

Lai Swee Lin Linda v Attorney-General
[2012] SGHC 47

Case Number : Suit No 995 of 2004 (Summons No 5332 of 2011)
Decision Date : 06 March 2012
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Plaintiff in-person; Low Siew Ling and Elsie Lee (Attorney-General's Chambers) for the defendant.
Parties : Lai Swee Lin Linda — Attorney-General

Civil Procedure

6 March 2012

Judgment reserved.

Choo Han Teck J:

1 The plaintiff here had sought leave in 2000 by Originating Summons No 96 of 2000 for a judicial review of her termination as a legal officer. The Court of Appeal ruled (in Civil Appeal No 69 of 2000) that she was not entitled to make a claim for administrative law remedies because she was not a public servant. She was at the material time on probation and “was not a confirmed civil servant”. She then brought a civil action in this suit (referred to in subsequent proceedings as “the employment action”) claiming that her termination was unconstitutional. There was another action in Originating Summons (Bankruptcy) No 38 of 2005 in which this plaintiff applied to stay bankruptcy proceedings commenced against her by the defendant. Her action in Suit No 995 of 2004 was finally disposed of in Civil Appeal No 87 of 2005 ending with the judgment of the Court of Appeal in *Lai Swee Lin Linda v Attorney General*, reported in [2006] 2 SLR(R) 565.

2 The plaintiff now applies under the summons in this suit (Suit No 995 of 2004) for an order that the Court of Appeal “reopen[s] and rehear[s] its earlier decisions” in Civil Appeal No 69 of 2000 and Civil Appeal No 87 of 2005, as well as the first instance decision of the trial judge in this suit. The plaintiff submitted that this application was based on the Court of Appeal’s decision in *Management Corporation Strata Title Plan No 301 v Lee Tat Development Pte Ltd* [2010] SGCA 39 (“*Lee Tat*”) and ss 29A(4), 37 of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed), as well as O 92 r 4 and O 57 r 13 of the Rules of Court.

3 The factual basis for all the proceedings concerning the plaintiff stems from the termination of her employment in December 1998. Although the plaintiff claimed that she was denied “a full, fair and impartial hearing” in Civil Appeal No 69 of 2000, the merits of her case were eventually heard by Lai J in 2010 in this very action (Suit No 995 of 2004). The trial judge considered her claim and the reasons for her dismissal from the Land Office division of the Ministry of Law. The plaintiff’s action in this suit was dismissed and she appealed to the Court of Appeal. This was heard (in Civil Appeal No 87 of 2005) and her appeal was dismissed on 7 December 2005.

4 Before me, the plaintiff claims that Lai J’s decision was tainted by bias. She claimed that the decision should be “re-opened” because it was not heard on the merits. She also claimed that the decisions in the Bankruptcy proceedings as well as Civil Appeal No 87 of 2005 proceedings should be “re-opened”, but no grounds or basis were given by her as to why these matters should be re-heard.

Citing the *Lee Tat* case on the power of the Court of Appeal to re-hear a case is neither a sufficient nor adequate basis to have a concluded case "re-opened".

5 Technically, Suit No 995 of 2004 is spent once the final decision has been pronounced – as it has in this case. The correct procedure would have been to commence a fresh originating action to set aside the last judgment or for leave to appeal out of time, whichever is applicable. In any event, nothing raised by the plaintiff before me is new. All her complaints related to her inability to have a fair and open hearing as to whether her contract of employment had been lawfully terminated. This central issue was raised, heard and dismissed at many levels from the many directions the plaintiff had taken in order to advance her cause.

6 I am not in a position here to judge if all or any of the previous judgments were wrong. This is not an appellate court. The only issue before me was to consider if there is any basis to hold that the plaintiff had not been given a fair hearing in Civil Appeal No 87 of 2005. The Court of Appeal in that case was not only the last court to have heard her case, it was also the final court of appeal which determined the findings of the court below in respect of that all-important question in the plaintiff's life since December 1998. The record shows that the Court of Appeal in Civil Appeal No 87 of 2005 was seized of all the matters regarding that issue and had rendered its decision. Lai J's judgment which the plaintiff now complains of had also been dealt with. There is no evidence before me to indicate that either Lai J's court or the Court of Appeal was biased, unfair, or that the plaintiff was not given a full hearing. In the circumstances, this summons must be dismissed. I will hear the question of costs at a later date.

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