

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2018] SGHC 181

Originating Summons No 203 of 2017
(Summons No 250 of 2018)

Between

Tay Yun Chwan Henry

... Plaintiff

And

Chan Siew Lee Jannie

... Defendant

GROUND S OF DECISION

[Contempt of Court] — [Civil contempt] — [Execution of order of committal]

TABLE OF CONTENTS

INTRODUCTION.....	1
SUIT NO 1014 OF 2014 – THE DEFAMATION AND HARASSMENT ACTION.....	2
THE INTERLOCUTORY INJUNCTION APPLICATION.....	4
THE FIRST SET OF COMMITTAL PROCEEDINGS.....	4
THE SECOND SET OF COMMITTAL PROCEEDINGS.....	6
THE CONSENT JUDGMENT	6
ORIGINATING SUMMONS NO 203 OF 2017 – THE THIRD SET OF COMMITTAL PROCEEDINGS	7
EVENTS AFTER THE COMMITTAL ORDER WAS MADE AND SUSPENDED	12
THE APPLICATION TO LIFT THE SUSPENSION OF THE COMMITTAL ORDER	14
MY DECISION	15
BREACH OF THE CONDITIONS OF THE COMMITTAL ORDER	15
SENTENCING.....	18
CONCLUSION.....	20

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Tay Yun Chwan Henry

v

Chan Siew Lee Jannie

[2018] SGHC 181

High Court — Originating Summons No 203 of 2017 (Summons No 250 of 2018)

Hoo Sheau Peng J

24 January, 5 March; 23 April 2018

17 August 2018

Hoo Sheau Peng J:

Introduction

1 Summons No 250 of 2018 was the plaintiff's application to lift the suspension on the committal order for the defendant to serve two weeks' imprisonment made on 2 August 2017 ("the Committal Order").

2 On 2 August 2017, I found the defendant guilty of contempt of court in that she had failed to comply with the consent judgment entered in Suit No 1014 of 2014 ("the Consent Judgment"). I made the Committal Order, but I suspended its execution for one year on two conditions: first, that the defendant was not to be guilty of further contempt of court by breaching the Consent Judgment, and second, that the defendant was to undergo psychiatric treatment once a month within the one-year period and to furnish proof of such attendance to the plaintiff.

3 Unfortunately, the defendant breached the first condition almost immediately after the Committal Order was made by way of several Facebook posts, and then by way of emails to various recipients. The defendant also breached the second condition by failing to furnish proof of her psychiatric treatment for the months of August and December 2017 and March 2018.

4 Accordingly, on 23 April 2018, I lifted the suspension of the Committal Order. The defendant has since appealed against my decision. I now give my reasons in full.

Suit No 1014 of 2014 – The defamation and harassment action

5 The present committal proceedings are but a continuation of a long-running and lamentable saga dating back to 2014. The plaintiff and the defendant were formerly husband and wife. They have three adult children from the marriage. The parties are also prominent figures in the business community, and are perhaps most well-known as co-founders of The Hour Glass Limited (“THG”), a publicly-listed company in the business of the retail of luxury watches. The parties divorced in August 2010 and the plaintiff has been in a romantic relationship with a lady friend since April 2012.

6 From November 2013 to September 2014, the defendant sent 255 emails to not less than 88 distinct email recipients, including employees of THG and holders of high public office. The 255 emails contained allegations defamatory of the plaintiff regarding the following:

- (a) the plaintiff’s dishonesty in court proceedings and in his dealings with THG’s resources;
- (b) the plaintiff’s failure to financially support his daughters and/or his grandchildren;

- (c) the plaintiff's abuse and/or mistreatment of his daughters including allegations that he did not love his daughters;
- (d) the plaintiff's relationship with his lady friend;
- (e) the plaintiff's treatment of the defendant;
- (f) an incident on 17 May 2014 involving the plaintiff's daughter; and
- (g) the plaintiff being mentally ill.

Out of the 255 defamatory emails, 250 of them were addressed to or copied to the plaintiff, while the remaining five emails were not addressed to or copied to the plaintiff.

7 In the same period, the defendant sent 1,260 emails (addressed to or copied to the plaintiff) which harassed the plaintiff. These included the 250 defamatory emails addressed to or copied to the plaintiff mentioned above. In some of the emails, the defendant sought to obtain the personal details of the plaintiff's lady friend, information on the plaintiff's travel plans and schedules, and to place demands and restrictions on the plaintiff's activities at his residence. Some emails contained threats to report the plaintiff's lady friend to the authorities for alleged wrongdoing.

8 In total, there were 1,265 emails of concern to the plaintiff sent within a period in less than 10 months. These emails formed the subject of Suit No 1014 of 2014, which was grounded on the torts of defamation and harassment. In the action, the plaintiff sought, *inter alia*, injunctions restraining the defendant from persisting in her defamatory and harassing conduct.

The interlocutory injunction application

9 By Summons No 5086 of 2014, the plaintiff sought and was granted interim injunction orders (“the Interlocutory Injunction Orders”) that:

- (a) the defendant be restrained from publishing or causing to be published, words which have the defamatory meanings as set out at paragraph 11 of the Statement of Claim filed on 22 September 2014 (“the Statement of Claim”) (within the areas set out at [6] above), or any other words to the same or any similar effect in any manner whatsoever until after the trial or until further order (“Order (1)”); and
- (b) the defendant be restrained from harassing the plaintiff by sending emails addressed and/or copied to the plaintiff at his email address (henry.tay@thehourglass.com) or any other email address of the plaintiff without the plaintiff’s express consent, and/or pursuing any other conduct to the same or any similar effect on the plaintiff in any manner whatsoever until after the trial or until further order (“Order (2)”).

10 The Interlocutory Injunction Orders contained the usual notice warning the defendant of the penal consequences of disobeying the order.

The first set of committal proceedings

11 These Interlocutory Injunction Orders were made on 5 December 2014. The defendant was represented at the hearing. However, the following day, on 6 December 2014, the defendant continued to send emails in breach of the orders. The defendant continued to breach the orders even after they had been personally served on her on 12 January 2015. No less than five written demands

were sent by the plaintiff's solicitors, M/s Tan Rajah & Cheah ("TRC"), to the defendant's solicitors, Eugene Thuraisingam LLP ("ET"), between 9 December 2014 and 29 January 2015, demanding that the defendant stop breaching the Interlocutory Injunction Orders.

12 On 25 February 2015, having obtained the leave of the court to do so, the plaintiff applied by way of Summons No 915 of 2015 for an order of committal to be made against the defendant in relation to 135 emails sent in the period of 6 December 2014 to 27 January 2015. In an affidavit dated 21 April 2015, the defendant apologised for the emails sent and promised to abide by the terms of the Interlocutory Injunction Orders as follows:

... I now recognize the extent of the Interlocutory Injunction Order and the seriousness for any breach of the Interlocutory Injunction Order. I would like to apologize for the emails that I had sent after the Interlocutory Injunction Order and will abide by its terms, until any further Order of Court. This is the first time that contempt proceedings has [*sic*] ever been taken out against me.

13 I should add that in the period of 28 January 2015 to 23 April 2015, there were a further 152 emails of concern. Nonetheless, in light of the defendant's apology, the plaintiff agreed to withdraw the application upon certain undertakings to be given by the defendant. These undertakings were recorded by the court on 28 April 2015 as follows ("Undertakings"):

- (a) to abide by the terms of the Interlocutory Injunction Orders; and
- (b) not to send any emails to TRC concerning:
 - (i) any matter(s) on which the defendant is represented by solicitors;
 - (ii) any matter(s) on which TRC do not represent the plaintiff.

The second set of committal proceedings

14 Despite the Undertakings to abide by the Interlocutory Injunction Orders, eight emails were sent in breach of those orders and the Undertakings between 4 May 2015 and 30 May 2015. Specifically, three emails were sent to the plaintiff in breach of Order (2) of the Interlocutory Injunction Orders and five were sent to other parties in breach of Order (1) of the Interlocutory Injunction Orders, and accordingly of the Undertakings.

15 On 22 June 2015, having obtained leave of the court to do so, fresh committal proceedings were filed in respect of the alleged breaches outlined at [11] to [14] above. This was by way of Summons No 3009 of 2015. On 5 August 2015, I found the defendant to be in contempt of court in that she had sent 141 emails to the plaintiff and to others in breach of the Interlocutory Injunction Orders and the Undertakings. In doing so, I had disregarded 56 emails sent by the defendant, prior to the afternoon of 11 December 2015 when ET clearly informed the defendant of the Interlocutory Injunction Orders. I had also given the defendant the benefit of the doubt in relation a large number of emails she sent, on the basis that she might have been unclear about the scope of the Interlocutory Injunction Orders. I sentenced her to a fine of \$30,000, in default two weeks' imprisonment.

The Consent Judgment

16 Sometime in February 2016, the parties reached a settlement in relation to Suit No 1014 of 2014. On 15 February 2016, the settlement was recorded in the Consent Judgment as follows:

- (a) the defendant be restrained from publishing or causing to be published, words which have the meaning as set out at paragraph

11 of the Statement of Claim, or any other words to the same or any similar effect in any manner whatsoever (“Order 1(a)”);

(b) the defendant be restrained from harassing the plaintiff in the manner as set out below and/or pursuing any other conduct to the same or any similar effect on the plaintiff in any manner whatsoever (“Order 1(b)”):

(i) sending emails addressed and/or copied to the plaintiff at his email address (henry.tay@thehourglass.com) or any other email address of the plaintiff without the plaintiff’s express consent; and

(c) the defendant will not send any emails to TRC concerning any matter(s) on which the defendant is represented by solicitors or any matter(s) on which TRC does not represent the plaintiff (“Order 1(c”).

17 It is important to note that these terms substantially mirrored those of the Interlocutory Injunction Orders made on 5 December 2014 and the Undertakings given on 28 April 2015.

Originating Summons No 203 of 2017 – the third set of committal proceedings

18 Unfortunately, barely a month after the settlement was reached, the defendant committed multiple breaches of the Consent Judgment. From 17 March 2016 to 6 February 2017, a total of 446 emails were sent by the defendant in breach of the Consent Judgment. 443 emails were sent to the plaintiff in breach of Order 1(b) of the Consent Judgment. 58 emails were sent (55 were

received by the plaintiff, and three were not) in breach of Order 1(a) of the Consent Judgment.

19 On 24 February 2017, the plaintiff commenced the present proceedings in Originating Summons No 203 of 2017 for leave to apply for an order of committal against the defendant – the *third* set of such proceedings. Having obtained the necessary leave of court, on 11 April 2017, the plaintiff applied by way of Summons No 1686 of 2017 for an order of committal against the defendant.

20 In the midst of the third set of committal proceedings, specifically, from 13 April 2017 to 2 July 2017, another 42 emails were sent in breach of the Consent Judgment. 24 emails were sent to the plaintiff in breach of Order 1(b) of the Consent Judgment. 24 emails were sent (six emails were received by the plaintiff and 18 were not) in breach of Order 1(a) of the Consent Judgment.

21 Before me, the defendant disputed liability on various grounds, of which I highlight two aspects.

22 First, the defendant suggested that the scope of the Consent Judgment, especially Order 1(b), was not clear or unambiguous. Specifically, she suggested that Order 1(b) would require that the contents of the emails sent to the plaintiff to have the effect of harassing the plaintiff. As stated earlier, the Consent Judgment followed the terms of the Interlocutory Injunction Orders and the Undertakings. The defendant agreed to the Consent Judgment, without raising any concerns about the effect of the terms. Further, this was the third set of committal proceedings, and the scope of the orders had been canvassed previously. I agreed with the plaintiff that the Consent Judgment was clear and

unambiguous in scope, and more importantly, that the defendant clearly knew of its scope.

23 Second, the defendant explained that the emails were meant to raise family or company issues, and that they were not meant harass or defame. However, the law is clear that the motive or intention of the party who has acted in breach of an order is strictly irrelevant to the issue of liability, though these may be relevant in sentencing (*Mok Kah Hong v Zheng Zhuan Yao* [2016] 3 SLR 1 (“*Mok Kah Hong*”) at [86]).

24 Having dismissed the defendant’s contentions, I found that the plaintiff had established the breaches of the Consent Judgment by the defendant beyond a reasonable doubt (*Mok Kah Hong* at [85]). Accordingly, I found the defendant guilty of contempt of court in that she had failed to comply with the Consent Judgment by sending the emails referred to at [18] and [20] above.

25 In determining the appropriate sentence, I was guided by the consideration that committal to prison is usually a measure of last resort (*Sembcorp Marine Ltd v Aurol Anthony Sabastian* [2013] 1 SLR 245 (“*Sembcorp Marine*”) at [47]). In *Sembcorp Marine*, the High Court laid down the following non-exhaustive list of factors to be considered in sentencing for contempt of court (at [68]):

- (a) the attitude behind the contemptuous behaviour;
- (b) the motive for committing the contemptuous act;
- (c) whether a fine would be an adequate specific and general deterrent;

- (d) the reversibility of the breach;
- (e) the standard of care expected of the individual;
- (f) nature of the contemptuous act;
- (g) whether the contemnor was remorseful; and
- (h) whether the contemnor procured others to commit the contemptuous act.

26 Having considered these factors in the round, two aspects were of particular concern. First, it was clear to me that the fine imposed in the second set of committal proceedings did not deter the defendant. Second, in the course of the third set of committal proceedings, *ie, during 13 April 2017 to 2 July 2017*, there was *continuing* breach by the defendant. This indicated a lack of remorse on her part. While the defendant claimed not to have intended to breach the Consent Judgment, it would have been amply clear to her that her acts of sending the emails had the *effect* of breaching the Consent Judgment, having previously been convicted and fined for similar acts. In view of her history of recalcitrance, and to enforce compliance with the Consent Judgment, I thought a committal order was warranted, and sentenced the defendant to two weeks' imprisonment.

27 In relation to the length of the sentence of imprisonment, the parties referred to several cases concerning contempt by deliberate disobedience of court orders. In *Global Distressed Alpha Fund I Ltd Partnership v PT Bakrie Investindo* [2013] SGHC 105 ("*Global Distressed*"), the court imposed a sentence of seven days' imprisonment where the contemnor had repeatedly failed to attend court pursuant to examination of judgment debtor orders made

against him. On the other end of the spectrum, the Court of Appeal in *Mok Kah Hong* imposed a suspended sentence of eight months' imprisonment for the contemnor's repeated refusal to make payment of some \$7m pursuant to orders for the division of matrimonial assets and maintenance. The Court of Appeal specifically noted the numerous opportunities extended to the contemnor to purge his contempt, as well as the fact that the contemnor had embarked on a deliberate course of concealment calculated to defeat the other party's entitlement in defiance of the court orders (at [117]).

28 While the defendant's acts of breach could be described as wilful and defiant, they did not rise to the level of the contemnor's deliberate and calculated course of conduct in *Mok Kah Hong*. Yet, the defendant's demonstrated recalcitrance, even after having been convicted and fined for the same type of conduct, called for a stiffer sentence than that imposed in *Global Distressed*. In the circumstances, I considered the length of imprisonment of two weeks to be appropriate.

29 Nonetheless, I was prepared to give the defendant another opportunity to comply with the Consent Judgment, with the help of psychiatric treatment, by suspending the Committal Order on terms. In this regard, the defendant placed before me a psychiatric report prepared by her psychiatrist, Dr Joshua Kua Hai Kiat ("Dr Kua") dated 17 June 2017 ("the first psychiatric report"). The first psychiatric report was based on three interviews conducted from May to June 2017. Dr Kua found the defendant to be suffering from "Reaction to Severe Stress". He opined that the defendant's actions were driven by "strong emotions such as anxiety, anger, sadness". In times of "distress and desperation", she would "repeatedly send out various emails in a frantic manner to communicate, deflect, defend and also to seek justice and help". Therefore, he expressed the view that the defendant would benefit from the help and

support of mental health professionals to cope with and resolve her ongoing issues.

30 Accordingly, on 2 August 2017, after making the Committal Order, I suspended its execution for one year on the following conditions:

- (a) that the defendant was not to be guilty of another contempt by breaching the Consent Judgment (“the first condition”); and
- (b) that the defendant was to undergo psychiatric treatment once a month within the one-year period, and that the defendant or her legal counsel was to email a time chit or memo from the clinic to the plaintiff’s legal counsel within three days of each session (“the second condition”).

Should the defendant fail to comply with either condition, the plaintiff would be at liberty to apply to lift the suspension.

Events after the Committal Order was made and suspended

31 From 3 August through to 4 August 2017, the defendant posted several comments on articles relating to the Committal Order on the Facebook pages of *Today* and *The Straits Times* in which she made various allegations against the plaintiff.

32 On 24 August 2017, TRC wrote to ET to demand that the offending comments be deleted. The defendant did not respond to the plaintiff’s demand. Another letter of demand was sent on 15 September 2017. In this second letter, the plaintiff further demanded that the defendant publish an apology both on Facebook and in a local newspaper.

33 On 16 September 2017, ET advised the defendant by way of an email that the comments she had made on Facebook were “in breach of Order 1(a) of the Consent Judgment” and requested that the defendant delete the offending comments. Then, on 28 September 2017, ET wrote to TRC, stating the defendant’s position that the Facebook comments were not intended as an attack against the plaintiff, but were made in response to allegations made by others on those Facebook posts about the defendant. The defendant declined to issue a public apology in a newspaper but offered to put up a clarification on her Facebook page. By 28 September 2017, the defendant’s Facebook comments had been deleted.

34 Thereafter, the defendant continued to send emails to various recipients, including the plaintiff and TRC. In all, from 28 September 2017 to 11 January 2018, the defendant sent 55 emails allegedly in breach of Order 1(a) to various recipients, including THG employees, public office-holders and journalists. The defendant also sent a total of 221 emails to the plaintiff and/or TRC allegedly in breach of Order 1(b) and Order 1(c). On 4 October 2017 and 8 November 2017, TRC sent letters to ET stating the plaintiff’s position that the defendant’s emails were sent in breach of the Consent Judgment, and demanding that the defendant desist from further breach.

35 In relation to the second condition, the defendant did not send TRC time chits or memos evidencing her psychiatric treatment for the months of August and December 2017, as well as March 2018. The defendant’s explanation for not doing so for the month of August 2017 was that she was unable to fix an appointment with her psychiatrist in time because of a delay in the release of funds from the family investment vehicle, TYC Investment Pte Ltd (“TYC Investment”), which covered her medical expenses. No explanation was given in relation to her defaults for the months of December 2017 and March 2018.

The application to lift the suspension of the Committal Order

36 On 15 January 2018, the plaintiff filed the present application to lift the suspension of the Committal Order. The defendant was informed of the application by her solicitors on 17 January 2018. Nevertheless, from 17 January 2018 to 12 April 2018, the defendant sent a further 56 emails allegedly in breach of Order 1(a) to various recipients and 128 emails to the plaintiff and/or TRC allegedly in breach of Order 1(b) and Order 1(c).

37 In support of the present application, the plaintiff cited breaches by the defendant of both the conditions. Breaches of the first condition commenced almost immediately after the Committal Order was made by way of Facebook posts, and then by way of further emails to various recipients. While the defendant had been given multiple opportunities to purge the contempt by deleting the offending Facebook comments and issuing a public apology, she spurned these chances and instead continued to send emails in breach of the Consent Judgment. Further, the defendant also breached the second condition by failing to show proof of her psychiatric treatment for the months of August and December 2017 and March 2018.

38 The defendant did not seriously dispute that she had breached the conditions of the Committal Order. Instead, her main argument was that a sentence of imprisonment would be inappropriate given her worsening psychiatric condition, and that the court should instead order an increase in the frequency of her medical treatment, or that she seek treatment as an outpatient at the Institute of Mental Health.

39 In this regard, the defendant relied on a second psychiatric report by Dr Kua dated 15 November 2017 (“the second psychiatric report”). The second

psychiatric report was based on three interviews conducted in June, September and October 2017. Dr Kua's assessment was that the defendant's mental health had deteriorated and that she now met the criteria for Major Depressive Disorder. He further opined that her mental state has "impaired her mood as well as her judgement".

40 Further, the defendant explained that her acts in sending the offending emails were "desperate and frantic" attempts to help her daughter. It was never her intention to harass or defame the plaintiff. The psychiatric reports would show that the defendant was labouring under significant stress caused by, *inter alia*, the multiple legal proceedings commenced against her, the further criminal charges against her daughter, and having to care for her daughter, who was also suffering from a psychiatric condition.

41 In response, in relation to the defendant's psychiatric condition, the plaintiff submitted that that evidence should be disregarded or, at best, considered with regard to mitigation only. The second psychiatric report did not suggest that the defendant's mental state prevented the defendant from understanding or complying with the conditions of the Committal Order, nor was it suggested that the defendant's mental state had any causal connection with her breaches of the conditions.

My decision

Breach of the conditions of the Committal Order

42 The plaintiff's application to lift the suspension of the Committal Order was made pursuant to O 52 r 6 of the Rules of Court (Cap 322, R5, 2014 Rev Ed) ("ROC"):

Power to suspend execution of committal order (O. 52, r. 6)

6.—

...

(3) Where the execution of an order of committal has been suspended under paragraph (1), the applicant for the order of committal may, on the ground that any of the terms of the suspension has been breached, apply for the suspension to be lifted.

(4) An application under paragraph (3) must be made by summons supported by an affidavit.

(5) Unless the Court otherwise directs, the summons and the supporting affidavit under paragraph (4) must be served on the person against whom the order of committal has been granted.

43 It was not disputed that the summons and supporting affidavit were duly served on the defendant.

44 In an application under O 52 r 6(3) of the ROC, the burden of proof is on the applicant to prove a *prima facie* breach of the suspended order beyond a reasonable doubt. Thereafter, the contemnor bears the burden of convincing the court of his defence. However, given the low threshold of *mens rea* for civil contempt, it is more likely that any exculpatory facts will only go to mitigation (*Tan Beow Hiong v Tan Boon Aik* [2010] 4 SLR 870 (“*Tan Beow Hiong*”) at [75]). In particular, the *mens rea* to be proved is simply that the contemnor intended to do the acts which put him or her in breach of the court order. The contemnor’s motive in doing those acts is irrelevant to the question of liability (*Tan Beow Hiong* at [47]).

45 On the evidence before me, I was satisfied beyond a reasonable doubt that the defendant had breached both conditions of the suspended Committal Order on multiple occasions.

46 I found that the defendant had breached the first condition, *viz*, that the

defendant would not be guilty of further contempt of court by breaching the Consent Judgment, in that she had:

- (a) published comments on the Facebook pages of *Today* and *The Straits Times* which contained words which implied, *inter alia*, that the plaintiff does not love his daughter, in breach of Order 1(a) of the Consent Judgment;
- (b) sent emails to various recipients insinuating, *inter alia*, that the plaintiff had assaulted his daughter and had fabricated court proceedings against the defendant and his daughter, in breach of Order 1(a) of the Consent Judgment;
- (c) sent emails to the plaintiff without his express consent in breach of Order 1(b) of the Consent Judgment; and
- (d) sent emails to TRC concerning matters on which she was represented by solicitors as well as matters on which TRC was not representing the plaintiff, in breach of Order 1(c) of the Consent Judgment.

47 I noted that even the defendant's solicitors, ET, took the view that the Facebook comments were published in breach of Order 1(a) of the Consent Judgment in an email to the defendant dated 16 September 2017 (see [33] above).

48 I found also that the defendant was in breach of the second condition in that she had failed to provide the plaintiff or his solicitors with proof of her psychiatric treatment for the months of August and December 2017 and March 2018. The defendant's averment that she was unable to book an appointment

for August 2017 due to a delay in the disbursement of funds from TYC Investment was of no merit. There was nothing to suggest that the defendant had absolutely no other sources of funds for her psychiatric treatment. It was incumbent on the defendant to ensure that she had the funds for her psychiatric treatment sessions.

49 I should add that while the defendant did adduce the second psychiatric report indicating that she was suffering from Major Depressive Disorder, the psychiatric evidence did not suggest that the defendant was not aware and should not be held accountable for her actions. In my view, the psychiatric evidence had no bearing on the question of liability, and was instead more relevant to the question of the appropriate sentence to be imposed. It is to that question that I now turn.

Sentencing

50 Having found that the defendant had breached the conditions on which the Committal Order was suspended, what remained was the question of the appropriate orders to be made.

51 Where the terms of a suspended order for committal have been breached and the suspension is therefore to be lifted, the court is not invariably bound to impose the suspended sentence. Rather, the court has an unfettered discretion to do what is just in the circumstances. This may entail imposing the suspended sentence in whole or in part, substituting it with a fine, or even imposing no penalty at all (*Tan Beow Hiong* at [66]). On this footing, the defendant submitted that an imprisonment term would be inappropriate and asked that I exercise my discretion by imposing orders requiring her to seek further psychiatric treatment instead.

52 When I suspended the Committal Order, it should have been clear to the defendant that that was her last chance at avoiding imprisonment. Yet, since 2 August 2017 when the Committal Order was suspended, the defendant had continued to act in blatant disregard of the Consent Judgment and the conditions under which the Committal Order was suspended. Three sets of committal proceedings have had to be commenced against her. On multiple occasions, the defendant simply proceeded to send emails in breach of the very court orders or undertakings given just immediately prior. She also continued to do so in the midst of the various sets of committal proceedings. Her conduct has been unremorseful and unrepentant. In fact, she has been intentionally sending the offending emails to new recipients.

53 The defendant claimed that in her emails, she was merely raising family matters, and that her actions were desperate calls for help in the hope of eliciting some form of positive response from the plaintiff or others towards the plight of her daughter. In my view, this submission was entirely without merit. I failed to see how her wilful, unrestrained and irresponsible behaviour of sending the offending emails to a large number of recipients could possibly be meant to help the situation for herself, for her daughter or for her family. This was of no mitigating value.

54 I did, however, give some mitigating weight to the defendant's psychiatric condition; in particular, Dr Kua's assessment that the defendant's condition had worsened and that she was suffering from Major Depressive Disorder. I accepted that the defendant was labouring under severe stress at the time of the breaches, no doubt exacerbated in part by her psychiatric condition, as well as her having to deal with the other legal proceedings commenced against her and having to care for her daughter. While this did not absolve her of liability for her acts, it was of some mitigating value. In that regard, I decided

not to increase the imprisonment term to be imposed.

55 Accordingly, I lifted the suspension on the Committal Order, and imposed the original sentence under the Committal Order, *viz*, two weeks' imprisonment, on the defendant. The defendant sought, and I granted, a stay of execution of the sentence pending appeal.

Conclusion

56 Both the plaintiff and defendant are rather advanced in years. Both deserve the chance to move on and close this unfortunate chapter of their lives. It had been my hope that the defendant would eventually cease and desist from her wilful and contemptuous behaviour. Regrettably, the many opportunities extended to her have been repaid not with remorse, but with recalcitrance. The defendant must understand that court orders must be complied with, and to that end, she must take responsibility for her repeated and sustained breaches of the Consent Judgment and the conditions of the Committal Order. Costs of \$15,000 plus disbursements of \$9,930 were awarded to the plaintiff.

Hoo Sheau Peng
Judge

Chelva Retnam Rajah SC, Chia Ru Yun Megan Joan and Wong Zhan
Yan Perry Elizabeth (Tan Rajah & Cheah) for the plaintiff;
Eugene Singarajah Thuraisingam and Syazana Binte Yahya (Eugene
Thuraisingam LLP) for the defendant.