IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2022] SGHC 282

Suit No 739 of 2021

Between

Ding Lik Sing

… *Plaintiff*

And

Chow Wai Shuen Mark Francis

… *Defendant*

JUDGMENT

[Debt and recovery — Acknowledgement of debt owed]

Ding Lik Sing
v
Chow Wai Shuen Mark Francis

[2022] SGHC 282

General Division of the High Court — Suit No 739 of 2021
Choo Han Teck J
18, 31 October 2022

9 November 2022 Judgment reserved.

Choo Han Teck J:

1 The plaintiff is claiming the sum of $1,952,000 from the defendant. In his Statement of Claim, the plaintiff says that the money was handed to the defendant for an investment opportunity after the defendant had represented that this investment will reap a "high return" on a monthly basis, and at the end of the investment period, the plaintiff will also have recovered the principal. The plaintiff says that money was paid to the defendant by way of bank transfer and by way of cash "[o]ver the years". The plaintiff was never made aware of the nature of the investment. In his pleadings and submissions, the plaintiff's counsel describes the arrangement as an investment agreement orally agreed between the parties. The defendant denies that there was any such agreement made with the plaintiff.

2 The plaintiff is also claiming the same amount by the alternative claim of an acknowledgement of debt, as he claims that the defendant had signed an

"I owe you" note in favour of the plaintiff. In the "I owe you" note, the defendant has allegedly agreed to pay the plaintiff the sum of $25,000 from 30 October 2016, on a monthly basis until the sum of $1,980,000 has been fully paid up. The plaintiff says that the defendant has already paid $28,000 to this end.

3 At trial, the defendant admitted that he had taken money from the plaintiff for investment, and he had promised the plaintiff some returns. However, he disputes the amount. He says that the money he took were loans from the plaintiff, but he claims that he borrowed only $65,783.50. The discrepancy was due to the high interests and penalties on late payment that was calculated by the plaintiff, or were monies that were not owed to the plaintiff, but to the plaintiff's wife, friends and aunties. How those monies became due to them is not apparent in the pleadings and evidence. The defendant further says that he has already made some repayments to the plaintiff. The defendant's counsel pleaded as an alternative that the loan was tainted by illegal moneylending under s 19(3) of the Moneylenders Act 2008 (2020 Rev Ed).

4 The plaintiff produced three "I owe you" notes signed by the defendant. The first two notes dated 15 August 2016 respectively state that the defendant owes the plaintiff a sum of $1,980,000 and $500,000, and the third note dated 17 August 2016 states that the defendant owes the plaintiff a further sum of $169,548.50. Only the first note is presently in issue. The defendant accepts that the signatures on the "I owe you" notes bear resemblance to his, but he denies signing them. However, the defendant admits that he wrote the contents of the "I owe you" notes. He claims that he had "no choice" but to write these notes in order to avoid a further "incident" with the plaintiff. Here, the defendant was alluding to a visit made by the plaintiff, along with a group of men, to the

defendant's home on 25 August 2016. The plaintiff says that he did visit, but he was only accompanied by his wife and friend.

5 At trial, the plaintiff also seemed to allude to other persons whom the defendant owed money to — including one "Gary", one "Zhao Lang" and some "aunties". However, it was not clear exactly how much was owed to these persons, and whether the sum of $1,980,000 that the plaintiff was claiming was inclusive of sums due to these third parties. The plaintiff's counsel did not address this claim in either the Statement of Claim or his submissions after trial.

6 The facts adduced at trial indicate that, if properly pleaded and sufficiently proved, the plaintiff may have a plausible case. Conversely, had the plaintiff proved a properly pleaded case, the defendant might succeed in the defence of unlicensed moneylending. Unfortunately, the pleadings and the evidence of both the plaintiff and the defendant bear no resemblance to the parties' cases that arose by insinuations at trial. In the result, we have two ships passing in the night. The narratives of both parties are full of unexplained assertions, and do not directly address each other's claims.

7 Pleadings should not contain evidence, just the promise of evidence. They should not contain submissions nor the law unless the cause of action is based on a specific law. Pleadings therefore need only set out the facts upon which a cause of action is founded, and they will be made good by the evidence-in-chief of the parties. How much evidence is required depends, of course, on the individual case. The problems in this case arose not only in the pleadings but also in the evidence and the manner in which the claim — and for that matter, the defence, was conducted.

8 I can find no clear account as to what the principal debt was, and how the sum of $1,925,000 was derived. The story of monies transferring from the plaintiff to the defendant for the purpose of an investment or loan (it is not clear which it is) is haphazard, and full of gaps and discrepancies. The same goes for the defence of unlicensed moneylending. The exact transaction or transactions are not specified. The terms of any agreement made between the parties are also not clear. Furthermore, numerous persons and witnesses on both sides were referred to as having substantial evidence to give, including the plaintiff's sister, wife, mother-in-law and friends, but not a single one was called by either party to testify on his behalf.

9 I told counsel at a pre-trial conference that the pleadings needed urgent correction and told them to get them in order. At that point, it was unclear whether the plaintiff's cause of action was in breach of contract, recovery of debt, or something else. The sole amendment made to the Statement of Claim after that was the following addition:

> Based on the Defendant's representations, the Plaintiff agreed to invest and entered into an investment agreement with the Defendant. The oral terms of the investment agreements were that the Plaintiff shall invest monies with the Defendant and the Defendant will repay a high return on the investment on a monthly basis and at the end of the investment period he guaranteed the principal investment sum to be paid back to the Plaintiff.
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> [emphasis in original]

10 While the amended pleadings include some mention of an investment agreement that was entered into with the defendant, the details were still lacking. There were no details as to how many transfers of money were made, how much each transfer was and when they were made.

11 In the Defence, the defendant's counsel referred to "aunty", the plaintiff's mother-in-law, who was not at all mentioned in the Statement of Claim. The defendant's counsel states that any agreement for investment was made between the aunty and the defendant, but not the plaintiff. The plaintiff did not respond to this claim. While the "aunty" was briefly referred to at trial, she was not called to give evidence. Her role in this case remains shrouded in mystery.

12 Transferring money as a loan is different from depositing them for investment. If it was a loan, the terms of the loan were not pleaded. Incredible as it appears, the amount loaned, the rate of interest, and the payment due dates were not pleaded. If the money was given to the defendant for investment, similarly, the dates and amount of capital invested were not pleaded. For an amount so large, it is incredible that the plaintiff has no idea how the money was being used by the defendant. There is no contemporaneous evidence of receipt of the money, only the belated "I owe you" note, handwritten with a disputed signature and no witnesses. Flaky as the defence is, the defendant is saved only by the plaintiff having his non-existent cause of action backed by no evidence.

13 The defendant also counterclaims for a "declaration that the ["I owe you" note] is not authentic, was procured by fraud and is therefore void". The plaintiff says that the defendant had voluntarily appended his signature onto the "I owe you" note. However, no evidence was presented to prove or disprove the authenticity of the signatures appended on the "I owe you" notes. The bare assertions raised by both sides, without more, do not admit of a fair and reasonable evaluation of what that note really was.

14 For the aforementioned reasons, the plaintiff's claim is dismissed. I will hear the question of costs at a later date.

- Sgd -
Choo Han Teck
Judge of the High Court

Muhammad Riyach Bin Hussain Omar (H C Law Practice) for the plaintiff;
Yong Zhee Hoe Jerry (Rajwin & Yong LLP) for the defendant.