Chin Hong Oon Ronny v Tanah Merah Country Club
[2001] SGHC 99

Case Number : OS 1519/2000

Decision Date : 21 May 2001

Tribunal/Court : High Court

Coram : Lai Siu Chiu J

Counsel Name(s) : Cheong Yuen Hee (as counsel) and Richard Sam (Sam & Wijaya) for the plaintiff; Lee Han Tiong and Julian Tay (Lee & Lee) for the defendants

Parties : Chin Hong Oon Ronny — Tanah Merah Country Club

Administrative Law – Disciplinary proceedings – Nature of court's function in relation to such proceedings

Administrative Law – Judicial review – Suspension of plaintiff's golfing privileges by defendants – Application by plaintiff for declarations that Club's decisions void – Whether plaintiff given right to be heard – O 53 r 1(1) Rules of Court

Civil Procedure – Affidavits – Defendant's general manager deposing affidavit – Application by plaintiff to cross-examine – Whether to allow cross-examination

Civil Procedure – Disclosure of documents – Application for discovery by plaintiff – Relevancy of documents – 'Fishing expedition' – Whether to allow discovery

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Background

Ronny Chin (`the plaintiff`) is a member of the Tanah Merah Country Club (`the defendants`) which is a golfing and social club situated near Changi International Airport in Singapore.

On 29 September 2000, the plaintiff filed this originating summons praying, inter alia, for the following reliefs:

> *(1) a declaration that the proceedings and the decision of the defendants to suspend the plaintiff`s golfing privileges from 14th August to 13th November 2000 are null and void;*
>
> *(2) a declaration that the defendants` decision to charge the plaintiff under Rule 41(i)(c) is made ultra vires the Rules and therefore null and void;*
>
> *(3) a declaration that the defendants` decision to charge the plaintiff under Rule 41(i)(c) is made in bad faith and is null and void;*
>
> *(4) an injunction restraining the defendants their servants or agents from proceeding under Rule 41(i)(c);*
>
> *(5) an injunction restraining the defendants their servants or agents from preventing the plaintiff from exercising his golfing privileges.*

I dismissed the originating summons with costs and the plaintiff has now appealed against my decision

(in CA 600014/2001).

Facts

On the afternoon of 20 June 2000, the plaintiff played a round of golf at the defendants` Tampines course with three guests he had invited; they were Thomas Toh Swee Hee (`TT`) (who was his buggy-mate), Jeffrey Sim and Lee Ee Jin. In the defendants` census sheet for the Tampines course, both the plaintiff and TT declared their handicaps as 11, which meant they had played golf for a reasonably long time and/or they were reasonably good golfers.

At the seventeenth hole which is a par 3 hole, there was another group of golfers in front of the plaintiff and his guests. The foursome waited for the front flight to move off and board their buggies before TT teed off. According to the plaintiff, because of the fading light, he/his guests could not see clearly. As TT hit his shot, they realised that the front flight was still on the track. Immediately TT, the plaintiff and Jeffrey Sim shouted `fore` to warn them. The front flight came out of their buggies to look at the foursome before re-boarding their buggies and leaving; one of them subsequently lodged a complaint against the plaintiff with the defendants.

The plaintiff then received a letter dated 27 June 2000 from the defendants` general manager (Jeffrey Quah) headed `Dangerous play on 20 June 2000 at Tampines course`, which second paragraph reads as follows:

> *Striking a ball when the players ahead are within range is very dangerous and is a breach of our safety rule. You are requested to submit an explanation in writing on or before July 10 2000 as disciplinary action is being contemplated against you in respect of the incidents.*

The plaintiff gave his written explanation to the defendants on 14 July 2000 accompanied by a statement from TT dated 5 July 2000 which he confirmed. In his explanation, the plaintiff stated that the complainant (Gerald Mah) was known to TT adding that `the front flight had indulged in slow play throughout their entire game` and, TT had told him that the complainant had said that he was having a farewell game for some associate and had `a very important German banker` in his flight. In his statement, TT denied he had indulged in dangerous play; paras 4 and 5 of his statement read as follows:

> *Hole no. 17 Par 3*
>
> > *4. I was the first player to tee-off and after teeing up my ball, I waited for the front flight to leave the green. The pin was on the **extreme right** of the green and the adjacent buggy-track (somewhat shielded by some palms/trees from where we were at the tee-box) at the **extreme left** . As I took up my address position, all the players in the front flight were boarding the buggies on the left. My sight was then focused towards the right where the pin position was. I made a few practice swings and then hit my shot. My shot went wayward to the left and as I looked ahead into the fading light (the complainant himself gave the time as 7.15pm) I spotted the buggies were still at the track. Together with Mr Ronnie Chin, we shouted "fore" as loudly as we could.*

*5. Although my explanation of the Par 3 incident in paragraph 4 stands **on its own** , I would add that had the front flight ridden off in their buggies without undue delay (not even mentioning the time they took to putt out and moved from pin to buggies) the incident complained about would not have happened.*

The defendants forwarded the plaintiff`s explanation/TT`s statement to the complainant. The complainant`s response dated 24 July 2000, inter alia, stated:

Hole no. 17

*Their statement on this hole confirm that they were aware that we were within range when the ball was struck. **This is deliberate dangerous play**.*

It would appear to be more than a coincidence that on both holes 16 and 17, the same player was involved.

On the comment of slow play, we had to wait for the front flight to play out each of their holes from the 3rd hole onwards. Adding to the overall delay in the completion of play was rain delay and onset of darkness. If there is deliberate slow play, the back flight can always contact the marshals who are there to manage the speed of play.

*I do not see the relevance in Mr Ronnie Ching`s statement that I was playing with a "very important German banker". If Mr Ronnie Ching have (**sic**) a personal problem with foreigners or the banking community in particular, he should have stayed in his own comfort zone instead of being on the golf course.*

I do not know Mr Ronnie Ching nor any of his 2 other flight mates. As for Mr Toh, other than the telephone conversation I had with him on 22 June, I had neither met nor spoken to him in the last 32 years.

The plaintiff received the defendants` letter dated 4 August 2000 (signed by the general manager) which contained the following relevant paragraphs:

After considering the reports submitted by all parties involved including your explanation, the Captain is satisfied that your guest Thomas Toh is guilty of dangerous play at the 17th hole par 3. The rules of golf require that "no player should play until the players in front are out of range". In view of the short distance from the tee to the green at the 17th hole, a tee shot executed when the players in front are still within range can cause very serious injury. As you are responsible for your guest`s action, the Captain in consultation with the Greens Committee has decided to suspend your golfing privileges for 3 months.

You are accordingly informed that your golfing privileges are to be suspended from the 14th August 2000 to the 13th November 2000.

The plaintiff`s second letter (dated 17 August 2000) to the defendants stated he was prepared to respect the Captain`s finding but added that at worst, it was an error of judgment on his and on the part of TT. He agreed with the Captain`s decision that the complaint amounted to a minor offence where the maximum penalty would not normally involve more than six months` suspension (r 41(i)(a) of the defendants` rules). He went on to say:

> *I would respectfully submit that there are strong mitigating factors in my favour:*
>
> > *1. To reiterate, it was, at worst, an error of judgment on Mr Toh`s part as well as mine that the players in front were out of range brought about by the fact that we were playing in failing light.*
> >
> > *2. We had shouted "fore" when we spotted the front buggies in the darkness and had therefore alerted the front players to take steps to protect themselves.*
> >
> > *3. The front players were not on the green nor the fringe/apron but at the buggy track boarding the buggies (even accepting the complainant`s version). The pin was cut at the extreme right and the buggy track was on the extreme left. Mr Toh was therefore aiming at more than 45 metres away from the front players.*

The plaintiff`s letter concluded with these paragraphs:

> *This episode has caused me to suffer considerable stress and I venture to say it is punishment enough for me. By the time you respond to this letter, I reckon I would have served out at least a few weeks of the suspension penalty.*
>
> *I would humbly urge the Captain to carefully consider this appeal of mine and to reduce the penalty to a warning or a reprimand that would represent the lower end of the scale for a minor offence and have the salutary effect of meteing (* ***sic****) out fairness to all concerned.*

The above letter drew a response from the defendants` general manager (dated 24 August 2000) which I reproduce below in full:

> *I refer to your letter of appeal dated 17 August 2000.*
>
> *At the outset I wish to refer to your assertion that:*
>
> *"We do not have the opportunity to defend ourselves at a hearing before a Disciplinary Committee properly constituted under Rule 41(i)(b)."*
>
> *While it is true that Disciplinary Committee under Rule 41(i)(b) was not convened in this case, you were in fact afforded an opportunity to defend yourself by providing your version of the incident.*
>
> *It will not be out of order for me to inform you that the penalty imposed upon you was awarded after the Captain (in consultation with Greens Committee)*

had accepted your version in respect of what had occurred at the 17th hole. Had there been a difference between your version and the version of the complainant, an investigating committee would have been convened to determine the truth between the 2 versions. There was in this case no necessity for this as there was essentially no difference between your version and that of the Complainants.

It would appear that you are now in your letter of appeal attempting to suggest that the players ahead were not clearly visible. This is not in accordance with the statement of Thomas Toh (dated 5 July 2000) when he admitted that he saw the players ahead boarding their buggies when he addressed his ball and proceeded to hit his shot before ensuring that the players ahead had gone out of range.Your shouting of "fore" was considered when a determination as to an appropriate penalty was being considered. The fact that your guest was not aiming at the players who were on the buggy track is not a mitigating factor. The rule that requires a player to ensure that players ahead are "out of range" rather than that a player should ensure that players are "not in the line of intended flight of the ball" was promulgated because it was recognised that wayward shots are not uncommon in the game of golf.

The Captain has considered your appeal and after consulting with the Greens Sub-Committee has decided that the penalty imposed should remain.

The defendants then received the plaintiff`s lengthy letter of 11 September 2000 which vitriolic tone was a complete contrast to his earlier correspondence such that, it was hard to believe it could have been written by one and the same person. In this letter, the plaintiff questioned the Captain`s integrity and judgment, complained he had not been given ***a fair opportunity to be heard*** (his emphasis) and stated he had ***condescended to appealing to the Captain*** (my emphasis) on the basis that the incident was at worst, a case of misjudgment for which a warning or a reprimand would suffice as fair penalty. Some of the more offending extracts (as italicised) in his letter are reproduced below:

I have now wondered at the immense power given to the Captain in the disciplinary process of our Club. Under Rule 41(i)(a) of our Rules, the Captain, in his sole capacity, has the power to impose on a member a suspension of up to 6 months.

I can find no parallel to this in constitutions, rules and by-laws governing other clubs in Singapore. No other club has reposed in a single person (as opposed to a committee) such power of suspension as Tanah Merah Country Club ... I regret to say that, in my case, the Captain of the Club, acting as the lone adjudicator, has shown that he was ***patently ill-equipped to handle the matter at hand****.*

Despite his now professing a readiness to convene (***sic****) "an investigating committee" to determine the truth if there were 2 versions of the 17th hole incident (paragraph 5 of your letter of 24th August 2000), his handling of the matter did not bear this out.*

Although the complainant`s complaint mentioned 3 incidents,* ***the Captain had chosen to completely disregard 2*** *of them where both sides` versions were certainly not the same ...

*With respect, when **the Captain acted in such an arbitrary manner**, the basis of his decision on the 3rd incident became suspect for it can be legitimately asked whether **his not proceeding on the 1st and 2nd incidents had coloured his judgment** on the 3rd incident. Indeed, it can be asked whether the Captain was not duty-bound to investigate each and every complaint.*

I am advised by my solicitors that a person or body determining a justiciable controversy between parties must give each party a fair opportunity to put his own case and to correct or contradict any relevant statement prejudicial to his view. If Mr Toh`s statement was an admission (which is denied) to the Captain, he would have been obliged to give us a fair opportunity to correct or contradict (assuming but not conceding Mr Toh`s statement would require correction and contradiction).

In the circumstances, I now demand that you take steps to revoke the order of suspension and restore to me my golfing privileges forthwith. I reserve my claim for damages for wrongful suspension and all other remedies in connection thereto.

The plaintiff`s letter drew a response from the defendants dated 18 September 2000; in para 13 thereof it referred to the above italicised extracts after which the letter continued as follows:

14. ... your statements are derogatory, demeaning, derisory and impugns on the conduct and standing of the Captain. Your actions are prejudicial to the interests of the Club and warrants disciplinary action.

15. Notice is hereby being given to you that disciplinary proceedings under Rule 41(i)(c) is being commenced against you.

16. I am now under Rule 41(i)(d) formally informing you of the charges set out in paragraphs 13 & 14 above. The Committee will be meeting on Tuesday, 10 October 2000 at 5.30pm at the Committee Room (Main Clubhouse), Garden Course and you are being called upon to attend the meeting to answer the charges.

17. In the event that you should choose not to attend the meeting, the Committee will proceed to consider the charges in your absence.

18. Should you wish to tender a written explanation, this will be accepted and will be considered by the Committee at the meeting. The written explanation must be submitted before the 5th of October 2000.

The defendants` aforesaid letter was the catalyst which prompted the plaintiff to file this originating summons (`the application`) on 29 September 2000 as a pre-emptive strike. Simultaneously, the plaintiff applied for an injunction (under SIC 603980/2000) to restrain the defendants from proceeding with the disciplinary hearing under r 41(i)(c) on Tuesday 10 October 2000. I should point out that the facts set out in the preceding paragraphs are extracted from the plaintiff`s affidavit filed in support of the application, as well as from that of Jeffrey Quah (`Quah`) the defendants` general manager. I should also add that the plaintiff, through the law firm of Toh Tan & Partners (of which TT is a partner), had on 20 September 2000, sent a demand letter to the defendants giving notice that if the suspension of golfing privileges imposed on him was not lifted and notice thereof communicated to Toh Tan & Partners by close of business on Friday, 2 September 2000, he would commence legal

proceedings. It is also noteworthy that by the time he commenced these proceedings, the plaintiff had already served half or one and a half months, of his three months` suspension.

After one adjournment (I had directed counsel from Toh Tan & Partners to discharge his firm from further acting for the plaintiff to avoid a conflict of interest situation in view of TT`s personal involvement), the application came up for hearing again before me. The defendants` solicitors informed the court that in the interval, the defendants had undertaken not to take any disciplinary proceedings against the plaintiff. By the date of the adjourned hearing, the plaintiff had filed SIC 604471/2000 (`the second application`) for:

(1) leave to cross-examine Quah on his reply affidavit;

(2) comprehensive discovery of the defendants` documents including but not limited to, minutes of meetings of the General Committee for the period June to October 2000 in connection with the complaint, inquiry and/or disciplinary proceedings against the plaintiff and correspondence/notes between the Captain and the general manager.

The second application was opposed by the defendants for the reasons set out in Quah`s second affidavit - he claimed privilege on the application for discovery and objected to being cross-examined on the ground that the plaintiff was on `a fishing expedition`. I dismissed the second application at the same time that I dismissed the (main) application. I had also dismissed the preliminary objection raised by counsel for the defendants who contended that, these proceedings were in reality an attempt by the plaintiff to apply for a judicial review, for which leave should be but was not applied for, under O 53 r 1(1) of the Rules of Court. In so doing, I gave the benefit of the doubt to the plaintiff as there were similar proceedings commenced by other aggrieved private club members previously (**Lee Seng Choon Ronnie v Singapore Island Country Club** [1993] 2 SLR 456 ; **Singapore Island Country Club v Brown** [1994] 3 SLR 206) as precedents for the plaintiff`s action. I now set out my reasons for dismissing both applications.

Decision

APPLICATION

I start by referring to the Rules which are applicable to members of the defendants including the plaintiff, once his application to become an ordinary member was approved by the defendants` General Committee on 11 December 1998. For our purposes, the relevant rule is r 41(i) headed `Discipline` which states:

> *Where a Member acts in any way prejudicial to the interests of the Club or its Members or breaks any Rule or Bye-Law of the Club*
>
> > *(a) If the matter complained of is a minor offence where the maximum penalty would not normally involve more than six months` suspension, the Captain or Vice-Captain or the appropriate Convenor as the case may be of any particular game or activity shall deal with the complaint and impose whatever penalty he deems appropriate.*
> >
> > *(b) If the matter complained of would, if the Member is found guilty, normally result in suspension of membership rights for more than six months but not more than one year, the Disciplinary Committee shall deal*

with the complaint and impose whatever penalty it deems appropriate.

(c) If the matter complained of is of a serious nature which would, if the Member is found guilty, normally result in suspension of membership rights for a period exceeding one year or expulsion from the Club, the Committee shall deal with the complaint and impose whatever penalty it deems appropriate.

(d) Where the matter complained of falls under paragraph (b) and (c), a notice in writing shall be given to the Member informing him of the charges made against him and calling on him to attend the meeting for the purpose of answering the charges. Such notice shall not be less than seven days. At such meeting, the Member concerned shall have the right to be heard in his own defence. If such Member refuses to attend the meeting in answer to the notice calling upon him to do so the Committee may nevertheless proceed in his absence. No appeal shall lie from the decision of the Committee to any other meeting or to a court of law.

Under r 2, `Committee` was defined to mean the General Committee of the defendants.

Under r 20, the plaintiff was responsible for the conduct of his guests; it reads (where relevant):

(i) Any Member or his spouse other than a Visiting Member may subject to the Bye-Laws of the Club introduce guests to the Club ... and shall be governed by the Rules and Bye-Laws of the Club; ...

(ii) A Member introducing a guest or whose spouse introduces a guest shall be responsible for any debt to the Club incurred by such guest and for the observance of such guest of the Rules and Bye-Laws of the Club ...

The relevant bye-law pertaining to golf is to be found in bye-law 2 headed `Etiquette` and, inter alia, it states:

(i) Courtesy on the Course.

(a) Consideration for Other Players

In the interest of all, players should play without delay.

No player should play until the players in front are out of range.

Whatever the reason (be it fading light or slow play by the front flight) the plaintiff could not deny the fact that his guest TT had breached bye-law 2(i)(a) that ***no player should play until the players in front are out of range*** . This was clear from TT`s statement (see [para ]6 above) as well as from the plaintiff`s letter dated 14 July 2000 where he said:

Further, in the Par 3 incident, I had shouted `fore` (this was conceded to in the complaint) with all my might. If indeed any one of my flightmates had hit onto the green from where we were, there was absolutely no reason why I would not have similarly shouted `fore` had I not been able to stop him from hitting in the first place.

in response to the complaint which was as follows:

> *While all players were boarding their buggies to move out of green, back flight shouted ball and ball flew over both buggies and landed on the left of the buggy track and before the pond.*

The plaintiff went on to say in the same letter:

> *I recognise that slow play is **not** [his emphasis] a defence to a charge of dangerous play and worse, it could be said against us that, in the face of slow play, we lost patience and proceeded to hit at them.*

Yet he and TT (who has no locus standi whatsoever not being a member) repeatedly raised the issue of slow play on the part of the complainant`s flight as an excuse for the incident. If indeed the plaintiff felt so strongly that slow play by the front flight caused or contributed to the incident, he could have lodged a complaint himself under bye-law 2(i)(a) but he did not.

In his first affidavit, Quah had explained that as the defendants` Captain was chairman of the Greens Committee (which is the body in charge of golf and the defendants` two golf courses), the Captain was entrusted with the task of looking into the complaint. This was in line with bye-law 3 relating to golf which states:

> *(a) Powers of the Green Committee*
>
> *The Green Committee shall have full powers and control over the Golf Course, Practice Tees and other practice areas of the Club and may open, close or reserve the same ... as it deems fit.*
>
> *(b) Delegation of Powers*
>
> *The Green Committee may delegate any of its powers relating to the use of the Golf Course, Practice Tees and other practice areas to the Captain, or in his absence, the Vice-Captain, and Member of the General Committee, any Member of the Green Committee, the General Manager or the Manager (Golf).*

Consequently, Quah explained, by virtue of bye-law 3 read with r 41(i)(a), it was well within the powers of the Captain to look into the complaint of dangerous play by the plaintiff`s guest TT. Equally, it was well within the powers delegated to the Captain to consider the complaint a minor infraction of the defendants` Rules. I cannot comprehend the plaintiff`s grievance that he was deprived of a right to be heard, because the complaint was not brought under r 41(i)(b) instead. In any case, Quah deposed that the Captain did not make the decision unilaterally; he had consulted the Greens Committee before deciding to suspend the plaintiff`s golfing privileges for three months.

What was surprising about the plaintiff`s volte face by his letter dated 11 September 2000 was the fact that in his earlier letter dated 17 August 2000, he had accepted that the Captain`s decision to consider the complaint a minor offence was right. This is obvious from the following two paragraphs (as italicised) of that earlier letter:

> ***On the basis that I respect the Captain`s finding as I have indicated earlier, I would also add that the Captain`s decision that this was a minor offence where the maximum penalty would not normally involve 6 months` suspension (Rule 41(i)(a)) is a correct one.***
>
> *Although the Captain`s stand has meant that that we do not have the opportunity to defend ourselves at a hearing before a Disciplinary Committee properly constituted under Rule 41(i)(b),* ***I am prepared to have the matter confined to Rule 41(i)(a)*** *and to therefore appeal to the Captain to review the penalty of 3 months` suspension handed out to me on the ground that, given the circumstances, it is manifestly harsh.*

In the light of the clear and unequivocal language used by the plaintiff, I rejected without hesitation, his counsel`s contention that it was a `qualified` acceptance by the plaintiff. When the court inquired how the acceptance was `qualified`, his counsel sought to say that the plaintiff wrote that letter for the purpose of saying that, if it was an error of judgment on his part, then the plaintiff accepted the Captain`s decision. With respect, that is not how I or any reasonable person would interpret his letter - the plaintiff came across as contrite, he was sorry for the incident which ***he said*** was due an to an error of judgment on his/TT`s part, he accepted the Captain`s decision but, he hoped his explanation would persuade the Captain to reduce the penalty to a lesser one than suspension. Consequently, it was no longer open to the plaintiff thereafter to question the Captain`s/the defendants` decision as having wrongly been made under r 41(i)(a).

It was only when the defendants and the Captain in particular, rejected the plaintiff`s plea for a lesser penalty, that he cast aspersions on the Captain in his letter of 11 September 2000 (see [para ]11 above). Quah had, in his first affidavit, deposed that the Captain was understandably upset when he was given a copy of the plaintiff`s letter; the Captain felt the disparaging remarks were uncalled for, as indeed they were. The Captain also felt that the plaintiff`s statements impugned on his conduct and standing in the Club; hence the defendants took what it considered to be the appropriate action against the plaintiff, pursuant to r 41(i)(c). It is indeed ironical that, when the plaintiff was told a meeting would be convened under r 41(i)(c), thereby giving him the right to be heard, which right he initially complained he had been deprived of (when the complaint was categorised under r 41(i)(a) instead of r 41(i)(b)), he attempted (by these proceedings) to stop the hearing.

I have already set out in [para]11 the statements which the Captain/the defendants took exception to. Leaving aside the offensive tone in which those remarks were couched, the plaintiff`s complaints were without basis. In that regard, I had (in [para ]16 and 17) referred to Quah`s affidavit and the provisions in the defendants` Rules and Bye-Laws which ***empowered*** the defendants to inquire into Gerald Mah`s complaint and ***entitled*** the Captain to make the finding he did. Quah had deposed that it was the defendants` prerogative under r 32 to decide under which limb of r 41(i) they should determine the complaint; r 32 states:

> *Interpretation of Rules*
>
> *The Committee shall subject to these Rules be the sole authority for the interpretation of these Rules and all the Bye-Laws made hereunder and the decision of the Committee shall be final.*

There was also r 31 which states:

> *Powers of Committee to make, amend, add to or repeal these Rules with the exception of Rules 5 & 23*
>
> *The Committee shall subject to these Rules have full power to make, amend, add to or repeal these Rules with the exception of Rules 5 and 23 [not applicable to our case] ... The Committee shall subject to these Rules have full power to decide all questions relating to the management of the Club and all questions arising out of or not covered by any rule.*

Consequently, it was ***not*** open to the plaintiff as a ***member*** of the Club to question either the Committee`s or the Captain`s authority if the Rules vested them with such authority. Unless and until they were repealed, the plaintiff was bound to abide by the existing Rules. Neither was it open to the plaintiff to argue that the defendants could not suspend him from his golfing privileges, which suspension incidentally, did not prevent him from enjoying the other facilities/amenities the defendants offered its members. In his (first) affidavit (para 21) the plaintiff had contended that the power to `suspend` under r 41(i)(a) referred to suspension of membership rights and not golfing privileges. That is a spurious argument - as Quah pointed out, membership rights included golfing privileges. The plaintiff could of course resign from the Club and transfer his membership to someone else if he felt the defendants` Rules were so untenable. It seemed to me that the plaintiff was either unfamiliar with the Rules and Bye-Laws or, he chose to interpret them in his own fashion.

I turn next to the plaintiff`s complaint that there had been non-compliance with the rules of natural justice. The position at law is, the function of the court in relation to the proceedings of clubs is a supervisory one and confined to the examination of the decision-making process, ie whether the rules of natural justice had been observed and whether the decision was honestly reached. Its function is ***not*** to review the evidence and the correctness of the decision itself (see the Court of Appeal`s decision in **Singapore Amateur Athletics Association v Haron bin Mundir** [1994] 1 SLR 47 ). Leaving aside the fact that the plaintiff had unequivocally accepted the defendants` decision made under r 41(i)(a), I was of the view that the plaintiff`s complaint was again without merit. Unlike r 41(i)(b) or (c), r 41(i)(a) ***does not*** set out the procedure for the investigation of a minor offence. Even so, in his first affidavit, Quah had pointed out that the plaintiff was indeed given an opportunity to defend himself as the defendants asked for his version of the incident. Both (the plaintiff`s and the complainant`s) versions were then considered by the Captain who, after consulting the Greens Committee, then decided to impose the penalty of suspension on the plaintiff.

SECOND APPLICATION

Counsel for the plaintiff argued that cross-examination of Quah was essential relying on **O`Reilly v Mackman** [1983] 2 AC 237[1982] 3 All ER 1124. He pounced on the fact (see exh JQ7 in Quah`s first affidavit) that the defendants` letter dated 4 August 2000 to the plaintiff was `bcc` (blank carbon-copied) to the Vice-Captain Edwin Khoo and to Victor Lee who is a member of the General Committee/Greens Committee. Counsel said the plaintiff was entitled to question Quah to ascertain whether the Greens Committee could delegate their job to the Captain and how it was done in this particular case; it was the plaintiff`s stand that the defendants could not delegate the task of investigating the complaint to the Captain. Counsel said it was not `clear` to him how the Captain

was asked to deal with the complaint. Hence, the plaintiff needed to see the minutes of the meetings of the Greens Committee as well as communication between the Captain and Quah in the course of inquiry and/or disciplinary proceedings in connection with the complaint. He contended the plaintiff was entitled to discovery as of right and the documents were not protected by legal privilege.

Another reason which prompted the plaintiff`s second application arose out of an error Quah said he had made in para 14 of the defendants` letter dated 18 September 2000 which first sentence (partly set out in [para]12 above) is reproduced in full below:

> *The **Committee** is of the view that your statements are derogatory, demeaning, derisory and impugns on the conduct and standing of the Captain.*

In his first affidavit (para 26.1), Quah had deposed that he made a mistake when he used the word `Committee`, he had intended to refer to the Captain. Counsel, however, was not satisfied with Quah`s explanation - he asserted that the letter meant what was stated and therefore, Quah was referring to the Committee and not the Captain. I was not prepared to accept this argument. A plain reading of para 14 shows that Quah could only have meant the Captain, not the Committee, as the Captain was the subject of the plaintiff`s criticism; there was nothing sinister in Quah`s mistake.

I dismissed the second application because, firstly, ***O`Reilly v Mackman*** (supra) did not help the plaintiff. Unlike the appellants in that case who were serving long sentences at a British prison, no question of public law nor a public authority, was involved in these proceedings. Secondly, counsel for the plaintiff did not address me on any of the applicable Rules or bye-laws 2 and 3 which the defendants had referred to and which bound the plaintiff. Thirdly, the plaintiff`s conduct which was the subject of the meeting the defendants intended to convene pursuant to r 41(i)(c) was ***not*** and ***no*** longer, what happened on the 17th hole on 20 June 2000 but, in writing his scurrilous letter dated 11 September 2000. Until a disciplinary hearing was convened and the outcome known, it was premature of the plaintiff to complain that the defendants had pre-judged him and/or that he had been denied a fair hearing.

Clearly, there was no reason to warrant the exercise of the court`s discretion to allow the plaintiff`s counsel to cross-examine the defendants` general manager Quah whose administrative role, as far as I can see, was purely to sign the defendants` letters conveying the views of the Committee and/or Captain. As for the plaintiff`s application for discovery, not only was it a `fishing expedition` in the hope of finding something to salvage the plaintiff`s situation but, as stated above, it was not relevant to the proposed hearing convened under r 41(i)(c).

For the foregoing reasons, I dismissed as unmeritorious both applications of the plaintiff.

Outcome:

Both applications dismissed.