

Chong Sze Pak v Chong Ser Yoong  
[2011] SGHC 135

**Case Number** : Suit No 539 of 2010  
**Decision Date** : 26 May 2011  
**Tribunal/Court** : High Court  
**Coram** : Woo Bih Li J  
**Counsel Name(s)** : Gurdaib Singh (Gurdaib, Cheong & Partners) for the plaintiff; James Joseph (Prestige Legal LLP) for the defendant.  
**Parties** : Chong Sze Pak — Chong Ser Yoong

*Trusts – Costs*

26 May 2011

**Woo Bih Li J:**

**Background**

1 The plaintiff is the elder brother of the defendant. He claimed the net sale proceeds of a Housing and Development Board flat in McNair Road from the defendant on the basis that the defendant held that property in trust for him (the plaintiff).

2 The defendant disputed this. Alternatively, he relied on ss 51(4) and (5) of the Housing and Development Act (Cap 129, 1997 Rev Ed) ("HDA") to defeat the plaintiff's claim on the basis that any such trust was null and void.

3 Further details are contained in my judgment of 23 February 2011.

4 As regards the factual dispute, I found that the defendant held the McNair Road property in trust for the plaintiff and his son Chong Chin Hock. However, on the legal issue, I found that the trust was null and void. I ordered each party to bear his own costs of the action.

**The defendant's appeal**

5 The plaintiff has appealed against my substantive decision to the Court of Appeal.

6 The defendant has obtained leave to appeal against my decision on costs.

7 The defendant takes the position that he ought to have been granted costs since he succeeded in the action. I did not grant him costs because he failed on the factual dispute. The trial was necessary because of the factual dispute and indeed, most of the costs of the action were incurred because of the factual dispute. In the circumstances, I exercised my discretion not to grant the defendant any costs of the action.

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