

Chia Kwok Yeo and another v Chia Hang Kiu
[2014] SGHC 197

Case Number : Originating Summons No 422 of 2014 (Summons No 3112 of 2014)
Decision Date : 03 October 2014
Tribunal/Court : High Court
Coram : Woo Bih Li J
Counsel Name(s) : Daniel John (Goodwins Law Corporation) for the plaintiffs; Manoj Nandwani (Gabriel Law Corporation) for the defendant.
Parties : Chia Kwok Yeo and another — Chia Hang Kiu

Land – Sale of land

Civil Procedure – Stay of proceedings

3 October 2014

Woo Bih Li J:

Introduction

1 This was an action (“the Action”) for the sale of the property known as No 37 Jalan Kechubong, Singapore 799401 (“the Property”). The Property is registered in the names of both the plaintiffs and the defendant as tenants-in-common in equal shares.

2 The first and second plaintiffs are husband and wife. They are also known as “Yeo” and “Angie” respectively. The defendant is Yeo’s older sister. She is also known as “Chris”.

3 The Action was filed by the plaintiffs after the parties had allegedly agreed to the sale of the Property and the use of the net sale proceeds with Chris using \$286,764.57 from her one-third share of such proceeds to reimburse Angie for past redevelopment costs of the Property.

4 The Action was filed because after the alleged agreement, Chris had indicated that, before proceeding with the sale of the Property, she wanted Yeo to pay, from his share of the sale proceeds, the past medical expenses of their parents as well as the future medical expenses of their mother (as the father had passed away). The plaintiffs did not agree that the sale of the Property should be deferred pending the resolution of the medical expenses issue.

5 After the Action was filed, Chris filed Summons No 3112 of 2014 to stay the Action.

6 I dismissed the stay application and granted the plaintiffs the reliefs they had sought in the Action with a few minor variations which I need not elaborate on.

7 Chris has filed two notices of appeal against my decisions. These are as follows:

(a) Civil Appeal No 128 of 2014, which is an appeal against my decision to dismiss her stay application.

(b) Civil Appeal No 127 of 2014, which is an appeal against my substantive decision in the Action.

8 I set out below the reasons for my decisions.

Issues

9 The first issue was whether the Action ought to have been stayed.

10 The second, substantive, issue was whether Chris had made the alleged agreement with the plaintiffs.

The court's reasons

11 The plaintiffs were married in 1986. Angie moved into the Property in 1987 to stay with Yeo and his parents and other members of the family. There was a single storey bungalow on the Property then. At that time, Yeo and Chris held the Property as tenants-in-common, with Yeo holding two-thirds and Chris holding a one-third share. Around early 1991, Angie acquired a one-third share in the Property from Yeo. As a result, she, Yeo and Chris each held a one-third share in the Property.

12 The Property was redeveloped around 1999 or 2000. A loan of \$700,000 was obtained and was secured by the Property. Angie alleged that she paid most of the loan instalments both from her income as an accountant and from her investments. The loan was fully paid by December 2006.

13 After a few years, Angie raised the question with Chris, through Yeo, of the sale of the Property. Chris' response was that she did not want to talk to Angie. As such, in subsequent discussions, Chris' younger brother, Enoch Chia Kwok Hong ("Hong"), a businessman, represented Chris.

14 From 28 December 2013, emails were exchanged between Angie and Hong on the contributions of the three co-owners in respect of the Property including the contributions for the redevelopment of the Property. Eventually, on 12 February 2014, Hong sent an email to Angie stating that the email contained "Chris' FINAL terms".

15 By then, Chris had agreed to pay Angie \$286,764.57 ("the Principal") from Chris' one-third share of the net sale proceeds of the Property. However, there was still disagreement as to:

- (a) when the Principal was to be paid;
- (b) the rate of interest Chris should pay on the Principal; and
- (c) the period of the interest.

16 Chris was prepared to pay the Principal only after the Property was sold, whereas Angie had suggested an initial payment of \$100,000 by the end of February 2014. Chris was prepared to pay interest at the rate of 2.5% per annum, calculated on a monthly rest basis, whereas Angie wanted 4% per annum (similarly, on a monthly rest basis). Chris was also prepared to pay interest from 1 March 2014 to 28 February 2015 only as she believed that the Property would be sold within 12 months.

17 Angie replied to Hong on 13 February 2014. She said it was not unreasonable for her to ask for

interest at 4% per annum and suggested that the interest be computed from January (instead of March) 2014.

18 Hong replied to Angie on 18 February 2014. He agreed that the interest should commence from 1 January 2014. However, he said that the rest of Chris' terms in his email dated 12 February 2014 remained. The last sentence of his email stated, "[h]er offer is good till 25 February 2014".

19 Angie replied to Hong on 22 February 2014. The first paragraph of her email stated:

To avoid further discussion on this subject, Yeo and I are agreeable to accept the interest rate of 2.5% p.a. on the outstanding amount for the period from 1 Jan 2014 till 28 Feb 2015, on monthly rest. This amount will be deducted from the net sale proceeds of the property.

20 The second and third paragraphs of the email dealt with the apportionment of the expenses for the sale of the Property and the valuation and disposal of the Property.

21 The plaintiffs relied on this email dated 22 February 2014 to constitute their acceptance of Chris' terms. I will also refer to subsequent emails to show how Chris raised the issue of the medical expenses, and the plaintiffs' response to the issue of the medical expenses. The subsequent emails were relevant also to show whether Chris had raised the allegation of a family trust soon after Angie's email dated 22 February 2014.

22 Hong replied to Angie on 25 February 2014. He said that Chris agreed with Angie's suggestion that the expenses for the sale be apportioned as Angie had suggested, *ie*, to be borne in equal shares of one third each.

23 However, the rest of his email raised the question of how Yeo was going to compensate Chris for their parents' past medical expenses and their mother's future medical expenses. The last paragraph of his email stated:

Chris expects transparency from him and strongly feels that this issue has to be resolved at this stage and is integral to a full settlement on the issue of the property.

24 Angie replied to Hong on 27 February 2014. She disagreed to the new issue about Yeo's contribution towards payment of medical expenses for her in-laws. In the third paragraph of her email, she said:

Also, in my email of 22nd Feb 2014 I already backed down from my 4% interest claim and accepted Chris' terms set out in your email of 18th Feb – she gave me until 25th to accept and I did. Therefore we have an agreement and Yeo and I will proceed accordingly.

25 In the last paragraph of her email, she raised the question of engaging a valuer and a property agent:

The next step is for us to engage valuer and property agent. Ask Chris if she has any valuers or agents she wants us to consider. If so, please give me their names and contacts by next week.

26 Hong replied on 4 March 2014. This time, his email was addressed to both Yeo and Angie. The first paragraph of Hong's email read:

Chris will certainly honour her part of the bargain with regards to her contribution of \$286,764.57 to the cost of the property including its 2.5 annual interest from Jan 2014. As far as Angie as a

co-owner is concerned, Chris has no further need to settle with her with the aforesaid committed sum of contribution from Chris.

27 The second and third paragraphs of Hong's email dealt with the appointment of a property agent and a lawyer. The fourth paragraph of his email contained an allegation that Yeo had received some financial assistance in the past from two siblings, Chiong and Weng, to acquire his two-third share in the Property (from Weng and their father). In the fifth paragraph, Hong conveyed Chris' proposal that Yeo pay for their mother's past and present medical expenses till the completion of the sale of the Property.

28 Angie replied to Hong on 5 March 2014. She said that she and Yeo were firm that the attempt "to try and mix up moral issues with [the] legal matter of the sale of the property which only the 3 of us own, is not acceptable to us". She referred to her acceptance email dated 22 February 2014 and stressed that no changes to the formula already agreed would be entertained. She said that she and Yeo had consulted a lawyer and all further correspondence would be through the lawyer.

29 Hong replied on 7 March 2014. This email was also addressed to Angie and Yeo. Hong stressed that Chris' issue on their parents' medical expenses was directed at Yeo. He stated, "[t]his moral issue [invariably] has to be tied to the sale of [Yeo's] share as his history in financial contribution to our parents medical upkeep is dismal, to say the least".

30 Yeo replied to Hong on 7 March 2014. Yeo agreed with Angie that the sale of the Property and the issue of his contribution for the parents should be kept separate.

31 Subsequently, there was an exchange of correspondence between solicitors representing the plaintiffs and solicitors representing Chris. Thereafter, the plaintiffs filed the Action on 8 May 2014, with their supporting affidavits.

32 Chris filed an affidavit on 25 June 2014. She alleged that:

(a) it was intended all along that the Property be used as a common asset for the Chia family. It was to be a family asset and comprised part of her late father's estate of which all the children were beneficiaries;

(b) after the Action was filed, she informed the rest of the siblings that an action had been commenced against her for the sale of the Property without their prior knowledge or consent. As such, a number of siblings stepped forward to assert their interest in the Property;

(c) the following persons had engaged her solicitors to represent them:

(i) the mother;

(ii) three siblings (including Hong); and

(iii) Tan Boon Thia, who was representing the estate of a deceased sister.

33 Chris also alleged that in Hong's emails dated 4 March and 7 March 2014, she had already raised the point that the Property was a family asset.

34 On the same date, *ie*, 25 June 2014, Chris also filed her application to stay the action.

35 Apparently, Chris' first affidavit was meant to support both the stay application and her opposition to the Action.

36 On 18 July 2014, Chris filed another affidavit to say that the persons named in her first affidavit were engaging her solicitors as well and had collectively decided to appoint her mother and her as the joint administrators of her late father's estate to protect the estate's interest. His death certificate was a requirement for the intended application to appoint administrators. As they could not find it, there was a delay in making the application.

37 Counsel appeared before me on 22 July 2014. Both the stay application and the Action were fixed for hearing on that date.

38 Mr Manoj Nandwani appeared for Chris. He said that the Property was held on trust not only for the father's estate but for the siblings of Chris and Yeo as well. However, he could not explain why those siblings could not file their action first. He said he was not the solicitor in charge of their claim or the claim of the father's estate.

39 It seemed to me that there was no reason to stay the Action. If other persons wanted to commence an action to claim an interest in the Property, they were free to do so. If they had done so, then perhaps both actions would be consolidated or heard one after the other.

40 The real question was whether I should adjourn the hearing of the Action pending the filing of another action. I decided not to adjourn the hearing of the Action for the following three reasons.

41 First, Chris was deliberately vague about the alleged trust. Who was holding the Property on trust, and for whom? Was Yeo the only one holding his one-third share on trust or were all three of the registered owners holding the entire property on trust?

42 Second, was the Property held on trust for the father only or was it also held on trust for all the other family members?

43 Third, and most importantly, if there was really a family trust of some sort, why did Chris not mention the trust at all when she was negotiating, through Hong, with Angie about the sale of the Property and the use of the net sale proceeds? Chris claimed, through Hong in Hong's email dated 4 March 2014, that she had obtained some information from Chiong on 19 February 2014 – information that she was not privy to in the past – as to how Weng and Chiong had rendered substantial financial assistance to Yeo to acquire a two-third share in the Property. However, financial assistance does not in itself create a trust. Contrary to Chris' allegation, Hong's email dated 4 March 2014 did not raise the issue of a trust. Hong's email dated 7 March 2014 also did not mention a trust, again contrary to Chris' allegation that it did.

44 The truth was that Chris had never mentioned the trust in any of Hong's emails after she purportedly received information from Chiong on 19 February 2014. The trust was not mentioned before Angie's email of 22 February 2014. Neither was it mentioned in Hong's emails dated 4 and 7 March 2014.

45 In addition, if it was the intention "all along" among the family members that the Property be held on trust, Chris would have known about this even before 19 February 2014. So would Hong. Yet, neither Hong nor Chris mentioned a trust before 22 February 2014 or soon thereafter.

46 No other family member had filed an affidavit in the Action to support Chris' allegation about a

trust. This could easily have been done without waiting for letters of administration to be granted for the father's estate if the allegation about the trust was supported by other family members.

47 It was clear to me that Chris' allegation about a trust was a delaying tactic and so I decided not to adjourn the hearing of the Action.

48 As for the substantive matter, Chris did not dispute that Angie's email dated 22 February 2014 constituted acceptance, by both Yeo and Angie, of her terms. Indeed, in the subsequent emails, Chris, through Hong, had indicated that an agreement had been reached. For example, in Hong's email dated 4 March 2014, Hong stated, "Chris will certainly honour her part of the bargain".

49 It was clear to me that the three parties had agreed to the sale of the Property and the use of the net sale proceeds. After they had done so, Chris sought to introduce the issue of payment of her parents' medical expenses. However, that was a separate matter, introduced too late in the day.

50 It was a pity that instead of honouring her bargain, Chris had sought to renege on it. If Yeo has been an unfilial son, that is another matter.

51 I granted the plaintiffs the orders they sought.

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