IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2016] SGCA 54

Civil Appeal No 205 of 2015

Between

LAI SWEE LIN LINDA

... Appellant

And

ATTORNEY-GENERAL

… Respondent

In the matter of Originating Summons No 1014 of 2014

Between

ATTORNEY-GENERAL

... Applicant

And

LAI SWEE LIN LINDA

… Respondent

JUDGMENT

[Courts and Jurisdiction] — [Vexatious litigants]

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v
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5 September 2016 Judgment reserved.

Judith Prakash JA (delivering the judgment of the court):

Introduction

1 Since January 2000, the appellant in the present appeal, Ms Lai Swee Lin Linda ("Ms Lai"), has appeared in our courts many times in the course of her mission to obtain legal redress to which she considers she is entitled. Between August 2000 and today, there have been no fewer than ten written decisions about Ms Lai's cases. Of these, nine grew out of Ms Lai's attempts to advance her claims. The tenth, the decision from which this appeal lies, is a judgment on Originating Summons No 1014 of 2014 ("the Present Application"), an application by the respondent, the Attorney-General ("the AG"), to have Ms Lai restrained from continuing with such attempts.

2 On 19 October 2015, Woo Bih Li J granted the Present Application and made orders to the following effect (see *Attorney-General v Lai Swee Lin Linda* [2015] 5 SLR 1447 ("the Judgment")):

> (a) That pursuant to s 74 of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed) ("the SCJA"), Ms Lai cannot, without the leave of the High Court, institute any legal proceedings in any court or subordinate court with respect to matters or legal proceedings against the Government (whether in the name of the Public Service Commission ("the PSC"), the AG or otherwise) in any way arising from and/or connected to:
>
> > (i) her employment at the Land Office of the Ministry of Law ("the Land Office") from 28 November 1996 to 21 December 1998;
> >
> > (ii) the retrospective extension of her probationary period as a Senior Officer Grade III for a year with effect from 28 November 1997 to 27 November 1998;
> >
> > (iii) the termination of her employment at the Land Office with effect from 21 December 1998 by the Senior Personnel Board F constituted under the Public Service (Special and Senior Personnel Boards) Order 1994 ("the Senior Personnel Board");
> >
> > (iv) her appeals to the Appeals Board constituted under the Public Service (Personnel Boards and Appeals Board) Regulations 1994 ("the Appeals Board") and the PSC; and/or

(v) the subject matter of the legal proceedings enumerated in a schedule that was appended to the Present Application (this schedule is reproduced in full in the appendix to this judgment).

(b) That any legal proceedings in any way arising from and/or connected to the matters described in sub-para (a) above instituted by Ms Lai in any court before the making of the above order shall not be continued by her without such leave, and such leave shall not be given unless the High Court is satisfied that the proceedings are not an abuse of the process of the court and that there is *prima facie* ground for the proceedings.

3 In short, Ms Lai has been designated a "vexatious litigant" in relation to her claims arising out of her employment at the Land Office, and has been prevented from instituting any further legal proceedings as well as continuing existing legal proceedings in relation to those claims without the leave of the High Court. Ms Lai is dissatisfied with Woo J's decision and has appealed to this court.

4 The crux of this appeal is whether s 74 of the SCJA has been correctly applied to Ms Lai. We will first examine the legal principles that govern an application under this section before turning to the facts.

Section 74 of the SCJA: the applicable principles

5 Section 74 of the SCJA provides as follows:

> **Vexatious litigants**
>
> **74.**—(1) If, on an application made by the Attorney-General, the High Court is satisfied that any person has *habitually* and *persistently* and *without any reasonable ground* instituted *vexatious legal proceedings* in any court or subordinate court, whether against the same person or against different persons, the High Court *may*, after hearing that person or giving him an opportunity of being heard, order that —
>
> (*a*) no legal proceedings shall without the leave of the High Court be instituted by him in any court or subordinate court; and
>
> (*b*) any legal proceedings instituted by him in any court or subordinate court before the making of the order shall not be continued by him without such leave, and such leave shall not be given unless the High Court is satisfied that the proceedings are not an abuse of the process of the court and that there is prima facie ground for the proceedings.
>
> (2) If the person against whom an order is sought under subsection (1) satisfies the High Court that he lacks the means to retain an advocate and solicitor, the High Court shall assign one to him.
>
> (3) No appeal shall lie from an order under subsection (1) refusing leave for institution or continuance of legal proceedings.
>
> …
>
> (5) In this section, "legal proceedings" includes any proceedings, process, action, application or appeal in any civil matter or criminal matter.
>
> [emphasis added]

6 Two High Court cases have dealt with s 74(1) of the SCJA in some detail, namely, *Attorney-General v Tee Kok Boon* [2008] 2 SLR(R) 412 ("*Tee Kok Boon*") and *Attorney-General v Mah Kiat Seng* [2013] 4 SLR 788 ("*Mah Kiat Seng*"). (We should point out that *Tee Kok Boon* actually concerned s 74(1) of the Supreme Court of Judicature Act (Cap 322, 1999 Rev Ed) ("the SCJA (1999 Rev Ed)") rather than s 74(1) of the SCJA (as defined at [2(a)] above), but this difference is immaterial as the two versions of s 74(1)

are substantially the same.) In the earlier decision, *Tee Kok Boon*, Woo J, who also heard that case, considered a number of issues relating to the types of legal proceedings to which s 74(1) applied and examined the interpretation of similar legislation in jurisdictions such as Canada and England before concluding that due to the legislative purpose behind s 74(1), it had to be given a broad interpretation. Woo J accordingly interpreted the term "instituted vexatious legal proceedings" in s 74(1) as extending to criminal proceedings, proceedings in the Court of Appeal and interlocutory proceedings. To put the matter beyond doubt, Woo J's interpretation was given statutory effect in 2011 by the addition of sub-s (5) to s 74. The discussion on s 74(1) that follows reflects in large part the principles enunciated in these two High Court decisions.

7 Vexatious litigation has a detrimental impact not only on the court, but also on the opposing party and on the vexatious litigant himself. The principal purpose of s 74(1) of the SCJA is to prevent abuse of the process of the court. As observed by Laws LJ in the July 2000 English Court of Appeal decision of *HM Attorney-General v Ebert* (Case No CO/4506/98, unreported) at [50], "the real vice [in such cases], apart from the vexing of [the litigant's] opponents, is that scarce and valuable judicial resources [are] extravagantly wasted on barren and misconceived litigation, to the detriment of other litigants with real cases to try". The court's limited resources should instead be allocated to, and utilised on, meritorious disputes. Section 74(1) allows the court to strike a balance between allowing litigants to enjoy their right to have unfettered access to the courts and protecting the courts from being inundated with endless and unmeritorious litigation to the detriment of other parties with meritorious causes.

8 In addition, s 74(1) of the SCJA serves to protect the opposing party who faces a litany of legal proceedings brought by the vexatious litigant. Vexatious litigation has the effect of oppressing the opposing party, and diverting that party's attention and resources away from other more worthwhile pursuits. In many such cases, the opposing party is unwillingly dragged along by the vexatious litigant as the latter obsessively takes step after step in the courts to achieve his aim. Even if the opposing party is awarded costs, such costs would hardly be adequate compensation for the waste of time and resources, not to mention the emotional strain that would have been inflicted if the opposing party is an individual.

9 Lastly, an order under s 74(1) of the SCJA serves as a means of protecting the vexatious litigant from himself. If such an order is not made, the vexatious litigant, having lost sight of rationality or reality and being armed with an aggravated sense of injustice about his case, is very likely to persist indefinitely in instituting legal proceedings.

10 It is clear from s 74(1) of the SCJA that to be labelled as a "vexatious litigant", the litigant in question must have "habitually and persistently and without any reasonable ground instituted vexatious legal proceedings". The mere institution of vexatious legal proceedings, without more, does not bring s 74(1) into play. The requirements that the litigant must have acted "habitually" and "persistently" suggest that a pattern of conduct is necessary. We agree with the High Court in *Tee Kok Boon* and *Mah Kiat Seng* that the words "habitually" and "persistently" are ordinary English words which should not be given any technical meaning specifically for the purpose of s 74(1) (see *Tee Kok Boon* at [105], where the court cited with implicit approval a passage from the Canadian case of *Attorney-General v Betts* [2004]

NSWSC 901, and *Mah Kiat Seng* at [15]). As commonly defined and interpreted, the word "habitually" suggests the institution of legal proceedings almost as a matter of course or almost automatically when the appropriate conditions exist, while the word "persistently" suggests determination and the act of doggedly continuing in the face of difficulty or opposition.

11 The term "vexatious" is likewise given its ordinary meaning. Legal proceedings are regarded as vexatious if they are instituted with the intention of annoying or embarrassing the opposing party, or are brought for collateral purposes and not for the purpose of having the court adjudicate on the issues to which they give rise. Further, legal proceedings which are so obviously untenable or groundless as to be utterly hopeless may also be regarded as vexatious, even if the litigant's motives are wholly innocent.

12 Drawing these definitions together, a vexatious litigant is one who is either unable or unwilling to accept the finality of court decisions, and who repeatedly brings legal proceedings which are vexatious in nature in an attempt to re-litigate matters that have already been conclusively decided by the courts when there is no basis for doing so. The archetypal characteristics of a vexatious litigant were summarised by Lord Bingham of Cornhill CJ in *Attorney-General v Barker* [2000] 1 FLR 759 at 764 as follows:

> The hallmark [of persistent and habitual litigious activity] usually is that the plaintiff sues the same party repeatedly in reliance on essentially the same cause of action, perhaps with minor variations, after it has been ruled upon, thereby imposing on defendants the burden of resisting claim after claim; … that the claimant automatically challenges every adverse decision on appeal; and that the claimant refuses to take any notice of or give any effect to orders of the court. The essential vice of habitual and persistent litigation is keeping on and on litigating when earlier litigation has been

> unsuccessful and when on any rational and objective assessment the time has come to stop.

13 The court takes an objective view of the facts in deciding whether a litigant's conduct falls within s 74(1) of the SCJA. It is immaterial that the litigant may have acted in good faith in bringing the legal proceedings concerned, or that he may genuinely believe in the justice of his cause and may not understand that his case has already been authoritatively dealt with and decided by the court (see *Tee Kok Boon* at [106] and [121], as well as *Mah Kiat Seng* at [17]). This is consistent with the fact that one of the purposes of s 74(1) is precisely to protect the litigant, who often has an aggravated sense of injustice which compels him to persistently seek to right a wrong that he perceives has been done to him, from himself. Having said that, the motives of the litigant may be relevant to the inquiry in cases where the litigant is shown to be acting in bad faith. This would have some bearing on the court's assessment of whether the legal proceedings instituted by him are vexatious.

14 Although the number of legal proceedings that have been brought by the litigant may be a relevant factor in considering whether he has been instituting vexatious legal proceedings in a habitual and persistent manner, it is not determinative and should not be given undue weight (see *Tee Kok Boon* at [120] and *Mah Kiat Seng* at [16]). There is no magic number of legal proceedings that have to have been brought before a litigant would be labelled as vexatious. Ultimately, the court must take a broad view of all the legal proceedings that have been instituted by the litigant and consider whether the general character and result of those proceedings cause him to fall within the category.

15 As prescribed in s 74(1) of the SCJA, an order under the provision can only be made where the litigant has been heard or has been given the opportunity to be heard. If it is shown that the litigant lacks the means to retain a lawyer, the High Court will assign a lawyer to act for him (*per* s 74(2)).

16 The court retains a residual discretion not to grant an application under s 74(1) of the SCJA even if the litigant falls within the definition of a vexatious litigant as set out therein. Having said that, it is, in our judgment, unlikely, although not inconceivable, that the court will decline to grant the application where it has concluded that the litigant is vexatious.

17 We should emphasise that the grant of an application under s 74(1) of the SCJA does not necessarily bar a litigant from having recourse to the courts in all matters. Whilst the wording of s 74(1) is fairly broad, the orders made thereunder are usually narrow and targeted such that they only restrict the litigant's access to the courts in relation to specific matters which the courts have already adjudicated on and which the litigant seeks to reopen without any basis. In this way, the litigant's liberty to commence or continue legal proceedings in relation to other matters will not be constrained. Where an order under s 74(1) is made, the litigant will require the leave of the High Court before he can commence or continue any legal proceedings in relation to the proscribed matters. The High Court's refusal to grant such leave cannot be appealed against (*per* s 74(3)).

18 Although this issue did not arise in this case, we add for completeness that it may be possible for the court to make a restraining order against a vexatious litigant on its own accord even if the AG has not made any application under s 74(1) of the SCJA. The English courts have taken the

position that the court has an inherent jurisdiction to do this as it must be able to protect its processes from abuse, but this power must be exercised only in exceptional circumstances (see *Bhamjee v Forsdick and others* [2004] 1 WLR 88). This issue was discussed in *Tee Kok Boon*, but it was not decided as the court there did not have the benefit of arguments by counsel. For the same reason, we leave this issue open to be decided in a future case that engages it.

19 With the foregoing principles in mind, we turn to consider the facts before us.

Factual background

20 Ms Lai graduated with a law degree from the University of Malaya in 1979. After working in Malaysia for about a decade, Ms Lai migrated to Singapore. She obtained a Master of Laws degree from the National University of Singapore in 1993, and became a Singapore citizen in 1994.

21 On 28 November 1996, Ms Lai was employed by the Land Office as a Senior Officer Grade III, and was placed on a term of probation that was scheduled to end a year later on 27 November 1997. Although the Civil Service Instruction Manuals ("the IMs") prescribed that officers who were placed on probation would have to be informed before the expiry of their probationary period whether they would be confirmed or whether their probation would be extended (or, for that matter, whether their employment would be terminated altogether), Ms Lai was not so informed at the end of the one-year period.

22 In fact, Ms Lai did not receive any news about the status of her employment until 1 June 1998, when she was informed by the then

Commissioner of Lands that he would not be recommending her confirmation. On 19 August 1998, which was more than eight months after the expiry of the probationary period that was initially envisaged, the Land Office's human resources division officially informed Ms Lai that she would not be confirmed and that her probation would be retrospectively extended for another year (*ie*, from 28 November 1997 to 27 November 1998). In mid-December 1998, the Senior Personnel Board terminated Ms Lai's employment at the Land Office with a month's remuneration in lieu of notice.

23 Aggrieved by the Senior Personnel Board's decision to terminate her employment, Ms Lai appealed to the Appeals Board on 23 January 1999, but was unsuccessful. She subsequently appealed to the PSC on 10 June 1999, but similarly failed. After exhausting the avenues of appeal within the Government, Ms Lai turned to the courts.

The issue before this court

24 There is only one issue before this court: whether Woo J was correct to have granted the Present Application under s 74(1) of the SCJA in the light of Ms Lai's actions in instituting and conducting the legal proceedings that have taken place over the past 16 years (collectively referred to hereafter as her "Previous Legal Proceedings"). In this respect, we have to consider not only the originating actions which she has started, but also the interlocutory applications and appeals made by her.

25 We must emphasise at the outset that it is not this court's function to re-examine the merits of the arguments that Ms Lai has canvassed in all her Previous Legal Proceedings. Regrettably, Ms Lai's submissions in response to the Present Application, which consist of her long-standing complaints and

arguments about the merits of the court decisions made in the course of her Previous Legal Proceedings (collectively, "the Previous Court Decisions"), have largely veered in this direction instead of focusing on addressing the issue of whether her conduct falls within s 74(1) of the SCJA. The Previous Court Decisions, which Ms Lai takes objection to, all relate to legal proceedings that have been dismissed, deemed withdrawn or struck out, and those decisions are not open to further appeal or review before us. The issue before this court is not whether the Previous Court Decisions are right or wrong, although this issue would, to some extent and in a peripheral way, be relevant to our assessment of whether Ms Lai's repeated applications to reopen those decisions constitute vexatious legal proceedings, or whether her conduct and her applications can be justified on the basis that she has all this while been seeking to invoke a valid exception to the rule of *res judicata*.

The nature of Ms Lai's claims

26 The termination of Ms Lai's employment at the Land Office in December 1998 was the catalyst for the entire chain of litigation between Ms Lai and the Government. Ms Lai takes the position that her employment was wrongfully terminated by the Government after she exposed inefficiency that existed within the Land Office. All of her Previous Legal Proceedings have centred on two claims (collectively referred to hereafter as her "Claims"), one in public law and the other in private law. Her primary claim is that the termination of her employment was *ultra vires* and warrants judicial review (the "Public Law Claim"), and her other claim is that the Government acted in breach of her contract of employment in terminating her employment (the "Private Law Claim"). Her Claims have taken various forms over the years.

The first set of proceedings: the Public Law Claim

27 Initially, Ms Lai took the view that her Public Law Claim was the way to obtain redress. On 20 January 2000, she filed Originating Summons No 96 of 2000 ("OS 96/2000") for leave to commence judicial review proceedings against the PSC. She sought quashing orders against: (a) the decision of the Commissioner of Lands and/or the Permanent Secretary of State and/or such other appointing authority to retrospectively extend her probationary period for a year; (b) the decision of the Senior Personnel Board to terminate her employment at the Land Office; and (c) the PSC's decision to dismiss her appeals. She also sought a mandatory order to reinstate her as a confirmed Senior Officer Grade III.

28 At first instance, MPH Rubin J granted Ms Lai leave to seek the three quashing orders, but declined to grant her leave in respect of the mandatory order, which he considered superfluous given that he had already granted her leave in respect of the three quashing orders (see *Linda Lai Swee Lin v Public Service Commission* [2000] SGHC 162 ("*Linda Lai (OS 96/2000)*")).

29 Rubin J's decision was later reversed in Civil Appeal No 69 of 2000 ("CA 69/2000") in January 2001 (see *Public Service Commission v Lai Swee Lin Linda* [2001] 1 SLR(R) 133 ("*Linda Lai (CA 69/2000)*")). It bears mentioning that up to this stage, Ms Lai was not acting in person. Rather, she was ably represented by Mr Harpreet Singh Nehal and two other counsel throughout the proceedings. After hearing extensive arguments from both sides, the Court of Appeal set aside Rubin J's order granting Ms Lai leave to commence judicial review proceedings as it found that the matters which she complained of were not susceptible to judicial review since they involved only

private rights and fell outside the sphere of public law. Specifically, the court found that the relationship between Ms Lai and the Government was purely a contractual one, and that the source of the power exercised by the Senior Personnel Board, the Appeals Board and the PSC was contractual in nature even though these entities were statutory bodies.

Next, a dual basis claim

30 Ms Lai took some time to consider her position after her Public Law Claim was rejected by the Court of Appeal. Nearly four years later, on 17 December 2004, she filed Suit No 995 of 2004 ("Suit 995/2004") against the Government seeking, *inter alia*, damages arising from the alleged wrongful termination of her contract of employment.

31 On the face of it, Suit 995/2004 appeared to be a prosecution of Ms Lai's Private Law Claim. But, the statement of claim for the suit contained paragraphs that pertained to her previous application for leave to commence judicial review proceedings and involved issues of public law. This led the AG to apply in Summons-in-Chambers No 123 of 2005 ("SIC 123/2005") to strike out those paragraphs ("the public law-related paragraphs") on the ground that they were scandalous and constituted an abuse of the process of the court because Ms Lai was seeking to re-litigate issues that had already been decided by the court. The AG's application was granted by an Assistant Registrar, who also made directions for Ms Lai to file an amended statement of claim and for the AG to file its defence thereafter. Ms Lai appealed by way of Registrar's Appeal No 66 of 2005 ("RA 66/2005"), but her appeal was dismissed (in substantial part) by Tan Lee Meng J on 5 April 2005. This meant that the

public law-related paragraphs of the statement of claim for Suit 995/2004 were struck out, and only those reflecting the Private Law Claim remained.

32 In the meantime, the AG served a statutory demand on Ms Lai for payment of the costs that she had previously been ordered to pay. Ms Lai applied in Originating Summons in Bankruptcy No 38 of 2005 ("OSB 38/2005") to set aside or stay the statutory demand. Her application was dismissed, and the decision of the Assistant Registrar was upheld by Tan J on appeal (see *Lai Swee Lin Linda v Attorney-General* [2005] SGHC 182 ("*Linda Lai (OSB 38/2005)*")).

33 Ms Lai then filed a consolidated appeal, Civil Appeal No 87 of 2005 ("CA 87/2005"), against Tan J's decisions in RA 66/2005 and *Linda Lai (OSB 38/2005)*.

34 This consolidated appeal was met with the AG's application in Notice of Motion No 81 of 2005 ("NM 81/2005") to set aside that part of CA 87/2005 which pertained to Tan J's decision in RA 66/2005. The grounds relied on by the AG were, first, that the consolidation was improper as the appeals against the two decisions of Tan J not only involved separate issues, but also arose out of different actions; and second, that the appeal against the decision in RA 66/2005 had been filed out of time and/or in breach of s 34(1)(*c*) of the SCJA (1999 Rev Ed). The Court of Appeal heard and allowed the AG's application in NM 81/2005 on 24 October 2005, and set aside that part of CA 87/2005 which concerned Tan J's decision in RA 66/2005 (see *Lai Swee Lin Linda v Attorney-General* [2006] 2 SLR(R) 565). In arriving at its decision, the Court of Appeal observed that the inclusion of the public law-related paragraphs of the statement of claim for Suit 995/2004 was an abuse of

process as those paragraphs concerned matters that had already been determined in CA 69/2000 and that were thus *res judicata*.

The Private Law Claim

35 Ms Lai took more than a year after the release of the Court of Appeal's decision in NM 81/2005 to proceed with her Private Law Claim. She finally did so on 8 February 2007 by filing an amended statement of claim for Suit 995/2004. But, due to her delay, the suit was no longer alive as it had been deemed discontinued pursuant to O 21 r 2(6) of the Rules of Court (Cap 322, R 5, 2006 Rev Ed) since no step had been taken in the proceedings for more than a year from the time of the Court of Appeal's decision on NM 81/2005 on 24 October 2005. At a pre-trial conference held on 1 March 2007, an Assistant Registrar ordered the amended statement of claim for Suit 995/2004 to be expunged. This decision was upheld on 25 April 2007 in Registrar's Appeal No 61 of 2007 ("RA 61/2007") (see *Lai Swee Lin Linda v Attorney-General* [2008] 2 SLR(R) 794). Ms Lai was directed to file a separate application to reinstate Suit 995/2004 if she wanted to continue pursuing the action. She did not, however, do so.

36 Instead, Ms Lai sought to appeal against the decision in RA 61/2007. As she was out of time by the time she decided to appeal, Ms Lai had to first apply for an extension of time to file her appeal. Her application to the High Court for an extension of time was dismissed, but her subsequent application to the Court of Appeal was allowed, and on 6 November 2007, Ms Lai filed Civil Appeal No 134 of 2007 against the decision in RA 61/2007. However, this appeal was later deemed withdrawn as Ms Lai failed to file the requisite documents in respect of the appeal by the stipulated deadline.

37 On 25 June 2008, Ms Lai applied to reinstate Suit 995/2004, the step which she should have taken in the first place instead of trying to appeal against the decision in RA 61/2007 and then abandoning the appeal. Belinda Ang Saw Ean J granted this application (see *Lai Swee Lin Linda v Attorney-General* [2009] SGHC 38). She directed that the amended statement of claim filed on 8 February 2007 for Suit 995/2004 be allowed to stand, and that the AG file and serve its defence by 8 October 2008. The AG's appeal against this decision was dismissed by the Court of Appeal on 19 May 2009. The AG thereafter filed its defence on 1 June 2009.

38 After an unsuccessful attempt by Ms Lai to obtain summary judgment, the trial of Suit 995/2004 took place before Lai Siu Chiu J ("the Trial Judge") in August 2010. In her judgment released on 24 November 2010, the Trial Judge dismissed Ms Lai's claim (see *Lai Swee Lin Linda v Attorney-General* [2010] SGHC 345 ("*Linda Lai (Suit 995/2004)*")). The Trial Judge held that the termination of Ms Lai's employment at the Land Office was in accordance with her contract of employment even though the Land Office, as conceded by the AG, had breached two provisions of the IMs in that: (a) it had not informed Ms Lai of its decision to extend her probationary period before her initial probationary period ended; and (b) it had not informed her of the adverse reports that had been made against her. Although the provisions of the IMs were regarded as contractual terms since they were incorporated into Ms Lai's contract of employment, Ms Lai had not shown that she had suffered any loss or damage by reason of the breaches of the two provisions in question. Significantly, the Trial Judge found that Ms Lai had not proved that she was a confirmed officer at the time her employment was terminated. Accordingly, the Land Office had no contractual obligation to provide any reasons before terminating her employment. The Trial Judge further found

that, in any event, there were cogent reasons for the termination as Ms Lai had not performed well in her job and had had difficulty in working with her colleagues. In this regard, the Trial Judge noted that Ms Lai had refused to cross-examine all but one of the AG's witnesses at the trial, and thus, had not challenged the bulk of the evidence adduced by the AG. These witnesses were former supervisors and colleagues of Ms Lai who had given evidence of her inadequate performance at work. Ms Lai cross-examined only one of the AG's witnesses, the Deputy Commissioner of Lands, and even then, she did not complete the cross-examination. Instead, she persisted in reading from a document which she had prepared even though she was repeatedly told by the Trial Judge that it was not the time for her to make submissions.

Legal proceedings in connection with Suit 995/2004

39 It is significant that Ms Lai did not appeal against the Trial Judge's dismissal of her Private Law Claim in Suit 995/2004. Instead, a year later, on 23 November 2011, Ms Lai filed a summons within that suit, *viz*, Summons No 5332 of 2011 ("SUM 5332/2011"), for an order that the Court of Appeal "reopen and rehear" three decisions, namely: (a) its decision in CA 69/2000, in which it set aside Rubin J's order granting Ms Lai leave to commence judicial review proceedings; (b) its decision in NM 81/2005; and (c) the Trial Judge's decision in Suit 995/2004 itself.

40 Choo Han Teck J dismissed SUM 5332/2011 on 6 March 2012 (see *Lai Swee Lin Linda v Attorney-General* [2012] SGHC 47 ("*Linda Lai (SUM 5332/2011)*")). He held that the summons should not have been filed within Suit 995/2004 as that action was already spent (at [5]). Instead, Ms Lai should have commenced a fresh originating action to either set aside the Trial

Judge's decision in Suit 995/2004 or obtain leave to appeal against the decision out of time. As for the substantive merits of SUM 5332/2011, Choo J held that there was no reason to reopen any of the three decisions: Ms Lai had not proved that she had been deprived of a full and fair hearing in respect of any of them, nor that the courts making those decisions were biased. Choo J found that, on the contrary, the central issue underlying Ms Lai's claim in Suit 995/2004 – *viz*, the question of whether the termination of her employment at the Land Office was lawful – had been "raised, heard and dismissed at many levels from the many directions that [Ms Lai] had taken in order to advance her cause" (at [5]).

41 Dissatisfied with Choo J's decision, Ms Lai filed Civil Appeal No 31 of 2012 ("CA 31/2012") on 2 April 2012.

42 Between April and December 2012, the Registry of the Supreme Court ("the Registry") and Ms Lai exchanged a series of letters on various issues pertaining to CA 31/2012. Throughout their correspondence, the Registry consistently conveyed to Ms Lai that she had to comply with certain procedural rules ("the Directions"). On 11 July 2012, the Registry informed Ms Lai that the scheduled hearing for CA 31/2012 would be vacated unless she complied with the Directions by 18 July 2012. The Registry further stated that if Ms Lai continued to fail to comply with the Directions even after the vacation of the hearing, "appropriate orders (including an unless order for compliance failing which the appeal may be struck off) may be made". As Ms Lai failed to comply with the Directions by the stipulated deadline, the hearing of CA 31/2012 was vacated. Subsequently, at a case management conference in September 2012, Ms Lai was warned again of the possibility of an "unless order" being made against her if she persisted in not complying

with the Directions. On 10 December 2012, as Ms Lai had still not complied with the Directions, an Assistant Registrar made an order to the effect that CA 31/2012 would be automatically struck out if Ms Lai failed to comply with the Directions by 5.00pm on 12 December 2012 ("the Unless Order"). An hour before the stipulated deadline, Ms Lai attempted to comply with part of the Directions by tendering some hardcopy documents. Those documents were, however, rejected as they were not the same as the softcopy documents that she had previously submitted to the court. Ms Lai did not attempt to comply with the other part of the Directions. As a result, CA 31/2012 was struck out on 12 December 2012 after the expiry of the 5.00pm deadline. Ms Lai did not thereafter take any action to appeal against the Unless Order despite the devastating effect which it had on her appeal.

New legal proceedings involving both of Ms Lai's Claims

43 Instead, after nearly a year, Ms Lai changed course by filing a new set of legal proceedings, *viz*, Originating Summons No 1246 of 2013 ("OS 1246/2013"). OS 1246/2013 was unusual in that instead of asking for orders to be made by the High Court, which is what an originating process typically seeks, it asked the Court of Appeal to rule on an array of disparate questions of law relating to the Unless Order, the termination of Ms Lai's employment and the Previous Court Decisions. OS 1246/2013 was divided into three main parts:

(a) The first part, titled "the Court of Appeal ('CA') rule on the following questions of law", pertained to the Unless Order. Ms Lai sought a declaration or ruling by the Court of Appeal that the Assistant Registrar's decision to make the Unless Order, which resulted in the

striking out of her appeal in CA 31/2012 when the order was not complied with, was illegal, wrongful, *ultra vires* and void.

(b) The second part, titled "Fundamental issues/questions of law of public interest [that] are involved in the appeal proper" [underlining and emphasis in bold in original omitted], related to the termination of Ms Lai's employment at the Land Office. Ms Lai asked the Court of Appeal to revisit "its earlier decisions" on the ground that they were "egregious" as "the full facts of what transpired in the Land Office and the Ministry of Law more than 15 years ago [had] not come to light".

(c) The third part, titled "Special circumstances for the [Court of Appeal] to hear this application" [underlining and emphasis in bold in original omitted], consisted of Ms Lai's allegations that the Supreme Court had been biased against her and in favour of the AG in the course of the Previous Legal Proceedings.

44 The AG responded by applying to strike out OS 1246/2013. Assistant Registrar James Elisha Lee ("AR Lee") granted the striking-out application on 31 October 2014. Although he found that OS 1246/2013 could be struck out on the sole ground that the Court of Appeal did not have the jurisdiction to hear it, he went on to state that the originating summons would, in any event, be struck out as it: (a) disclosed no reasonable cause of action; (b) amounted to an abuse of the process of the court in its attempt to re-litigate matters that were *res judicata* and to circumvent the proper appellate process in respect of the Unless Order; and (c) was scandalous, frivolous or vexatious in that it raised baseless allegations of bias against the Supreme Court and its officers.

45 Instead of trying to reverse AR Lee's striking-out order through the proper process of filing a notice of appeal, Ms Lai used the same proceedings (*ie*, OS 1246/2013) to make another new application by filing Summons No 5748 of 2014 ("SUM 5748/2014") on 14 November 2014. In this summons, apart from asking that AR Lee's order "be appealed against and be set aside", Ms Lai also sought discovery of several documents relating to the termination of her employment at the Land Office, namely: (a) the record of proceedings before the Appeals Board and the PSC; (b) her leave application and course application forms which had been approved by her superior; and (c) the recommendation by the deputy director of the human resources division to the Permanent Secretary of the Ministry of Law to extend her probation by a year (collectively, "the Documents"). She argued that she needed discovery of the Documents for OS 1246/2013, notwithstanding that that action had already been struck out by then.

46 Woo J heard SUM 5748/2014 and dismissed both the prayer for AR Lee's striking-out order to be "appealed against and … set aside" ("the 'appeal and set aside' prayer") and the prayer for discovery of the Documents, albeit on different dates (see *Lai Swee Lin Linda v Attorney-General* [2015] SGHC 268 ("*Linda Lai (SUM 5748/2014)*")). The prayer for discovery was dismissed at the first hearing of the summons on 26 February 2015, while the "appeal and set aside" prayer was dismissed at the adjourned hearing on 14 July 2015.

47 In relation to the prayer for discovery, Woo J held that it was improper for Ms Lai to seek discovery of the Documents ostensibly for OS 1246/2013 when her real motive was to address the issues that had been raised in CA 69/2000 and Suit 995/2004 (*ie*, the Public Law Claim and the Private Law

Claim respectively). Woo J further found that the matters which Ms Lai was seeking to address through the discovery of the Documents had already been comprehensively and finally dealt with by the Court of Appeal and the High Court in CA 69/2000 and Suit 995/2004 respectively, and were thus caught by the doctrine of *res judicata*.

48 In his decision, Woo J also noted that the Documents were, in any event, irrelevant to Ms Lai's application in OS 1246/2013. The Documents clearly had no bearing on the first and third parts of that application as summarised at [43] above (*ie*, her case that the Unless Order should be set aside, and that the Supreme Court had been biased against her and in favour of the AG); and although they might to some extent be relevant in relation to the issues raised in the second part, which related to the termination of her employment, those issues were *res judicata* and could not be re-litigated. Woo J further pointed out that Ms Lai had had numerous opportunities previously to apply for specific discovery of the Documents, but had not taken them.

49 As for the "appeal and set aside" prayer *vis-à-vis* AR Lee's decision to strike out OS 1246/2013, Woo J held that AR Lee was correct in holding that the Court of Appeal did not have the jurisdiction to hear that originating summons as there was no pending appeal from any judgment or order of the High Court. Woo J also agreed with AR Lee's finding that even if the Court of Appeal had the requisite jurisdiction, all three parts of OS 1246/2013 still had to be struck out.

50 Ms Lai appealed against Woo J's decisions on both the "appeal and set aside" prayer and the prayer for discovery. That appeal (*viz*, Civil Appeal No 166 of 2015) has been stayed pending the present appeal.

51 Soon after Woo J dismissed SUM 5748/2014, he heard the Present Application. Woo J noted in the Judgment (at [19]) that during the hearing of the application, which took place over various dates in July, September and October 2015, Ms Lai had made repeated requests for him to recuse himself. She failed to provide any valid reason to substantiate her requests, and it appeared to Woo J that they had been triggered by his dismissal of her prayer for discovery in SUM 5748/2014.

Ms Lai acted vexatiously

52 The history of the Previous Legal Proceedings shows that Ms Lai is unwilling and unable to accept that her Claims have been dismissed by the courts. Each and every time a court has found against her, Ms Lai has reacted by filing another application – often one which is not permitted by the procedural rules of the court (*eg*, SUM 5332/2011, OS 1246/2013 and SUM 5748/2014) – in a bid to challenge the court's decision and to revive either or both of her Claims. Some of her applications to reopen the Previous Court Decisions were filed soon after the court concerned found against her, while others (*eg*, SUM 5332/2011 and OS 1246/2013) were filed a year or so later, long after the prescribed deadline for filing an appeal and after a prolonged period of inaction.

53 The question that must be determined now is whether Ms Lai's various attempts to revive her Claims were reasonable. Ms Lai argues that her conduct is not vexatious, and that her attempts to reopen the Previous Court Decisions

and re-litigate the Claims were fully justified and necessary because the Previous Court Decisions, in particular, those in respect of CA 69/2000 and Suit 995/2004, which dismissed the Public Law Claim and the Private Law Claim respectively, are wrong. She argues that the Previous Court Decisions should be set aside pursuant to the exception to the principle of *res judicata*, known as "the *Arnold* exception", that was discussed in *Lee Tat Development Pte Ltd v Management Corporation Strata Title Plan No 301* [2009] 1 SLR(R) 875 ("*Lee Tat 2009*"), *Management Corporation Strata Title Plan No 301 v Lee Tat Development Pte Ltd* [2011] 1 SLR 998 ("*Lee Tat 2011*") and, most recently, *The Royal Bank of Scotland NV (formerly known as ABN Amro Bank NV) and others v TT International Ltd (nTan Corporate Advisory Pte Ltd and others, other parties) and another appeal* [2015] 5 SLR 1104 ("*TT International*").

54 To be clear, and as we have sought to make plain at [25] above, the question of whether Ms Lai can rely on the *Arnold* exception to reopen the Previous Court Decisions and re-litigate her Claims is not *directly* relevant to the present appeal. The question before this court is not whether the Previous Court Decisions should be set aside or reopened. Having said that, this issue may still have some bearing on this court's decision as it provides an indication as to whether Ms Lai's repeated attempts at re-litigation were reasonable or justifiable. It will help this court to ascertain whether those attempts had any merit or whether they were frivolous.

55 *Lee Tat 2009* and *Lee Tat 2011* (collectively, "the two *Lee Tat* cases") were the two most authoritative decisions on the scope of the *Arnold* exception before this court, in *TT International*, rejected the approach that had been adopted in those cases. The *Arnold* exception to the principle of *res judicata*,

as enunciated in *Lee Tat 2009* and clarified in *Lee Tat 2011*, operates where "special circumstances" exist such that the public interest in achieving justice between the parties to the litigation prevails over the public interest in the finality of litigation. One "established" instance of such "special circumstances" is where the decision which is said to give rise to an estoppel contains such an egregious mistake that grave injustice would result if *res judicata* were to be applied (see *Lee Tat 2009* at [73], [78] and [81]). It would, however, be rare for the *Arnold* exception to be invoked successfully on the basis of a judicial error as it would be difficult to establish that any judicial error by itself would qualify as "special circumstances" (see *Lee Tat 2009* at [78]; see also [60]–[61] below).

56 The *Arnold* exception was narrowed in 2015. In *TT International*, which was issued that year, the Court of Appeal held that the two *Lee Tat* cases had incorrectly concluded that the *Arnold* exception was an exception of a broad and open-ended nature which was based solely on considerations of justice. The court held that a close analysis of the eponymous case of *Arnold v National Westminster Bank plc* [1991] 2 AC 93 showed that "the House of Lords did not think it was creating an open-ended and nebulous exception to strict issue estoppel" (see *TT International* at [181]). The court warned that a wide formulation of the *Arnold* exception would carry a real risk of encouraging disgruntled litigants to repeatedly try their luck in court, and emphasised that in the civil sphere, the public interest in the finality of litigation was important and compelling, and had to be closely safeguarded. Exceptions to issue estoppel must thus only be allowed in "rigidly-demarcated categories of cases" so as to better achieve the objective of minimising wastage of the court's time and resources (at [186]). This would be in the interests of the court, the public and the litigants themselves, while at the same

time allowing some room for intervention in "truly exceptional" cases (at [186]; see also generally [181]–[187] of *TT International*). Importantly, the court set out the following list of *cumulative* requirements that must be met before the *Arnold* exception can apply to enable a litigant to avoid being estopped from reopening an issue that was previously the subject of a court decision (at [190]):

> (a) the decision said to give rise to issue estoppel must directly affect the future determination of the rights of the litigants concerned;
>
> (b) the decision must be shown to be "clearly wrong";
>
> (c) the error in the decision must be shown to have stemmed from the fact that some point of fact or law relevant to the decision was not taken or argued before the court which made that decision *and* could not reasonably have been taken or argued on that occasion;
>
> (d) there can be no attempt to claw back rights that have accrued pursuant to the erroneous decision or to otherwise undo the effects of that decision; and
>
> (e) it must be shown that great injustice would result if the litigant in question were estopped from putting forward the particular point which is said to be the subject of issue estoppel – in this regard, if the litigant failed to take advantage of an avenue of appeal that was available to him, it would usually not be possible for him to show that the requisite injustice nevertheless exists.

57 Although the "special circumstances" test set out in the two *Lee Tat* cases has been rejected by *TT International*, we will nevertheless adopt this

broader and less stringent test to assess whether Ms Lai's repeated attempts to reopen the Previous Court Decisions and re-litigate her Claims were reasonable, or whether they were frivolous and vexatious. This is because all of those attempts were made prior to 2015, when the test for making an exception to *res judicata* was narrowed and clarified. To be fair to Ms Lai, since the legal environment changed only after she took action, we must apply the broader test when judging her attempts at re-litigation.

58 It is our considered judgment, however, that even the less stringent "special circumstances" test set out in the two *Lee Tat* cases is not satisfied in the present case.

Analysis of Ms Lai's contentions

59 The main arguments put forward by Ms Lai as to why her Claims should be reopened and reheard are that: (a) the Previous Court Decisions are wrong; (b) a number of key issues that pertain to the Claims have yet to be decided; and (c) the judges and Assistant Registrars who held against her were biased. We address each argument in turn below.

(1) The Previous Court Decisions are wrong

60 First, even if we take Ms Lai's case at the highest and accept that the Previous Court Decisions are wrong, this does not allow Ms Lai to reopen those decisions and re-litigate the issues adjudicated on in those decisions. It has been consistently held that, in most instances, a judicial error in and of itself does not qualify as "special circumstances" which warrant making an exception to *res judicata*. In *Lee Tat 2009*, the Court of Appeal observed at [72]–[73]:

> 72 The general rule is that, where a litigant seeks to reopen in a fresh action an issue which was previously raised and decided on the merits in an earlier action between the same parties, the public interest in the finality of litigation ("the finality principle") outweighs the public interest in achieving justice between the parties ("the justice principle"), and therefore, the doctrine of *res judicata* applies. In such cases, *it is usually immaterial that the decision which gives rise to the estoppel is wrong because "a competent tribunal has jurisdiction to decide wrongly, as well as correctly, and if it makes a mistake its decision is binding unless corrected on appeal*" …
>
> 73 There is one established exception to this doctrine and that is where the court itself has made such an egregious mistake that grave injustice to one or more of the parties concerned would result if the court's erroneous decision were to form the basis of an estoppel against the aggrieved party or parties … In such a case, the tension between the justice principle and the finality principle is resolved in favour of the former.
>
> [emphasis added]

61 This general rule that a judicial error in itself would not usually qualify as "special circumstances" was reiterated in *TT International*, where the Court of Appeal held at [71]:

> … [A] decision by a court of competent jurisdiction is, unless reversed on appeal, unimpeachable even if it might be wrong. There is sound policy behind this rule, namely, the public interest in the finality of litigation; finality requires an acceptance of the truth that the courts may sometimes decide wrongly (see [*Lee Tat 2009*] at [72]) and that even apex courts are not immune from this. Indeed, the whole point of the doctrine of *res judicata* is that erroneous decisions must nevertheless be given due effect, and in this connection, it is worth recounting what Lord Millett said in *Mulkerrins v PricewaterhouseCoopers (a firm)* [2003] 1 WLR 1937 at [10]:
>
> > As between the parties to a judicial decision, however, it does not matter whether the decision is right or wrong. … [*Res judicata*] is a form of estoppel which gives effect to the policy of the law that the parties to a judicial decision should not afterwards be allowed to relitigate the same question, *even though the decision may be wrong*. If it is wrong, it must be challenged by

> appeal or not at all. As between themselves, the parties are bound by the decision, and may neither relitigate the same cause of action nor reopen any issue which was an essential part of the decision. *The doctrine comes into its own only when the decision is wrong*; if it is right, it merely serves to save time and costs. [emphasis added]
>
> …
>
> [emphasis in original]

62 In our judgment, there was no "egregious mistake" in the Previous Court Decisions that would have warranted making an exception to *res judicata* and justified Ms Lai's attempts to reopen those decisions. In fact, we are not even satisfied that Ms Lai has shown that any of the Previous Court Decisions are wrong. Ms Lai is entitled to have her own views about her Claims, and so are the academics and lawyers whom she has consulted about her case, who, she contends, support her views. Views, however, are not law. The decisions made by the Court of Appeal and, in instances where no appeal was filed, by the High Court, over the course of Ms Lai's Previous Legal Proceedings are the final word on the issues dealt with in those decisions. The fact that opposing opinions on the Claims have been expressed does not make the Previous Court Decisions wrong.

(2) Key issues have yet to be decided

63 Turning to Ms Lai's second main argument as set out at [59] above, Ms Lai asserts that the *Arnold* exception applies as the following four key issues ("the Four Issues") have yet to be decided:

> (a) whether the facts of her employment at the Land Office and the subsequent termination thereof fall within the ambit of administrative and public law ("the First Issue");

(b) whether the Land Office's act of retrospectively backdating and extending her probationary period almost nine months after the end of her initial probationary period was wrongful ("the Second Issue");

(c) whether she was a confirmed or unconfirmed officer when her employment at the Land Office was terminated ("the Third Issue"); and

(d) whether the Senior Personnel Board had the jurisdiction to terminate her service, and consequently, whether the termination of her service was wrongful ("the Fourth Issue").

64 Our examination of the Previous Court Decisions shows that the Four Issues *have* been dealt with. The First Issue – whether the facts of Ms Lai's employment at and subsequent dismissal from the Land Office fall within the ambit of administrative and public law – was dealt with in CA 69/2000. It was precisely because the Court of Appeal found that those facts fell *outside* the ambit of administrative and public law and solely involved private rights that it set aside Rubin J's order granting her leave to commence judicial review proceedings. As observed by Woo J at [48] of the Judgment, this was the *ratio decidendi* of the decision in *Linda Lai (CA 69/2000)*. Even though CA 69/2000, which concerned the issue of whether leave to commence judicial review proceedings should have been granted, was, strictly speaking, not a substantive hearing of the Public Law Claim, the Court of Appeal did conclusively determine the First Issue and answered it in the negative. As submitted by the AG, the Public Law Claim failed to even meet the lowest threshold for leave to commence judicial review proceedings to be granted.

65 The Second Issue was determined in Suit 995/2004. In fact, it was decided in Ms Lai's favour. As summarised at [38] above, the Trial Judge found that the retrospective backdating of Ms Lai's probationary period was a breach of a contractual term because the Land Office was required under one of the provisions of the IMs, which were incorporated into Ms Lai's contract of employment, to inform her by the end of the initial probationary period whether her term would be extended. Notwithstanding that finding, the Trial Judge held (at [95] of *Linda Lai (Suit 995/2004)*) that this breach of contract did not assist Ms Lai's case because she had not shown that she had suffered any loss or damage by reason of this breach (or by reason of the breach of another provision of the IMs, which required the Land Office to inform her of the adverse reports that had been made against her). For completeness and clarity, we should point out that the crux of the Private Law Claim (and thus, Suit 995/2004) was not whether the retrospective backdating of Ms Lai's probationary period was wrongful, but whether the Land Office acted in breach of contract in terminating her employment. The Trial Judge found against Ms Lai on this issue.

66 As for the Third Issue, we note that Woo J opined at [49] of the Judgment that this issue was not dealt with by the Trial Judge in Suit 995/2004. With respect, this opinion is incorrect. The Third Issue *was* decided by the Trial Judge, as can be seen from her unambiguous finding at [37] of *Linda Lai (Suit 995/2004)*:

> On the facts, I find [Ms Lai] has not proven that she was a confirmed officer. …

In fact, the Trial Judge's decision in Suit 995/2004 that the termination of Ms Lai's employment was not wrongful was premised on her finding that

Ms Lai was not a confirmed officer at the material time, and thus, the Land Office was not contractually obliged to give any reasons for her termination.

67 We turn now to the Fourth Issue. As observed by the AG, it is not entirely clear, from Ms Lai's statement of this issue, whether she is referring to the *statutory* or the *contractual* jurisdiction of the Senior Personnel Board to terminate her employment at the Land Office. The former falls within the ambit of the Public Law Claim, while the latter falls under the Private Law Claim. We agree with the AG that the Fourth Issue has already been decided, regardless of which form of jurisdiction Ms Lai is referring to. If Ms Lai is referring to the issue of whether the Senior Personnel Board had the *statutory* jurisdiction to terminate her employment, this was dealt with in CA 69/2000. As noted by Rubin J at [33(b)] of *Linda Lai (OS 96/2000)*, one of the arguments raised by Ms Lai's counsel in respect of the Public Law Claim was that the Senior Personnel Board had no statutory jurisdiction to terminate her employment pursuant to Art 110D(2) of the Constitution of the Republic of Singapore (1985 Rev Ed, 1999 Reprint) ("the Constitution") because she was a confirmed officer. The Court of Appeal rejected that argument in CA 69/2000 (at [44] of *Linda Lai (CA 69/2000)*), and found that even though the Senior Personnel Board was a statutory body, it was not exercising any statutory power and was instead exercising its contractual right in terminating Ms Lai's employment.

68 If Ms Lai is referring to the Senior Personnel Board's *contractual* jurisdiction to terminate her employment, that issue was dealt with in Suit 995/2004. It would appear from para 44(ix) of Ms Lai's amended statement of claim in Suit 995/2004 that her argument in this regard was that the Senior Personnel Board had no contractual jurisdiction to terminate her

employment because Art 110D(2) of the Constitution, which prescribed otherwise, had been incorporated into her contract of employment. This argument fell away and was no longer relevant once the Trial Judge found that Ms Lai was not a confirmed officer at the time of her termination.

(3) Judicial bias

69 This leaves us with Ms Lai's third and last main argument: that the judges and Assistant Registrars who found against her over the course of her Previous Legal Proceedings were biased against her and were in cahoots with the Government. This is a very grave allegation that puts the reputation of the Judiciary at stake. If Ms Lai is correct, it would mean that all the Court of Appeal and High Court judges as well as all the Assistant Registrars who ruled against her were in a conspiracy with the Government to ensure that her Claims would not succeed. A simple statement of that proposition in itself shows how unlikely it is that the proposition is true.

70 Ms Lai relies on the following to argue that she was a victim of bias within the Judiciary:

(a) the court did not enter summary judgment for her in Suit 995/2004 notwithstanding that the AG did not file a defence for a period of more than four years from the time she instituted the suit;

(b) the court allowed the AG and the Government to lie and to refuse to give discovery of the Documents; and

(c) at the trial of Suit 995/2004, the Trial Judge deprived her of the chance to be heard by not allowing her to speak and by ordering that

the court recording, which was meant to record court proceedings, be turned off when she spoke.

71 Ms Lai has not been able to establish that the court was biased against her in the aforementioned instances or in any of the Previous Legal Proceedings. Contrary to Ms Lai's submission or what she may believe, the AG did not contravene any procedural rule even though it filed its defence in Suit 995/2004 only on 1 June 2009, more than four years after Ms Lai commenced the suit on 17 December 2004, instead of within the usual deadline of 14 days from the time the statement of claim is served or the time limited for appearing (whichever is the later). This is because the AG, in its application in SIC 123/2005 to strike out the public law-related paragraphs of Ms Lai's statement of claim in Suit 995/2004, had successfully obtained an extension of time to file its defence only *after* Ms Lai filed her amended statement of claim for that suit (see [31] above). The AG was thus not required to file its defence *unless and until* Ms Lai filed her amended statement of claim. As noted earlier, Ms Lai filed her amended statement of claim only on 8 February 2007. That statement of claim was, however, expunged as Suit 995/2004 had been deemed discontinued (see [35] above). Ms Lai thereafter successfully applied to the High Court in June 2008 to reinstate the suit (see [37] above). As a result of the manner in which the proceedings developed, the time for the filing of the AG's defence only started running from 19 May 2009, when the Court of Appeal upheld the High Court's decision to reinstate Suit 995/2004. The AG was thus not out of time in filing its defence only on 1 June 2009.

72 There is also no evidence that any of the judges and Assistant Registrars were biased against Ms Lai in relation to the discovery of the

Documents. As observed by Woo J in *Linda Lai (SUM 5748/2014)* (at [23]), Ms Lai did not apply for specific discovery of the Documents in either OS 96/2000 to support her Public Law Claim or Suit 995/2004 to support her Private Law Claim even though she could have done so. Instead, she sought discovery of the Documents only in SUM 5748/2014, which was filed more than a decade after the Public Law Claim was concluded by the Court of Appeal's decision in *Linda Lai (CA 69/2000)* to set aside Rubin J's order granting her leave to commence judicial review proceedings, and almost four years after the dismissal of the Private Law Claim. As summarised at [47]–[48] above, Woo J gave detailed reasons for rejecting Ms Lai's request for discovery. In the circumstances, we see no basis for her submission that the court was biased against her and was shielding the AG as well as the Government in relation to the discovery of the Documents.

73 We turn lastly to Ms Lai's allegation that the Trial Judge was biased against her in the conduct of the trial of Suit 995/2004. This issue was raised earlier in SUM 5332/2011. Choo J rejected the allegation on the basis that there was no evidence to indicate that the Trial Judge had been biased or unfair, or that Ms Lai had been deprived of a full hearing (see [6] of *Linda Lai (SUM 5332/2011)*). We are of the same view. Although it is true that the Trial Judge did ask Ms Lai to stop submitting and told her that if she did not comply, the court recording would be switched off and she would be found to be in contempt of court, this was necessitated by Ms Lai's own conduct. As noted at [31]–[32] of *Linda Lai (Suit 995/2004)*, this happened at the point in the trial when the time had come for Ms Lai to cross-examine the AG's witnesses. Instead of doing so (save for a brief and ultimately uncompleted cross-examination of one of the AG's witnesses (see [38] above)), Ms Lai insisted on reading from a document that she had prepared. Ms Lai refused to

stop even after being repeatedly told by the Trial Judge that it was not the time for her to make submissions. Litigants must observe the procedural rules in place for the conduct of legal proceedings as this will ensure that the proceedings are conducted efficiently and fairly for the benefit of all involved. A trial cannot be treated as a soapbox for the litigant to deliver long orations as and when he pleases. The evidence must be taken first. When that is over, there will be an opportunity for each litigant to have his say through his submissions on the facts and the law. There can be no justifiable complaint of unfairness or bias simply because a litigant is made to follow well-established court procedures.

74 There is no ground or evidence on which we can accept Ms Lai's submission that each and every judge and Assistant Registrar who found against her in the course of her Previous Legal Proceedings was biased. This submission is, in our judgment, characteristic of Ms Lai's tendency to blame the court and any other party involved whenever an issue is not decided in her favour.

75 Ms Lai has thus failed to persuade us that she was justified in seeking to reopen the Previous Court Decisions and re-litigate her Claims through her Previous Legal Proceedings. The history of the litigation and the manner in which Ms Lai has conducted it demonstrate that she is unwilling and unable to accept the possibility that she is wrong. Ms Lai has no regard for any decision of the court that goes against her. Even though the Public Law Claim and the Private Law Claim have both been dealt with and dismissed by the courts, Ms Lai is unwilling and unable to accept the Previous Court Decisions and continues to find different means and ways to re-litigate her Claims. Ms Lai's behaviour to date indicates that each and every time the court stops her from

bringing up her Claims again, she will, after a period of retreat, come back with renewed energy to institute yet another action or application – without regard to procedural rules – to set aside the court decision concerned and reopen the matter. Fully convinced that she is correct and that she is a victim of a conspiracy within the Judiciary and the Government, Ms Lai has no qualms about alleging or imputing bias and other forms of wrongdoing against them even though there is no basis for doing so. Her persistence, which has crossed the line of rationality, and her aggravated sense of injustice are also reflected in the numerous letters that she has sent to the Chief Justice, the President and the Prime Minister over the years in her unending bid to seek redress.

76 We do not doubt that Ms Lai genuinely believes in the merits of her Claims. This would explain why she has persisted in pursuing her Claims for the past 16 years. It also appears that she genuinely believes that almost each and every judicial officer who handled her case in the course of the Previous Legal Proceedings was biased against her. But, as we observed at [13] above, the court takes an objective view of the facts in considering whether to grant an application by the AG for an order under s 74(1) of the SCJA to be made against a litigant. The lack of bad faith on the litigant's part is immaterial. It bears reiteration that one of the purposes of s 74 is to protect litigants, such as Ms Lai, from themselves, and to thereby avoid the situation where they repeatedly bring court actions in different forms to re-litigate matters that have already been decided.

77 On the basis of the evidence before us, there is no doubt that Ms Lai has "habitually and persistently and without any reasonable ground instituted vexatious legal proceedings" in the High Court as well as in this court, and

that she will continue to institute legal proceedings to revive either or both of her Claims unless and until a court finds for her and gives her exactly the relief that she seeks. In our judgment, this is a clear case that justifies the grant of an order under s 74(1) of the SCJA in order to protect the interests of the courts, the public, the AG (the opposing party in these proceedings) and Ms Lai herself, unlikely as it is that she may recognise or accept it. Up till now, Ms Lai has had an unfettered right to bring legal proceedings in her attempts to vindicate her position. To allow her to continue to exercise that right without restraint of any sort would be to permit the abuse of the process of the court to the detriment of not only our courts and the AG, but also that of other persons who seek redress through our judicial system. In the circumstances of this case, it is not unfair to Ms Lai that in future, she must seek the leave of the High Court before filing any new action or continuing any existing proceeding which falls within the ambit of the matters listed at [2(a)(i)]–[2(a)(v)] above so that its merits and procedural propriety may be assessed.

Conclusion

78 For the reasons given above, we dismiss the present appeal and uphold Woo J's decision to grant the orders appealed against.

79 With regard to costs, the Costs Schedule filed by the AG estimates its legal costs in this appeal as being $16,000 and its disbursements as $2,850.40, which includes a sum of $2,325.70 paid as fees for the filing and service of documents. Ms Lai must bear some of the costs and disbursements incurred by the AG in opposing her appeal in accordance with the general rule that costs follow the event. Taking all the circumstances into account, we award the AG

costs of $5,000 and disbursements fixed at $2,325. The security deposit furnished by Ms Lai shall be paid out to the AG to this extent, and the balance thereafter released to Ms Lai.

Judith Prakash	Belinda Ang Saw Ean	Quentin Loh
Judge of Appeal	Judge	Judge

The appellant in person;
Khoo Boo Jin, Zheng Shaokai and Ruth Yeo
(Attorney-General's Chambers) for the respondent.

Appendix

(1) Originating Summons No 96 of 2000
(2) Civil Appeal No 69 of 2000
(3) Suit No 995 of 2004
(4) Registrar's Appeal No 66 of 2005
(5) Originating Summons in Bankruptcy No 38 of 2005
(6) Civil Appeal No 87 of 2005
(7) Notice of Motion No 81 of 2005
(8) Summons No 3473 of 2007
(9) Originating Summons No 1369 of 2007
(10) Civil Appeal No 134 of 2007
(11) Summons No 2767 of 2008
(12) Summons No 5365 of 2008
(13) Summons No 5332 of 2011
(14) Civil Appeal No 31 of 2012
(15) Originating Summons No 1246 of 2013
(16) Summons No 2297 of 2014