasion. It is the natural and ordinary meaning as understood by reasonable members of the audience at the Bedok car park on that evening using their general knowledge and common sense. Such meaning is not confined to a literal or strict meaning of the words, but includes any references or implications which could reasonably be drawn by such persons ...`*
>
> *54 Lord Reid said in the oft-cited case of* ***Rubber Improvement Ltd v Daily Telegraph Ltd*** *[1964] AC 234 at p 258:*
>
> *`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 part of their natural and ordinary meaning. Here there would be nothing libellous in saying that an inquiry into the appellants` affairs was proceeding: the inquiry might be by a statistician or other expert.*

The sting is in inferences drawn from the fact that it is the fraud squad which is making the inquiry. What those inferences should be is ultimately a question for the jury, but the trial judge has an important duty to perform ...`

This passage has time and again been approved by our courts and also by this court: see ***Goh Chok Tong v Jeyaretnam Joshua Benjamin and another action*** *[1998] 3 SLR 337 at p 346. In that case, this court also held that, in considering the inferences to be drawn, it is relevant to bear in mind the observations made by the English Court of Appeal in* ***Skuse v Granada Television Ltd*** *[1996] EMLR 278 at p 285:*

`...

(2) The hypothetical reasonable reader [or viewer] is not naïve 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.

...

(3) While limiting its attention to what the defendant has actually said or written, the court should be cautious of an over-elaborate analysis of the material in issue. We were reminded of Diplock LJ`s cautionary words in ***Slim v Daily Telegraph Ltd*** *[1968] 2 QB 157 at p 171: "... In the present case, we must remind ourselves that this was a factual programme, likely to appeal primarily to a seriously minded section of television viewers, but it was a programme which, even if watched continuously, would have been seen only once by viewers, many of whom may have switched on for entertainment. Its audience would not have given it the analytical attention of a lawyer to the meaning of a document, an auditor to the interpretation of accounts, or an academic to the content of a learned article. In deciding what impression the material complained of would have been likely to have on the hypothetical reasonable viewer we are entitled (if not bound) to have regard to the impression it made on us."`*

From the foregoing the following general principles for determining the natural and ordinary meaning of words in a defamation action may be distilled:

(1) It is an objective test involving the determination of the meaning that would be conveyed by the words to an ordinary, reasonable person:

(a) using his general knowledge and common sense;

(b) who is not unduly suspicious or avid for scandal.

(2) The following considerations are irrelevant:

(a) the meaning intended by the maker of the statement; and

(b) the sense in which the words were understood by the plaintiff.

(3) Extrinsic evidence is not admissible in construing the meaning of the words.

(4) The nature of the audience is to be taken into account.

There are of course specific principles formulated for various circumstances that have arisen in the authorities and these will be considered in the analysis below.

In the Article, the direct references to the plaintiffs are as follows:

(i) Three statements, one in the graphic and two at paras 5 and 16 of the text (read with paras 17 and 18), that the 15 Singapore-registered companies involved in the matter have a common address in the plaintiffs` premises at Shenton Way.

(ii) One of the plaintiffs` employees, Ms Tan Lee Chin, is the secretary and director of the 15 companies. She declined to comment when contacted by TST (para 17).

(iii) Attempts by TST to reach the partners of the plaintiffs were unsuccessful (para 18).

As for the blurb, there is no reference to the plaintiffs in the caption, but the photograph shows the name plate of the firm. However, the combination of the size and font of the letters and the lack of contrast in the photograph, the name is not easily made out at a glance.

The literal meaning of the direct references to the plaintiffs in the Article are clearly not defamatory. Neither is it the plaintiffs` case that they are. Instead, they rely on the inferences that may be drawn from the words and graphic of the Article. The plaintiffs agree with the defendants that the main focus of the Article is the investigation mounted by the United States Securities and Exchange Commission (`the SEC`) into the suspected criminal activities of L&H and their licensees. However, the plaintiffs argue that the effect of the Article is to suggest an insidious link or connection between the plaintiffs and such criminal activities and in the process they were ` ***tarred by the same brush*** `.

It is therefore necessary to first consider what this brush has tarred in respect of the villain of the piece, L&H. The bold headline is the first thing that catches one`s attention. It states `L&H licensees: Two sat on 678 boards`. From there one would either glance at the graphic immediately above it, or the sub-headline below it. The message conveyed by the graphic and the sub-headline is that L&H had channelled their funds, via an incestuous network of companies, back to themselves disguised as sales of their software. In this manner, L&H had fraudulently boosted their revenue from such sales in a single year from a minuscule US$29,000 to US$80.3m. Proceeding to the text, paras 1 to 6 describe how two of the shareholders of three of L&H`s licensees in Singapore had been directors of some 670 companies in the past few years. Those three licensees shared the same `address` in Shenton Way as 15 other companies that had paid L&H US$57m in 1999 for their software. Together with four other obscure companies, they accounted for the US$80.3m revenue that L&H reported receiving in that year. Paragraphs 7 and 8 state that the SEC had launched a probe into this surge in sales and therefore ` ***a cloud has been cast*** ` over the matter. The remaining paragraphs provide further details of the story, alternatively highlighting the unusual nature of the

arrangement and quoting from lawyers who said that such arrangements were not unusual.

The first question is whether the Article is defamatory of L&H. A statement that a person is under investigation by an enforcement agency is not capable of meaning that such person is guilty of the crime being investigated, but it may bear the defamatory meaning that the person is under suspicion or that there are reasonable grounds for suspicion: **Lewis v Daily Telegraph** [1964] AC 234[1963] 2 All ER 151. In the present case, there is a reference to a probe by the SEC which is described as casting a cloud over the jump in revenue. Added to this is the emphasis in the Article on the fact that two individuals had acted as directors of 678 companies, many of which appear to be shell companies. These two individuals are in turn linked to 15 companies with the same `address` which had paid L&H US$57m for software licences. I would conclude that the Article would be interpreted by the ordinary, reasonable reader to mean that L&H had used these companies to manipulate financial transactions to create the impression that they had achieved a high sales turnover in 1999 and were therefore guilty of fraudulent conduct. At the very least, the Article is defamatory of L&H in that it means that there are reasonable grounds for suspicion that they are guilty of fraud.

I next have to determine whether there is anything in the Article that would reasonably suggest that the plaintiffs had anything to do with such fraudulent practices. The plaintiffs argue that the link is in the mention that the 15 Singapore licensees have a ` ***common address*** ` in the plaintiffs` office. Further, the Article mentioned that one of the plaintiffs` employees, Ms Tan Lee Chin who was the secretary and director of the 15 companies, had declined to comment when contacted by TST and that attempts to reach the partners of the firm were unsuccessful. These give the impression that the plaintiffs were being evasive and deliberately avoided contact, thereby indicating they had something to hide. Counsel for the plaintiffs then stated that the reports of evasiveness were not true and he gave reasons for saying that. However, as this has absolutely no relevance in respect of the determination of the natural and ordinary meaning of the Article I need not deal with those reasons. Additionally, the plaintiffs contend that the photograph in the blurb at the back page further links the plaintiffs to the allegations against L&H.

The defendants submit firstly that the Article did not contain anything that was defamatory of the plaintiffs. They submit that even if there were parts of the Article that could singly or collectively cast the plaintiffs in a bad light, the bane in those parts were neutralised by the antidote in other parts. In particular the defendants point out that in paras 12, 13 and 14, some lawyers were quoted who said that the holding of a large number of directorships was legal and a common practice. Also in paras 19 and 20 other lawyers were quoted as saying that it was common for companies to use law firms or accountancy firms as their registered addresses as a matter of convenience.

In my opinion the natural and ordinary meaning of the Article is not any of the two meanings pleaded in the statement of claim. Neither does it contain any lesser defamatory meaning. In coming to this conclusion, I have borne in mind the principles summarised by the Court of Appeal in ***Microsoft Corp v SM Summit Holdings*** (supra). While I have arrived at this determination from reading the Article as a whole, the following points were relevant:

(1) a reasonable reader would not think that there is anything wrong with a law firm permitting its address to be used as the registered office of a large number of companies;

(2) this is especially so in the light of the remarks quoted from lawyers that such a practice was legal and that it was commonly done;

(3) a reasonable person would not associate the law firm with the operations of the companies;

(4) the reference to the plaintiffs` employee, Ms Tan Lay Chin, being the secretary and director of 15 of the companies and declining to comment when contacted by TST does not necessarily mean that she was being evasive. In the context of the Article, especially the statement of the lawyer at para 14 of the Article (that interim directors are often appointed), a reasonable person would not infer any connection between Ms Tan, who is merely described as an employee, and the nefarious activities of those companies;

(5) similarly, in respect of para 18 of the Article, the fact that TST had made unsuccessful attempts to reach the partners of the firm need not necessarily have a defamatory meaning and in the context of the Article cannot reasonably be construed to have such a meaning. If the partners had been reached but declined comment, that could have given a different picture. But it would not be reasonable for a reader to infer that the partners had been evasive merely because TST had not been successful in contacting them.

INNUENDO MEANING OF THE ARTICLE

The plaintiffs next rely on innuendo (or `true` or `legal` innuendo). The basis for this is an article published the previous day (`the 26 September article`), of which the Article is a follow-up. The 26 September article is found at p 70 of that edition and states as follows (with paragraph numbers added):

> *US regulator`s probe may lead to Singapore*
>
> *15 companies sharing a local address pay $100m to Belgian firm, whose surge in Asian sales sparks scrutiny*
>
> *1 A BELGIAN software company, Lernout & Hauspie Speech Products (L&H), was paid a whopping US$57 million (S$100 million) by 15 companies whose official address is a law firm in Shenton Way.*
>
> *2 This sum totalled nearly 17 per cent of the global revenues of the speech-recognition software company.*
>
> *3 It was payment for licensing rights to its software, says L&H.*
>
> *4 In fact, revenue from Singapore and other parts of Asia boosted the company`s sales - which grew more than 60 per cent last year.*
>
> *5 Singapore, in particular, saw turnover jumping from a lowly US$29,000 the year before to US$80.3 million, making the Republic the company`s biggest customer.*
>
> *6 However, the figures have drawn the attention of US regulators.*
>
> *7 The Asian Wall Street Journal (AWSJ) has reported that the Securities and Exchange Commission (SEC) is looking into the recent surge in Nasdaq-listed L&H`s South-east Asian sales.*
>
> *8 Yesterday, the business daily said nearly all of L&H`s revenue in Singapore came from the 15 companies and another four with a common address in*

Geylang.

9 The paper`s latest report is a follow-up to its earlier disclosures about L&H, a global leader in speech and linguistic technologies with its Asia-Pacific headquarters at the International Business Park in Jurong East.

10 Responding to the AWSJ article, L&H Asia-Pacific president Louis Woo told The Straits Times that the 15 companies did pay the US$57 million to the company.

11 However, he declined to provide details about them.

12 "You should talk to them about it. As far as we are concerned, they are our customers," said Dr Woo.

13 The documents filed with the Registry of Companies named a Ms Tan Lee Chin at the Shenton Way law firm as their secretary and director.

14 She was not available for an interview.

15 And when reached by telephone yesterday, she would say only, "I have nothing to say."

16 The partners of the law firm were not available for comment.

17 The other officer of the companies is a Belgian national with a Belgium address.

18 AWSJ said nearly all the 19 companies were launched last year.

19 Eight of them had financial ties to a Belgian venture-capital fund that was linked closely to L&H.

20 The FLV Fund, which was set up by a group of investors including Messrs Lernout and Hauspie, last year paid millions for 49 per cent stakes in some of the Singapore companies.

21 Said the AWSJ: "FLV Fund`s involvement in the Singapore companies raises the possibility that L&H`s fast sales growth may not be all that it appears."

22 Dr Woo told The Straits Times he reserved comment on the article as the SEC probe was in progress.

23 But he insisted: "The bottom line is that the fundamentals of L&H are there and we are doing the right things."

24 Also, the company had commissioned an independent audit of its worldwide operations and this would be completed soon.

25 "I believe we will be vindicated," he said.

26 L&H chief executive Gaston Bastiaens has resigned.

27 In Belgium, new chief executive John Duerden said last week that L&H would cooperate fully with the SEC in its probe.

28 Meanwhile, Reuters reported yesterday that shares in the FLV Fund fell sharply on the Brussels-based Easdaq market amid concern about the fund`s exposure to L&H.

29 The fund, which said 31 of its 52 portfolio companies made use of L&H technology, plummeted 57 per cent to an all-time low of US$5.25 before recovering slightly to US$8.40.

30 It released a statement yesterday, saying that the "commotion" caused by a story in the Europe edition of the Wall Street Journal had not affected the value of its portfolio or the operations of the fund.

31 L&H itself was 9.06 per cent lower at a mid-price US$14.18 on Easdaq.

Apart from paras 14 to 16, there is substantively no additional information in the 26 September article. If it is also defamatory of L&H, it does not add much to the damage done by the Article published the following day. Paragraph 14 states that Ms Tan (named in the previous paragraph as the secretary and director of the 15 companies) was not available for an interview. Paragraph 15 goes on to say that when reached by telephone, she said that she had nothing to say. Paragraph 16 states that the partners of the law firm were not available for comment. However, the same information is repeated in the Article, the only significant difference being that the 26 September article quoted Ms Tan as saying ` ***I have nothing to say*** `.

Counsel for the plaintiffs argued that such a statement in the circumstances raises the inference that Ms Tan had something to hide in respect of the 15 companies. Counsel further submitted that the statement in para 16 that the partners of the law firm were not available for comment implies that they were evasive about the matter. A person who had read the 26 September article would therefore have this background information and upon reading the Article the following day, which identifies the plaintiffs as the law firm in question, would form the view that they were involved, directly or indirectly in the matter.

I agree that the statement in para 15 quoting Ms Tan as saying that she had nothing to say, read in conjunction with para 16 that the partners of the firm were not available for comment, does in the context of the 26 September article, raise an inference that Ms Tan and the partners had something to hide. However, as I have described above, the Article contained quotes from lawyers who had stated that it was common for people to be appointed directors of a large number of companies and to act as interim directors. The Article had also said that it was common, and a matter of convenience, for companies to use law firms or accountancy firms as their registered office. The Article stated that a lawyer explained that such addresses are for the purpose of official correspondence and public notices.

In **Charleston v News Group Newspapers** [1995] 2 AC 65[1995] 2 All ER 313, the House of Lords held that where a publication is not defamatory if considered as a whole, the plaintiff cannot succeed ([1995] 2 AC 65 at 69; [1995] 2 All ER 313 at 315-316):

... on the ground that some readers will have read part only of the published

matter and that this part, considered in isolation, is capable of bearing a defamatory meaning.

In arriving at this conclusion, Lord Bridge of Harwich said ([1995] 2 AC 65 at 70-71; [1995] 2 All ER 313 at 316-317) that there was:

> *... a long and unbroken line of authority the effect of which is accurately summarised in* ***Duncan & Neill on Defamation****, 2nd ed. (1983), p. 13, para. 4.11 as follows:*
>
> *`In order to determine the natural and ordinary meaning of the words of which the plaintiff complains it is necessary to take into account the context in which the words were used and the mode of publication. Thus a plaintiff cannot select an isolated passage in an article and complain of that alone if other parts of the article throw a different light on that passage.`*
>
> *The locus classicus is a passage from the judgment of Alderson B. in* ***Chalmers v. Payne*** *(Unreported) , who said:*
>
> *`But the question here is, whether the matter be slanderous or not, which is a question for the jury; who are to take the whole together, and say whether the result of the whole is calculated to injure the plaintiff`s character. In one part of this publication, something disreputable to the plaintiff is stated, but that is removed by the conclusion; the bane and antidote must be taken together.`*
>
> *This passage has been so often quoted that it has become almost conventional jargon among libel lawyers to speak of the bane and the antidote. It is often a debatable question which the jury must resolve whether the antidote is effective to neutralise the bane and in determining this question the jury may certainly consider the mode of publication and the relative prominence given to different parts of it. I can well envisage also that questions might arise in some circumstances as to whether different items of published material relating to the same subject matter were sufficiently closely connected as to be regarded as a single publication. But no such questions arise in the instant case ...*

Thus it is necessary to examine the Article as a whole and in the context in which the words were used. If there is anything in a part of it that is, of itself, defamatory of the plaintiffs, one must consider whether there is anything elsewhere that would put the Article in such a perspective that a reasonable reader would not reach the conclusion that it is defamatory of them. In the present case I have to consider the Article in its entirety, together with the information available to the person who has also read the 26 September article. Considering the matter from that perspective, I conclude that the antidote in the Article would clearly remove any bane carried by the innuendo in the 26 September article.

Conclusion

In conclusion, I would hold that both the natural and ordinary meaning of the Article and its innuendo meaning based on the 26 September article are not defamatory of the plaintiffs. Accordingly their

appeals are dismissed. I will hear counsel on the question of costs.

Outcome:

Appeals dismissed.