

Re Teo Jun Kiat, Evan (alias Zhang Junjie)
[2015] SGHC 274

Case Number : Admission of Advocates and Solicitors No 197 of 2015 (HC/Summons No 1927 of 2015)
Decision Date : 23 October 2015
Tribunal/Court : High Court
Coram : Edmund Leow JC
Counsel Name(s) : Nicholas Jeyaraj s/o Narayanan (Nicholas & Tan Partnership LLP) for the applicant; Jeyendran Jeyapal and Ang Ming Sheng Terence for the Attorney-General's Chambers; Christopher Daniel and Aw Sze Min for the Law Society of Singapore
Parties : Teo Jun Kiat, Evan (alias Zhang Junjie)

Legal Profession – Admission

23 October 2015

Edmund Leow JC:

Introduction

1 This application raised an interesting question of law as to how the court should exercise its discretion in an application under s 32(3) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ("the Act"). The applicant, Mr Nicholas Jeyaraj s/o Narayanan ("Mr Jeyaraj") had applied for an order permitting his practice trainee, Mr Teo Jun Kiat, Evan (Zhang Junjie) ("Mr Teo"), limited audience before the courts on behalf of Nicholas & Tan Partnership LLP ("the Firm"), that is, before a Judge of the High Court sitting in chambers, the Registrar of the Supreme Court, a District Judge, a Magistrate, or the Registrar or Deputy Registrar of the State Courts ("part-call application"). At the time of the part-call application, Mr Teo was serving his practice training period but had yet to undertake Part B of the Singapore Bar Examinations ("Part B Examinations").

2 Before me, the Law Society of Singapore ("the Law Society") and the Attorney-General ("AG") objected to the part-call application. They submitted that permitting a practice trainee who has not completed Part B (*ie*, completed the preparatory course leading up to the Part B Examinations ("Part B Course") *and* passed the Part B Examinations) to be part-called was not appropriate. The Singapore Institute of Legal Education ("SILE") did not object to this application. The issue to be decided in this case was whether a practice trainee should be permitted to be part-called subject to his or her completion of the Part B Course and passing the Part B Examinations.

Facts

3 Mr Teo's situation was somewhat unusual. Mr Teo had completed the final examinations of his Juris Doctor degree from the University of Sydney on 23 November 2013. Given the timing of his return to Singapore upon completion of his studies, he chose to commence his relevant legal training ("RLT") with Selvam LLC on 2 January 2014 and completed it six months later. This was an unusual situation; graduates from overseas universities, such as those graduating from universities in the United Kingdom, would usually only undertake their RLT after completing the Part A Examinations. This

was because the timing of their graduation was likely to be in June, which used to be just prior to the commencement of the preparatory course leading up to the Part A Examinations ("Part A Course").

4 Upon completing the Part A Course, the National University of Singapore certified on 24 December 2014 that Mr Teo had passed the Part A Examinations. By then, he had commenced his practice training contract with the Firm on 4 December 2014 and received approval from SILE in February 2015 on the manner in which he was to serve his practice training period. By 30 January 2015, Mr Teo's name had also been entered into the register of qualified persons maintained by SILE. Thus, prior to commencing his practice training contract with the Firm on 4 December 2014, Mr Teo did not have the opportunity to undergo the Part B Course or the Part B Examinations. This part-call application was filed about four months after Mr Teo had commenced his practice training contract.

5 For the purposes of this application, Mr Teo listed out the details of his practical legal experience garnered over the years. This included attending pre-trial conferences, criminal sentencing hearings, a civil trial in the State Court, and attending an appeal against a summary judgment before a Judge in chambers during his vacation internships in the years of 2011 and 2012. In addition, during his RLT, he also attended a hearing involving an application for a worldwide Mareva injunction, and an application for pre-action discovery. Lastly, during his training contract with the Firm, he attended a 10-day criminal trial in the State Court and assisted in a striking-out application. The applicant also claimed that, as an Australian graduate, Mr Teo had the benefit of undertaking mandatory studies in the area of civil procedure, criminal procedure, and professional ethics, which overlapped with subjects in the Part B Course, and he was thus equipped with a basic understanding on these subjects. References were also made to Mr Teo's commendable grades obtained in his Juris Doctor degree from the University of Sydney.

The applicant's submissions

6 The applicant submitted that s 32(3) of the Act contains certain mandatory requirements, but does not include an express requirement that the practice trainee has to complete the Part B Course in order to be part-called. The purpose or object of this section, it was submitted, was to "serve the interest of the profession by permitting a practice trainee some introduction to pleading and gain for him some direct experience thereto". To this end, the applicant submitted that Mr Teo possesses sufficient practical experience, as outlined above at [5], for the purposes of being part-called.

The Law Society's submissions

7 The Law Society conceded that there is no express requirement in s 32(3) but relied on the amendments to the Act by way of the Legal Profession (Amendment) Act 2011 (Act 8 of 2011) ("the Amendment Act 2011") which expanded the scope of what a qualified person within the meaning s 2(1) of the Act could do after being part-called. The right of audience, it was submitted, was no longer restricted to a Judge or Registrar in chambers but a qualified person could now appear in open court on behalf of the Singapore law practice with which he had a training contract. The Law Society submitted that since the scope of appearance for a part-called qualified person had expanded, a more stringent qualifying criterion should be applied to those seeking to be part-called.

8 To this end, it was submitted that completion of the Part B Course and Part B Examinations is a suitable qualifying criterion, given that the content taught through the Civil Litigation Practice and Criminal Litigation Practice modules equip the qualified person with the necessary substantive and procedural knowledge to appear in court. The Ethics & Professional Responsibility module would also ensure that the qualified person has knowledge and understanding of an advocate and solicitor's duties to the court and his client. In comparison, the Law Society submitted that the practical

experience garnered “simply does not vest the qualified person with a comprehensive understanding of the court processes and their rationales” and “will not be sufficient enough to equip the qualified person with the ethical awareness required of him when he appears in Court.”

The Attorney-General’s submissions

9 The AG submitted that all persons appearing before the court owed the same duties as those owed by an advocate and solicitor of the Supreme Court. The successful completion of the Part B Course would impart the basic skills and knowledge on the procedural law and practice in Singapore which are necessary for such persons to discharge their duties as officers of the court. The court should thus be slow to exercise its discretion to allow a qualified person who has not completed Part B to appear in court on behalf of a Singapore law practice and, in the present application, the Applicant had not adduced sufficient evidence that his practice trainee has acquired the basic skills and knowledge which he would otherwise have acquired through the Part B Course.

Analysis

10 Under s 32(3) of the Act, the court has an overriding discretion in respect of allowing qualified persons to be part-called. Section 32(3) states:

(3) A Judge may, *if he thinks fit*, on the application of any advocate and solicitor in active practice in a Singapore law practice, allow a qualified person who has served *not less than 3 months* of his practice training period, and who is serving his practice training period under a practice training contract with that Singapore law practice at the time the application is made, to appear, on behalf of that Singapore law practice, before —

- (a) a Judge or the Registrar;
- (b) a judge (however described) of a Family Court or Youth Court, or the registrar, the deputy registrar or an assistant registrar of the Family Justice Courts; or
- (c) a judge (however described) of a District Court or Magistrate’s Court, or the registrar or a deputy registrar of the State Courts. [emphasis added]

11 After reviewing the submissions, I accepted that while the completion of the Part B Course and Part B Examinations is not an express requirement, in my view, s 32(3) of the Act was drafted on the assumption that practice trainees applying to be part-called would have satisfactorily completed such courses of instruction and passed such examinations as the SILE may prescribe as necessary for admission as an advocate and solicitor of the Supreme Court. Section 32(3) of the Act has to be read in light of the entire schema of the Act and the rules enacted pursuant to the Act. For example, s 13(1) of the Act lists out the requirements for admission:

13.—(1) Subject to any rules made under section 14, no qualified person shall be admitted as an advocate or solicitor unless he —

- (a) has attained the age of 21 years;
- (b) is of good character;
- (c) has satisfactorily served the practice training period applicable to him;
- (d) has attended and satisfactorily completed such courses of instruction as the Board of

Directors of the Institute may prescribe under section 10;

(e) has passed such examinations as the Board of Directors of the Institute may prescribe under section 10.

12 The Part B Course and the Part B Examinations have both been prescribed for the purposes of ss 13(1)(d) and 13(1)(e) of the Act under Part II of the Legal Profession (Admission) Rules 2011 (Cap 161, S 244/2011) ("the 2011 Rules"). It was noteworthy that the requirements for part-call are linked to the duration of practice training that has been completed (*ie*, not less than three months), but do not address the other requirements for admission under the Act, including the courses of instruction and examinations prescribed under the Act. But Part IV of the 2011 Rules provided a possible explanation as to why this is so. It states that the requirements relating to practice training period are as follows:

16.—(1) Subject to paragraph (2) and section 14(5) of the Act, no qualified person shall be entitled to serve his practice training period unless he —

(a) has attended and satisfactorily completed the preparatory course leading to Part B of the Singapore Bar Examinations; and

(b) has sat for the written examinations for all examinable subjects in Part B of the Singapore Bar Examinations.

13 Though there are exceptions to the requirements in r 16(1) of the 2011 Rules, which allows for applicants like Mr Teo to complete their practice training period prior to attending the Part B Course, r 16(1) is instructive in allowing us to understand s 32(3) of the Act and the context in which it was drafted. Given that the default scenario seems to be that one would complete the Part B Course and Part B Examinations *prior* to commencing the practice training period, it is reasonable to think that s 32(3) was similarly drafted on that basis, and that it is assumed that practice trainees seeking to be part-called would have already completed the necessary preparatory courses and examinations required for admission as an advocate and solicitor of the Supreme Court. I thus agreed with the AG's submissions that courts should be slow to exercise their discretion to allow part-call applications when a practice trainee has yet to complete the Part B Course and Examinations.

14 The Part B Course is a rigorous course that equips students with both substantive and procedural knowledge on law and practice in Singapore relevant to civil and criminal litigation, and other areas of practice. It also prepares those who wish to be admitted as an advocate and solicitor by instructing them on the prevailing standards of conduct expected of them. These knowledge and skills are necessary for such persons to discharge their duties as officers of the court when appearing before the court—which would include, *inter alia*, assisting the court in arriving at a just decision, bringing any procedural irregularity to the attention of the court during the hearing, and avoiding any unnecessary wastage of the court's time. These standards are equally applicable to part-called practice trainees appearing before the court, who owe the same duties to the court as those owed by an advocate and solicitor of the Supreme Court.

15 I did not accept the Law Society's submissions that the 2011 amendments to the Act mean that a more stringent criterion should now be applied to practice trainees seeking to be part-called. Prior to the Amendment Act 2011, s 32(3) stated:

(3) A Judge may, if he thinks fit, on the application of any advocate and solicitor in active practice in a Singapore law practice, allow a qualified person who is receiving supervised training

in relation to the practice of Singapore law under a practice training contract with that Singapore law practice, and who has served *not less than 4 months* of his practice training period, to appear on behalf of that Singapore law practice, or any advocate and solicitor in active practice therein, before —

- (a) a Judge or the Registrar *in chambers*; or
- (b) a District Judge, a Magistrate, the Registrar of the Subordinate Courts or a Deputy Registrar of the Subordinate Courts *in chambers*; and
- (c) a District Judge or a Magistrate to mention a case or to apply for bail. [emphasis added]

16 Though the amendments did allow a practice trainee to be part-called one month earlier, and enabled them to handle a wider range of applications, there was no indication from Parliament that a more stringent criterion should thus now be applied. Parliamentary discussion on the 2011 amendments merely stated that they were meant to enhance the practice training experience for trainees such that “they can now be part-called earlier and handle a broader scope of work” (*Singapore Parliamentary Debates, Official Report* (14 February 2011) vol 87 at col 2590). In the absence of an indication that a more stringent criterion should be applied, I was of the view that the same criterion should be applied in assessing part-call applications as before—to assess whether the applicant has sufficient knowledge and experience to be able to carry out his duties as an officer of the court. Thus, a practice trainee who seeks to be part-called prior to completing Part B should be prepared to demonstrate that he has sufficient knowledge and experience in the subject areas taught in the Part B Course, and that his failure to complete Part B should not be an obstacle to carrying out his duties owed to the court.

17 In this case, the applicant failed to demonstrate that Mr Teo has sufficient knowledge and experience in the areas of Singapore civil procedure, criminal procedure, the law of evidence, ethics and professional responsibility, *etc.* Although the applicant referred to Mr Teo’s Juris Doctor degree which included courses on procedure and evidence, he did not provide details of the content of such courses. In any event, such courses taught in an overseas university are not geared towards imparting knowledge and skills on Singapore law and practice in these areas to their students. The applicant also relied on Mr Teo’s experience garnered during his RLT and the first few months of his practice training period to argue that he has an abundance of practical experience on Singapore law. Be that as it may, in my view, this is not an adequate substitute for the Part B Course and Examinations. This may have enabled him to gain some knowledge and experience on disparate areas of the law, but falls short of what students gain during the Part B Course—a comprehensive understanding of Singapore law and practice on various areas. The RLT is also in itself a requirement of Mr Teo becoming a qualified person to be admitted as an advocate and solicitor in the first place, and there would be an element of double-counting if I were to treat his experience during the RLT as something that could compensate for him not completing the Part B Course and Examinations. Hence, I did not consider this to be a relevant factor in assessing Mr Teo’s suitability to be part-called.

18 At this juncture, it is important to note that the Law Society and the AG have admitted that there have been previous cases in which part-call applications have been granted to persons who have yet to complete Part B, and they did not object in those cases. But I observed that these cases largely involved practice trainees who had a diploma in law from polytechnics like Temasek Polytechnic, and had actually worked as paralegals for a number of years before studying for a law degree. In those situations, the applicants were able to show in-depth knowledge and experience on areas of Singapore law and the standards that were expected of them as an advocate and solicitor of

the Supreme Court, and this was experience which could compensate for them not having completed the Part B prior to the filing of their part-call application.

19 In conclusion, I decided that this was not an appropriate case to exercise my discretion to allow a part-call application. As Professor Tan Yock Lin states in Tan Yock Lin, *The Law of Advocates and Solicitors in Singapore and West Malaysia* (Butterworths Asia, 2nd Ed, 1998) at pp 127:

Section 32(3) ... contemplates the possibility of pupils being accorded a limited right of audience. ... Such concession is made in the interests of the profession so as to permit a pupil some introduction to pleading and gain for him some direct experience in pleading. *But equally clearly, such concession must not lead to a miscarriage of justice.* Having regard to these underlying objectives, the court will exercise its discretion. [emphasis added]

An applicant who has not completed Part B can qualify for part-call if he can cite other qualifications or experience which are sufficient to enable him to carry out his functions as an officer of the court. He may not need to show that these qualifications or experience give him *all* the knowledge covered by the Part B Course, but he does need to show adequate and sufficient knowledge to enable him to carry out his functions as an officer of the court in this country such that the concession for part-call must not lead to a miscarriage of justice. In this case, I found that the applicant was not able to demonstrate that Mr Teo had sufficient and adequate knowledge and experience, and therefore dismissed the application.

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