

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2020] SGHC 137

Suit No 806 of 2018
(Summons No 1431 of 2020)

Between

Chan Pik Sun

... Plaintiff

And

- (1) Wan Hoe Keet (Wen Haojie)
- (2) Ho Sally
- (3) Ho Hao Tian Sebastian
- (4) Strategic Wealth Consultancy Pte Ltd
(formerly known as SW4U Consultancy Pte Ltd)

... Defendants

JUDGMENT

[Civil Procedure] — [Injunctions]

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Chan Pik Sun
v
Wan Hoe Keet and others

[2020] SGHC 137

High Court — Suit No 806 of 2018 (Summons No 1431 of 2020)
Choo Han Teck J
18 June 2020

6 July 2020

Judgment reserved.

Choo Han Teck J:

1 The plaintiff is from Hong Kong and, according to her counsel, is about 60 years old. She is suing the four defendants for about S\$7.4m equivalent in HKD being money she invested under an investment scheme known as “SureWin4U”. Almost needless to say, she lost all her money.

2 The 4th defendant is allegedly the company through which “SureWin4U” was run. The 1st and 2nd defendants are from Singapore and are married to each other. They live with their child in a property (“Property”) that they jointly own. The plaintiff alleges that she dealt directly with the 1st and 2nd defendants although the main person behind the scheme and the 4th defendant, is apparently a man named Ong Kean Swan (“Peter Ong”). Strangely, Peter Ong himself is not being sued in this action. The 3rd defendant is the brother of the 2nd defendant. He appears to be a go-between and general orderly for Peter Ong, and is described by the plaintiff as the 1st and 2nd defendant’s agent.

3 Before me, the plaintiff is applying for a Mareva injunction against the 1st and 2nd defendants to prevent them from disposing of their assets (including the Property) up to the amount of S\$13,105,630.68, even though the plaintiff's claim is for only about S\$7.4m.

4 Although the plaintiff describes the episode as a “Ponzi” scheme, the exact nature of its structure and who was involved in its nefarious aspects will not be known till trial. Not all “Ponzi” schemes are the same - if we are, in fact, dealing with one.

5 From the affidavits filed so far, it does appear that the plaintiff had given a lot of money for a dubious and incredible form of investment. It appears that the plaintiff was led to believe that if she invested her money into the “SureWin4U” scheme, the money would be given to professional gamblers to gamble at casinos with.

6 The plaintiff was persuaded by the claim that these professional gamblers would use a special method for playing baccarat (devised by Peter Ong) that would ensure a success rate of between 99.8% and 100%. She would, it was claimed, gain returns of up to 18% on her capital in this way. This percentage keeps changing throughout the plaintiff's affidavits and her counsel's submissions.

7 As she got deeper and deeper into the scheme, she was told that the company had other means of increasing her wealth. To this end, she was invited to attend “SureWin4U” conferences in various venues in different countries.

There, she would meet other investors and listen to talks by Peter Ong regarding his secret method of winning at casinos.

8 These details will be relevant for trial, but it is necessary in this application to refer to another project that was proposed to the plaintiff, which enticed her to invest more of her money into the “SureWin4U” scheme. This was the call to invest in real estate property in Detroit in the United States. It is not known which properties were involved, or what were the valuations for them. Detroit at the material time was not known to be a lucrative market for property investors. Nonetheless, without more, the plaintiff invested in the Detroit properties and as could almost certainly be foreseen, she lost that money as well.

9 The plaintiff’s case against the 1st and 2nd defendants is that they “made representations to [her] which deceived her into investing in SureWin4U”. She alleges that Peter Ong was the CEO of “SureWin4U”, but the 1st and 2nd defendants “were very close and had direct regular communication” with him.

10 The plaintiff alleges that by their conduct, the 1st and 2nd defendants had held themselves out as “leaders of SureWin4U” and “trusted partners of [Peter Ong]”. To stress the importance of the 1st and 2nd defendants’ role, the plaintiff says that the two defendants promoted the properties in Detroit to her.

11 The plaintiff alleges that the 1st and 2nd defendants were performing so well in the syndicate that they were rewarded with a Ferrari and a yacht. The facts behind this are murky at this point. The 1st defendant explained in his affidavit that Peter Ong paid about one-third of the Ferrari’s purchase price,

with the 2nd defendant and him paying for the remainder. He also explained that Peter Ong gave them the full purchase price of the yacht in cash, and they made the payment using the 4th defendant's bank account. The exact transactions may have to be explored at trial — if they are proved to be materially relevant.

12 The relevant matter at this moment is that the schemes by “SureWin4U” envisage that investors bring other investors to join in the merriment of wonderful investments with high returns.

13 The investors are given ranking statuses judged by the number of investors they bring to the scheme. Hence, the 1st and 2nd defendants who had been in the scheme for a year or two, were given the accolade “seven-star agents”. The plaintiff herself, in a much shorter time, had risen to achieve the award of “five-star agent” and was told by Peter Ong that she was on the verge of becoming a “seven-star agent”.

14 Finally, according to the plaintiff, investments in and through “SureWin4U” were made by purchasing “ying-bi” at the fixed exchange rates listed on the “SureWin4U” website. If an investor wishes to purchase “Ying Bi”, she pays S\$1.38 for one “ying-bi”. If she is selling “ying-bi”, the going rate is S\$1.20 for one “ying-bi”. What is this “ying-bi”? The “ying-bi” is the fantasy currency created by Peter Ong. He is the central bank of the “ying-bi”.

15 Taiwanese news media reported on 10 September 2014 that Taiwanese police had uncovered a fraudulent scheme known as “SureWin4U”. A man known as Chen Jin Teng, who was allegedly the scheme's representative in

Taiwan, was arrested. The revelation of this news created panic among the investors.

16 The plaintiff sought the 1st and 2nd defendants to help her recover her investments. The 1st and 2nd defendants themselves, according to the 1st defendant’s affidavit, were in a state of shock. They went to consult lawyers, and then held a meeting among the investors.

17 The investors, including the plaintiff, but not the 1st and 2nd defendants, then went to the casinos themselves in an attempt to recover their losses by using the “100% success rate method” that they were taught at Peter Ong’s seminars. After losing more money at the casinos, the investors realised that they did not comprehend how the method worked in the first place.

18 Hence, the plaintiff brought this action to recover her losses from the defendants. She hopes, by this present application, to stop the 1st and 2nd defendants from dissipating their assets.

19 A Mareva injunction may be granted if the court is satisfied that there is credible evidence that a defendant is attempting to dissipate her assets such that there will be little or nothing for a successful plaintiff to recover should she win the suit. Until the trial is over, it will not be certain whether the plaintiff will succeed, and therefore, a Mareva injunction is not to be used to insure the plaintiff. At this stage of the action, the plaintiff and defendants stand on equally uncertain terms.

20 The plaintiff here claims that the 1st and 2nd defendants were dissipating their assets by their attempt to sell their Property. Mr Cavinder Bull SC, counsel

for the 1st and 2nd defendants, pointed out that the 1st and 2nd defendants had listed their Property for sale before the “SureWin4U” scam was discovered. Their son had completed secondary school and they no longer need to stay near the school. More importantly, although the Property was put on sale more than a year ago, it has not been sold because there have been no buyers willing to pay the asking price. Even if sold, the mere conversion of an asset to another form in itself is not sufficient proof of dissipation.

21 That brings us to the second point that Mr Bull SC raised. He submitted correctly, that a plaintiff seeking a Mareva injunction must act in good time. This application was made on 24 March 2020 after the action was filed on 15 August 2018. When both sides have a good arguable case, evidence of dissipation and prompt action become more significant factors.

22 In response, counsel for the plaintiff, Mr Lok Vi Ming SC, submitted that he had been busy in getting the injunction against his acting for the plaintiff discharged (see Originating Summons No 13 of 2019). I am not convinced that this was a justifiable reason for not acting more swiftly. The plaintiff could have been advised to apply through another solicitor as this was a stand-alone application. Secondly, Originating Summons No 13 of 2019 was only a brief interlude after the writ was filed. Mr Lok SC, surely cannot be saying that he placed the priority of keeping his brief over that of advancing the plaintiff’s more pressing need to secure a Mareva injunction.

23 More importantly, the 1st and 2nd defendants’ conduct did not indicate that they had been rushing to dissipate their assets. People who are rushing to dissipate their assets do not dally in the way they did.

24 Finally, from the plaintiff's perspective, the 1st and 2nd defendants were equal participants with Peter Ong in the "SureWin4U" scheme to defraud her of her money. From the 1st and 2nd defendants' perspective, they were no less victims of the scam than the plaintiff. For them, the trial may perhaps determine which party had been the more foolish, and whether the lesser one has a cause of action against the other. The trial will probably reveal even more facts and facets of this case, but I am presently not satisfied that there are sufficient grounds to grant the plaintiff a Mareva injunction.

25 The application was heard by me on 18 June 2020 and judgment was reserved with leave to the 1st defendant to file an affidavit by 23 June 2020. Mr Lok SC later wrote to the registrar, asking for leave to file an affidavit to raise further issues in respect of the ownership of the yacht (mentioned in [11] above), and objecting to paragraph 10 of the 1st defendant's affidavit filed on 22 June 2020. It had transpired that the 1st and 2nd defendants had sold the yacht, and paragraph 10 stated what they did with the sale proceeds. They apparently paid \$190,000 towards the mortgage for their Property, and \$415,836 to their previous solicitors. I had asked for this information since, as I mentioned, the mere conversion of an asset to another form in itself does not show dissipation, and what is important is whether the converted asset is still in the defendants' hands. What Mr Lok SC wanted, however, was not to respond to paragraph 10, but merely to "record his objection...as this was not within the scope of [my] directions". As I have already indicated, this is incorrect. As far as the ownership of the yacht is concerned, I do not think the issue is sufficiently important to justify potentially endless replies from both parties; what is important, and already in evidence, is what the 1st and 2nd defendants did with the proceeds from the sale of the yacht. I do not need further affidavits about

the yacht and its history at this stage, bearing in mind that this is an application for a Mareva injunction.

26 For the reasons above, I am of the view that the injunction sought should be refused and this application is therefore dismissed with costs reserved.

- Sgd -
Choo Han Teck
Judge

Lok Vi Ming SC, Lee Sien Liang Joseph, Muk Chen Yeen Jonathan
and Tan Yan Ting Tanya (LVM Law Chambers LLC) for the
plaintiff;
Cavinder Bull SC (instructed counsel), Lin Shumin and Ho Wei Wen
Daryl (Drew & Napier LLC) for the first and second defendants.
