

Neo Hui Ling v Ang Ah Sew  
[2012] SGHC 65

**Case Number** : Originating Summons No. 488 of 2010/C  
**Decision Date** : 23 March 2012  
**Tribunal/Court** : High Court  
**Coram** : Lai Siu Chiu J  
**Counsel Name(s)** : Lisa Sam Hui Min (Lisa Sam & Company) for the plaintiff; Tan Siah Yong (ComLaw LLC) for the defendant.  
**Parties** : Neo Hui Ling — Ang Ah Sew

*Trusts – Resulting Trusts – Presumed Resulting Trusts – Equity – Proprietary Estoppel*

23 March 2012

**Lai Siu Chiu J :**

1 This unfortunate case was the culmination of much unhappiness between a daughter and her mother. Neo Hui Ling (“the plaintiff”) brought this Action against her mother Ang Ah Sew (“the defendant”) in respect of a house located at 55 Jalan Chengam, Singapore 578338 (“the Property”). The Property was held in the joint names of the parties, and the plaintiff applied for an order that the joint tenancy be severed and that the Property be sold. I granted the application on 29 July 2010, and also ordered that the net proceeds of the sale be paid to the plaintiff, subject to 50% thereof being held by the plaintiff’s solicitors as stakeholders, pending further orders from the court regarding the parties’ respective interests in the Property.

2 The present proceedings before me were to determine the extent of the parties’ interests in the Property. It should be noted that the defendant was legally aided in these proceedings. On 2 November 2011, after the parties had been cross-examined on their affidavits of evidence-in-chief (“AEIC”) which were filed pursuant to an order of court dated 24 May 2011, I ordered that the defendant’s claim to 50% of the sales proceeds be dismissed and that the sum held by the plaintiff’s solicitors be released to the plaintiff. In other words, the plaintiff was to receive 100% of the sales proceeds with nothing going to the defendant. As the defendant has appealed against my order (in Civil Appeal No 137 of 2011), I shall now set out my grounds.

3 In a joint tenancy, the co-owners own a piece of property jointly in undivided, indistinct shares. Once severed, the joint tenancy becomes a tenancy in common which is capable of having distinct shares. This court had to determine what shares in equity the Property should be divided into between the parties and thereby determine the division of the sale proceeds.

4 The Property was a house which was purchased for \$1.88m on 3 September 2007. It was subsequently sold for \$3.4m on 9 June 2011. After deducting the costs of the sale, property tax, Central Provident Fund (“CPF”) redemption monies and other miscellaneous expenses, there was a balance of \$1,959,047.05 of which 50%, or \$979,523.53 was held by the plaintiff’s solicitors (Lisa Sam & Company) pending the resolution of this matter.

5 The defendant based her claim on two equitable doctrines. First, she claimed to be entitled to 50% of the sale proceeds on the basis that the parties had intended to hold the Property as equitable

joint tenants. This would involve consideration of a presumed intention resulting trust, more specifically what is colloquially known as the “purchase money” variant. The second doctrine on which she claimed an equity in the Property was that of proprietary estoppel, which remedy was at the court’s discretion.

## **Background**

6 The facts of the case are at once few and many. The basic premise of this application, as stated above, was that the joint tenancy was severed and the defendant claimed equitable relief. Yet, the factual background of the case as presented by the parties spanned the lifetime of the plaintiff and contained allegation upon counter-allegation of instances of inequitable behaviour by both parties. In cases brought in equity, the most important findings relate to whether the facts of the case fit within the contours of recognised equitable doctrines, and whether the facts justify the court granting equitable relief. For that reason, only the background of the case will be set out here, and the myriad and sometimes disputed facts of the case will be set out in more detail as each equitable doctrine is considered. One point that should be noted at the outset is that although the defendant repeatedly stressed the strength of her relationship with the plaintiff, this would be relevant only insofar as it substantiated the factors constituting the doctrines under which she claimed equitable relief. The supposed closeness between mother and daughter would not be a relevant factor in the abstract.

7 The defendant’s husband, who was the plaintiff’s father, walked out on the defendant and their four daughters in 1983. The plaintiff was the second daughter, and she had an elder sister and a pair of younger twin sisters (“the twins”). Since that time, the defendant raised all four children singlehandedly, working as a factory worker and running small businesses to make ends meet. She applied to the court for a separation order and maintenance from her husband in 1983, and was awarded \$300 monthly maintenance. The defendant obtained a divorce from her husband in 1998, by which time all of her daughters had started working and the family’s financial difficulties eased.

8 Until about 1998, the defendant and all her daughters were staying in a Housing Development Board (“HDB”) flat located in Choa Chu Kang. After her divorce, the defendant sold this flat and purchased another HDB flat in Bishan (“the Bishan flat”) for \$360,000. This was conveyed into the joint names of the defendant and all her daughters save for one of the twins. Each joint owner made varying contributions to the purchase price of the Bishan flat. The defendant claimed to have contributed about \$10,000 cash and about \$610 from her CPF moneys to the purchase price. She also claimed to have contributed about \$94 towards the monthly mortgage sum for an unspecified amount of time. The plaintiff on her part contributed \$18,340 cash and also helped to service the monthly mortgage sum.

9 The entire family lived in the Bishan flat until sometime in 2001 when the plaintiff’s elder sister wished to divest her interest in the Bishan flat because she was about to get married and wanted to purchase a HDB flat with her future husband. The twin sister who was a co-owner also wished to do the same in anticipation of marriage in the future. The plaintiff agreed to purchase her two sisters’ shares, based on a valuation of about \$310,000. She took out a mortgage to finance the buyout, and serviced the monthly instalments without any assistance from the defendant. The Bishan flat thenceforth was in the joint names of the plaintiff and the defendant. After the buy-out, the plaintiff’s elder sister moved out followed by the plaintiff in 2004.

10 In 2005, the plaintiff purchased a condominium at Eden Grove (“the Eden Grove property”) and conveyed it into the joint names of herself and the defendant. Neither of the parties lived there, and this property was sold sometime in 2007.

11 The Property at issue in the present case was purchased in 2007 and conveyed into the joint names of the parties. Around this time, the plaintiff suggested that the Bishan flat would be sold, to which the defendant agreed. As will be seen later, one of the defendant's arguments before this court was that the sale of the Bishan flat served to substantiate her claim in proprietary estoppel.

12 The defendant and the twins moved from the Bishan flat to live with the plaintiff and her then fiancé (now husband) Keith Anthony Lazaroo ("Mr Lazaroo") at the Property. This was the beginning of much discord between the parties with the twins siding with the defendant and Mr Lazaroo siding with the plaintiff. According to the plaintiff, there was constant bickering between the defendant and the twins (from the time the parties resided at the Bishan flat so much so that the plaintiff moved out from the flat). The plaintiff was herself critical of the twins' behaviour. Each side made numerous allegations of the other party's intolerable behaviour, which allegations made up the bulk of the affidavits placed before this court. This sad state of affairs culminated in a strange incident in which the defendant and the twins engaged a medium to enter the Property on the night of 2 March 2010 and who forcibly performed ritualistic cleansing on the plaintiff, much to the plaintiff's annoyance. The defendant later explained that she felt that the plaintiff had become very bad tempered and when the defendant consulted the medium, she was advised that the plaintiff was possessed by spirits and needed to be subject to certain rituals. The defendant emphasised that she had not meant to harm the plaintiff by her well-meaning Action. Nevertheless, the plaintiff told the defendant the very next day (3 March 2010), that the plaintiff wished to sell the Property and that the defendant and the twins would have to move out. The plaintiff herself moved out on 4 March 2010 but the defendant and the twins remained behind and refused to leave until they were evicted by the Sheriff pursuant to a writ of possession obtained by the plaintiff.

13 The Property could not be sold unless both parties, who were joint tenants, agreed to the sale. On 18 May 2010, the plaintiff brought the first tranche of this Action under s 18 of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed) seeking an order that the Property be sold. I granted an order in terms on 29 July 2010, directing that the Property be sold and the defendant remove all her personal belongings and vacate the Property within two weeks of the order. The defendant (and the twins) did not obey this order and all three were evicted by the Sheriff on 16 February 2011. The defendant had filed an appeal (in Civil Appeal No 142 of 2010) against my order for sale (see *Neo Hui Ling v Ang Ah Sew* [2010] SGHC 328) but did not pursue her appeal. The defendant claimed in court (and in her affidavit filed on 1 September 2010) that her lack of funds precluded her from pursuing her appeal. She had nevertheless relied on Civil Appeal No 142 of 2010 as the ground to apply to court for a stay of execution on the order for sale of the Property, which application was granted by another court on 16 September 2010. The parties came before me again in October/November 2011 to determine the extent of their respective interests in the Property.

### **The presumed intention resulting trust**

14 The defendant's claim was that she should be beneficially entitled to a half share in the sale proceeds because the Property was in the name of her daughter and herself as legal joint tenants. What the defendant suggested was that equity should follow the law and the parties should hold the Property as equitable tenants in common in equal shares. The problem with the defendant's claim was that equity does not look favourably on joint tenancies. This is due to the rule of survivorship being viewed as draconian and unfair, given that it disproportionately divests the deceased joint tenant of his share of a property, vesting it in the surviving tenant (see *Lau Siew Kim v Yeo Guan Chye Terence* [2008] 2 SLR(R) 108 ("*Lau Siew Kim*") at [\[83\]](#), (a case not cited by the parties) and William Swadling, "Property: General Principles", in *English Private Law* (Andrew Burrows ed) (Oxford University Press, 2<sup>nd</sup> ed, 2007) ("*English Private Law*") at 4.368). Where the parties are joint tenants at law, and there are also clear indications that the parties were intended to hold as equitable joint

tenants, then equity will follow the law. Where there are no clear indications of such intentions and the parties made equal contributions to the purchase price, then equity would similarly follow the law. However, where there are no clear indications of such intentions, and where the parties made unequal contributions to the purchase price of the property, then equity will presume that they hold the property as beneficial tenants in common in shares proportionate to their contributions to the acquisition of that property. For completeness it should also be noted that equity will also presume a tenancy in common where the parties were commercial partners or where the purchase money was provided by way of mortgage, although these considerations were not relevant to the instant case (see *Lau Siew Kim* at [83] and *English Private Law* at 4.369).

15 On the facts here, the parties were joint tenants at law. However, there was no clear indication that the parties were also intended to hold as equitable joint tenants. Such clear indication would be constituted by a clear statement from the parties, but in this case what was clear instead was a dispute between the parties. The defendant asserted an equitable joint tenancy, and the plaintiff strenuously denied the same. The next inquiry would have to be into the parties' contributions to the purchase price.

16 The plaintiff claimed that she alone had paid for the Property. She stated in her AEIC (at paras 6 and 7):

...the Property was solely purchased by me. The purchase completed (sic) on 3 September 2009. All the capital and instalment payments, stamp fees and agent fees, mortgage loans, property tax payments required were paid for by me. The purchase price of the property was S\$1.88million.

I took up a total of S\$1,350,000.00 of housing loans, in my own name, to finance the purchase of the Property.

S/N	Items	Price(S\$)
1	Purchase Price	1,880,000.00
2	Agent Fees	8,000.00
3	Stamp Fees	51,000.00
	<b>Total</b>	<b><u>1,939,000.00</u></b>
4	Less Payment of 5% deposit	(94,000.00)
5	Cash Payment on completion	(438,071.67)
6	Agent Fees	(8,000.00)
7	Stamp Fees	(51,000.00)
8	Remaining Purchase Price payable via a(sic) mortgage loans, CPF, etc	<b><u>1,347,928.33</u></b>

The plaintiff also claimed to have paid for other outgoings such as property tax, fire insurance and renovation expenses.

17 The defendant did not dispute this and candidly stated in her AEIC that "It is true that the Plaintiff alone paid for the purchase price of the Property." She went on to state that the

contributions which she and the twins had made to the Property extended only to furniture (for their own use), and household expenses. The defendant did not distinguish between payments made by her or the twins, and one reason for this could be because the defendant was not working and her only source of money was by way of contributions from her daughters. The defendant stated that for a period of two and a half years till March 2010, she and the twins paid for the following monthly outgoings:

Gardener	\$120 per month
Starhub TV Cable Service	\$200 per month
Domestic Cleaner	\$50 per week
Grocery & Marketing	\$200 per week
Handyman services and repairs	\$1,000 per annum
Pest control	\$280 per annum

18 Their contributions to the expenses amounted to about \$1,426 a month. Notwithstanding this, the equitable doctrine clearly stated that the contributions from the parties had to be towards the *purchase price* of the property, not the household expenses. The Court of Appeal in *Lau Siew Kim* made it clear that such contributions were limited to those "direct" contributions to the purchase price. Contributions to the cost of repairs or renovation of a property might be relevant where such expenses were incurred shortly after purchase and led to an appreciation in the value of the property. The defendant's contributions did not fall into either of those categories and therefore could not be regarded as contributions to the purchase price.

19 Given that the defendant had not contributed to the purchase price of the Property at all while the plaintiff had contributed solely, the contributions to the purchase price of the Property were unequal. The presumption that the parties held the Property as beneficial tenants in common in shares proportionate to their contributions applied. In this case, it appeared that since the defendant contributed nothing towards the acquisition of the Property, she would have no share.

20 The manner by which the parties held the Property as beneficial tenants in common was the presumed intention resulting trust. The parties held the Property on resulting trust for each other in their proportionate shares. In this case, it appeared that the parties would hold the Property entirely on trust for the plaintiff. The event which gave rise to the presumed intention resulting trust was precisely the presumption of such intention of the parties. If the defendant could rebut the presumption of such intention, then the resulting trust might not apply and she might be beneficially entitled to a joint tenancy in equity as was the case in law.

21 For the sake of completeness, it should be mentioned that there is another species of resulting trust. This is what is known as the "automatic resulting trust", which arises where there is a transfer of property on express trusts, which declaration of trust does not exhaust the whole beneficial interest. In other words, there is a failure of the express trust. The remaining beneficial interest then results back to the settlor. This however, was not relevant to the instant case and no more need be said about it.

22 The common understanding of the presumed intention resulting trust is that such a trust arises when there is a voluntary *inter vivos* transfer of property to a recipient, where the intention behind the transfer was unclear from the evidence. It can also arise in a situation where the transferor,

again with unclear intentions, voluntarily pays a third party to transfer rights to the recipient. When such a situation obtains on the facts, a legal presumption invariably applies as to the transferor's intention, the result of which is that the recipient holds the property on trust for the transferor. The subject of the trust is said to "result" back to the transferor, hence the name of the doctrine. The question as to what exactly is presumed as to the transferor's intention is of some controversy amongst academics. William Swadling (*supra* [14]) argues that what is presumed is the transferor's intention to declare a trust in his own favour (see *English Private Law* at 4.191), in contrast to Robert Chambers' argument that the presumption is that the transferor did not intend to benefit the recipient (see Robert Chambers, *Resulting Trusts* (Clarendon Press, Oxford, 1997) at p 32). The consequence of the difference of views lies in the different facts which need to be proved in order to rebut the transferor's presumed intention. The reasons why this presumption of intention arises at all are tied to historical and sociological considerations, at the heart of which is the rather cynical view that "outside of certain relationships, an owner of property never intends to make a gift" (see *Lau Siew Kim* at [36]).

23 The presumption involved in this trust can be rebutted by invoking a counter-presumption known as the presumption of advancement. This states that within certain relationships, it is presumed that a voluntary *inter vivos* transfer of property was indeed intended to be an outright transfer and intended to benefit the recipient. The conventional relationships included only situations where a parent transfers property to his child, and where a husband transfers property to his wife. If either of the relationships obtained on the facts, then the presumption of advancement would operate such that the transfer would be considered an outright gift and the subject of the transfer would remain with the recipient. No resulting trust in favour of the transferor would be presumed.

24 There are two noteworthy points about the presumption of advancement. The first is that it seems a little strange to consider this a "presumption", since all this "presumption" seems to achieve is to acknowledge the stark nature of what has already happened: that a gratuitous transfer had taken place from the transferor to the recipient. The second is that the relevant relationships reflect a somewhat patriarchal view of society, as was recognised in *Lau Siew Kim* (at [63]) in relation to the parent-child relationship, and the court in that case also recognised (at [60]) that the content of the presumption of advancement must be flexible to keep pace with changing societal norms. The present case involves a daughter and her mother, and it remains to be seen if there would be cause to expand the presumption of advancement from parent-child and husband-wife, to daughter-mother relationships.

25 Notwithstanding the theoretical tangles in this area of the law, what is uncontroversial is that such a trust is implied/imposed if there is a transfer of property from a transferor to a recipient, where the intention of making such transfer was unexplained. As the Court of Appeal pointed out in *Lau Siew Kim* (at [59]), the two presumptions of resulting trust and advancement should only operate when there is no evidence from which to prove or infer the intention of the transferor.

### ***Can the presumption of resulting trust be rebutted by the operation of the rule of survivorship?***

26 In this case, the conveyance of the Property was to the plaintiff and the defendant in their joint names (since the daughter made all the contributions to the purchase price), which intention was unexplained. Therefore, the presumption of resulting trust applied, and a resulting trust arose such that the parties held the Property on resulting trust for the plaintiff solely. As the Court of Appeal clarified in *Lau Siew Kim* (at [35]):

There is an important distinction between the presumption of resulting trust and the resulting

trust itself. The presumption is an inference of fact drawn from the existence of other facts, whereas the resulting trust is the equitable response to those facts, proved or presumed: see Robert Chambers, *Resulting Trusts* (Clarendon Press, Oxford, 1997) at p 32

27 If the defendant was to be beneficially entitled to a half share of the sale proceeds as she claimed, she would have to demonstrate that no resulting trust arose, and the parties held in equity as they did in law. To do this, she would have to rebut the presumed fact relating to the intention of the parties that gave rise to the resulting trust. William Swadling says that the fact presumed is the transferor's intention to declare a trust in his own favour; and Robert Chambers says that it is the transferor's intention *not* to benefit the recipient. It may not be necessary to decide which of these two views is the correct one, since we must first examine if the facts would support a rebuttal of either. Additionally, the presumption of advancement could also apply to rebut the presumption of resulting trust.

28 On the facts, the defendant alleged many facets of the same intention expressed by the plaintiff. These mainly had to do with the plaintiff's expressions of her feelings toward her mother, and the plaintiff's assurances that she would take care of her mother for the rest of her mother's life. The defendant also expressed her own happiness at being able to rely on the plaintiff, her favourite daughter, whom she praised as being the most capable and successful of her children. That said, the only intentions that we are concerned with here are the parties' intentions toward the acquisition of the Property.

29 One thing stood out, and could be said to be the pith of all the good intentions that the parties had expressed. This was that the reason why the parties held the Property in their joint names was due to the rule of survivorship being intended to apply so that the defendant would receive the Property should the plaintiff predecease her.

30 The gist of the defendant's contention was that the plaintiff had intended to care and provide for the defendant indefinitely. The Property was thus conveyed to the parties' joint names so that if the plaintiff were to die, the operation of the rule of survivorship would assure the defendant of a roof over her head. In support of her claim, the defendant pointed to a statement allegedly made by the plaintiff:

...at that time when I was named as the co-owner [of the Property] with her, the Plaintiff told me that she was putting it in our joint names so that if anything were to happen to her, I would get the Property as she was buying the Property for us.

The plaintiff did not deny that this was her intention, and stated (in her affidavit filed on 18 May 2010 para 38) that:

Although all payments required for the purchase and maintenance of the Property were made by me, I decided to add the [d]efendant's name to the title of the Property in case I passed on unexpectedly. At least if that were to happen, the [d]efendant will[sic] have a roof over her head.

But crucially, in the next sentence following, the plaintiff made it clear that:

For all intents and purposes, the [d]efendant and my 2 sisters knew that the Property was my property.

The plaintiff also took pains (at para 13 of her AEIC) to state:

Given the [d]efendant's irresponsible and irrepressible gambling ways, I will not agree to transfer or give any monies to the [d]efendant as she will simply blow it off. I made a decision to only allow the [d]efendant's name to be added to the title of the Property in case I passed on unexpectedly. At least in that scenario, the [d]efendant can have a roof over her head. I never intended for her to have any share in the Property unless I passed on before her.

Whether or not the defendant was Actually an inveterate gambler was not relevant but this statement of the plaintiff demonstrated, at least, her negative attitude towards making gifts to her mother.

The plaintiff confirmed this on cross-examination when she said:

...I have never at any point in time told the defendant or assure her in any forms or ways that she would have any share or interest in the[sic] 55 Jalan Chengam. The only purpose of having her name there is for survivorship, that is in the event that I pass on before her, she would get 100% of the property. When I'm still alive, which I am now, she will get nothing. She knows that.

31 Interestingly, the parties had held two other properties previously in their joint names, and the reason for this manner of holding both properties was attributed to the rule of survivorship as well. In relation to the Bishan flat, the defendant claimed that:

49 ...at the time of the transfer of the Bishan HDB Flat[sic] to both our names the Plaintiff told me that since the Bishan HDB flat was now held in our joint names, if anything were to happen to her, the Bishan HDB flat will be considered as mine alone.

50 ...the Plaintiff would openly told [sic] the twins that they should not worry about taking care of me and that she would do so to the end of my days as she has all along been doing.

32 The plaintiff's affidavits did not answer this point directly, but during her cross-examination by counsel for the defendant, Tan Siah Yong ("Mr Tan"), the following evidence was recorded:

Q: ...when your mother and you became the sole joint owners of the HDB flat in Bishan, did you tell your mother the same thing?

A: Yes.

Q: That if anything were to happen to you, you pass on, it will go to her, you told her the same thing, right?

A: Yes.

33 The same appeared to be true of the Eden Grove property. The defendant stated:

For this purchase which she said was meant as in[sic] investment she similarly told me that she has included me also as a joint tenant so that if anything happened to her, the Eden Grove Property will belong to me.

The plaintiff agreed during cross-examination:

Q: And in this instance, when you bought the Eden Grove Condominium, you also included you mother with you as a co-owner of the property---co-purchaser of the property, sorry. Is



that right?

A: Yes.

...

Q: And the joint tenancy was also explained to her.

A: Yes. And she knew for a fact the reason why I put her name down is that in the event that I pass on before her, then she will get 100% of the property.

34 In respect of the Bishan flat, the plaintiff pointed out that she had needed to include the defendant as co-owner in order to satisfy HDB's regulations requiring a family nucleus as a precondition to occupying public housing. However, this consideration did not apply in respect of the Eden Grove property. The plaintiff was at liberty to acquire the Eden Grove property in her own name, and she admitted as much in cross-examination.

35 Returning to the issue of the Property, it was clear that both parties agreed that the rule of survivorship was the reason why the Property was conveyed into their joint names. The question remained as to whether as a matter of law that would suffice to rebut the presumption of resulting trust.

36 The plaintiff relied on the case of *Mariam Khatoon bte Rahim Khan v Mohamed Saleh* [1999] SGHC 68 ("*Mariam*") as authority for the proposition that even if joint tenants held property because they intended that the rule of survivorship should apply, this did not amount to an intention that during their lifetimes, each co-owner should have a half share of the property in equity. *Mariam* was a case which involved a property held in the joint names of a married couple who had since divorced. The property in question was purchased during the subsistence of the marriage, with the husband paying approximately 92% of the purchase price. After the parties divorced, the wife applied to the court for a declaration that the property belonged to the parties in equal shares, because they shared a common intention that the property should be shared equally. The husband in *Mariam* did not dispute that the parties had intended for the rule of survivorship to apply, because he wanted to provide for her in the event of his own death, but he did dispute the wife's claim that the parties had intended the property to be held beneficially in equal shares. It was clear that this case concerned a common intention constructive trust, not a presumed resulting trust as in the instant case. Yet, that was not a sufficient point of distinction to distinguish *Mariam* from the present case. The value of *Mariam* lay in the analysis of what implications the intended application of the rule of survivorship had on the intentions of joint tenants.

37 The High Court in *Mariam* rejected the wife's application and held that the parties owned the property in unequal shares in proportion to their respective financial contributions to its acquisition. Crucial to the court's determination was this holding:

All [the wife] said was that [the husband] had told [the lawyer] that in case of any event, the two of them should be joint tenants and none of their property should be transferred to anyone else. To my mind, such a statement is not akin to saying that the intention is that both parties should hold the property in equal shares. What it discloses is an intention that on the death of either party, the other should automatically obtain ownership of the whole property without anyone else being able to make a claim to it.

38 The paragraph quoted above speaks to the plain meaning of the rule of survivorship. This rule

can be explained as a consequence of the concept of a joint tenancy. A set of joint tenants collectively hold property as a group, and only as a group. None of them hold any rights on their own. Therefore, when one of the set dies, the number of tenants who collectively hold diminishes and the property will be held by the remaining number of joint tenants, jointly. If there were only two joint tenants, then upon the death of one, the other would hold the tenancy solely. Since a joint tenant does not hold any rights in the property on his own, he has nothing to bequeath to his successors in a will. The power of a joint tenancy is that it operates automatically to vest the tenancy in the surviving tenants, without the need for a subsequent conveyance from the personal representatives of the deceased (see *English Private Law* at 4.355 to 4.356). As mentioned above (at [14]), equity was not in favour of the rule of survivorship, viewing it as unfair to the estate of the deceased joint tenant that the surviving joint tenant should take the property absolutely. Notwithstanding this, the rule of survivorship remained in law as a very powerful tool for property owners to achieve the ends they wished.

39 Therefore, the most straightforward meaning of this rule is that if tenants intended it to apply, then the tenants intended that should one predecease the other, the other would hold the property solely. The intended consequences of the rule of survivorship operate after the death of one tenant, and say nothing whatsoever about what should happen while both tenants are alive. This is not to say that the rule of survivorship is incompatible with an intention that the joint tenants should also hold the property beneficially during their lifetimes. What this means is that the rule of survivorship sheds no light on the tenants' intentions as to their beneficial interests in the property while both are alive.

40 Another way of explaining this was stated in *Lau Siew Kim* (at [105]) when the Court of Appeal stated that:

We are of the view that the presumption of advancement could similarly operate with respect to only *part* of the interest in the property in question; it may be rebutted as to the life interest of a property but prevail as to the remainder – one such case would be where a property is held on joint tenancy and it is inferred that there is an intention of the rule of survivorship to operate. [emphasis original]

41 The court in *Lau Siew Kim* said this in the context of the operation of the presumption of advancement between spouses. In that case, the Court of Appeal extended the presumption to the extent that when married spouses purchase property as legal joint tenants, the court may infer an intention on the part of the contributing spouse that the rule of survivorship was meant to operate. The basis for inferring this intention has its roots in the presumption of advancement as it operates between spouses. Again, this is not a point of distinction that detracts from the application of the principle stated in the paragraph above, which is that the rule of survivorship only affects the remainder, and the parties may intend something altogether quite different for the life interest.

42 The upshot of the discussion above is that the rule of survivorship tells us nothing about the parties' intentions as to the Property in this case. On Swadling's view of the fact presumed in the presumed intention resulting trust, the rule does not tell us that the plaintiff did *not* wish to declare a trust in her own favour; and on Chambers' view of the presumed fact, the rule does not tell us that the plaintiff *did* intend to benefit the defendant so far as the life interest was concerned. There was also no evidence of a more general intention that the defendant should be entitled to a life interest. The defendant's reliance on this rule therefore did not suffice to rebut the presumption of resulting trust, and the resulting trust remained.

43 This finding is fortified by the fact that the parties had previously held the Bishan flat and the

Eden Grove property in their joint names, and both agreed that on both occasions, the joint tenancy was intended such that the rule of survivorship would operate. The plaintiff seemed to me to be keen to make provision for her mother both during her own lifetime and beyond, but I was not convinced that this extended to giving the defendant a beneficial half share in the Property as part of this provision.

### ***The presumption of advancement***

44 Although the defendant did not rely on this explicitly, for completeness the application of the presumption of advancement should also be considered. As stated above at [24], the conventional view of this is that where a man transfers property to his wife or his child, the transfer is presumed to be an outright gift, and this would suffice to rebut the presumption of resulting trust. The beauty of the presumption of advancement lay in its assistance in presuming the donative intent necessary for a gift. The conventional statement relating to transfers to a child has been the subject of some criticism, and has been extended in Australia to apply to transfers from a mother to her child (see *Nelson v Nelson* (1995) 184 CLR 538 at 576 and 601). The Court of Appeal in *Lau Siew Kim* in *obiter dicta* (at [67]-[68]) approved of a flexible and dynamic application of the presumption of advancement and appeared to sanction its application to transfers made by either parent, male or female, to any of their children, whether minors or adults. I note that the Court of Appeal was also careful to state that this *obiter dicta* did not constitute the final word on the matter.

45 Here, we have a situation where an adult child transferred property to her mother. This stretches the presumption in a way which is not entirely easy to accept, since the presumption appeared to be premised on a notion that it was for a parent to provide for his/her child. The question that arose was, would the presumption apply to situations where it appeared that the child was to provide for her parent? I was not inclined to answer the question without the benefit of full arguments but two points will be made.

46 The first is that the presumption was apparently based on the thought that in certain pre-existing relationships, the transferor was morally obliged, or naturally obliged, to provide for the recipient (see Robert Pearce, John Stevens & Warren Barr, *The Law of Trusts and Equitable Obligations* (Oxford University Press, 5<sup>th</sup> Ed, 2010 at p 283). In fact, this was the basis on which the operation of the presumption as to a transfer from a mother to her child was rejected in nineteenth century England. Jessel M.R. in *Bennet v Bennet* (1878-79) LR 10 Ch D 474 at 478 stated that there was "no obligation according to the rules of equity – on a mother to provide for her child". Interestingly, in Singapore, we have the Maintenance of Parents Act (Cap 167B, 1996 Rev Ed), which obliges children to provide maintenance to either or both of their parents domiciled and resident in Singapore; should their parents be unable to maintain themselves and apply to court for a maintenance order. Children in Singapore are therefore under a legal obligation to provide for their parents.

47 The second point is that we should not confuse the child's inclination to provide for her parent with an intention to make a gift. As was the case here, the plaintiff appeared minded to provide for her mother's needs, but did not appear minded to give her mother a half share in the Property.

### **Proprietary estoppel**

48 The defendant claimed in the alternative that she was entitled to relief on the basis of proprietary estoppel. The defendant relied on the case of *Hong Leong Singapore Finance Ltd v United Overseas Bank* [2007] 1 SLR(R) 292 ("*Hong Leong*") (at [170])) which quoted Tan Sook Yee, *Principles of Singapore Land Law* (Butterworths Asia, 2<sup>nd</sup> Ed, 2001) (at pp 97-98), and stated the

doctrine simply. Where there was a land owner who encouraged, or permitted a claimant to hold the belief that the claimant was entitled to some right or interest in the land, and the claimant in reliance on this belief Acted to his detriment, then the land owner would be estopped from insisting on his strict legal rights where those would be inconsistent with the claimant's belief.

49 It should be noted that the exact definition of the doctrine is of some dispute, as are the requirements that must be satisfied to constitute the individual components of the doctrine. In any event, it must be emphasised that the doctrine is founded on the unconscionability of the landowner's Actions. Sundaresh Menon JC in *Hong Leong* (at [171]) quoted Lord Denning in *Crabb v Arun DC* [1976] Ch 179 who stated (at 187-188):

The basis of this proprietary estoppel – as indeed of promissory estoppel – is the interposition of equity. Equity comes in, true to form, to mitigate the rigours of strict law... it will prevent a person from insisting on his strict legal rights – whether arising under a contract or on his title deeds or by statute – when it would be inequitable for him to do, having regard to the dealings which have taken place between the parties.

Furthermore, unconscionability is the essence of the inquiry and the requirements stated above are directed at establishing that unconscionability, (see Sundaresh Menon JC in *Hong Leong* at [191]):

...I do not think it is correct to approach the requirement of unconscionability as a separate element. On the contrary, it is the overarching inquiry. The court will only be moved to raise the estoppel if it is satisfied that it would be unconscionable not to do so.

This was also stated earlier by Robert Walker LJ in *Gillett v Holt* [2000] 3 WLR 815 (at 829) (a case not cited by either party):

...the doctrine of proprietary estoppel cannot be treated as subdivided into three or four watertight compartments...the quality of the relevant assurances may influence the issue of reliance, that reliance and detriment are often intertwined... Moreover, the fundamental principle that equity is concerned to prevent unconscionable conduct permeates all the elements of the doctrine. In the end the court must look at the matter in the round.

50 In another English case (also not cited by the parties) *Cobbe v Yeoman's Row Management* [2008] 1 WLR 1752 ("*Cobbe*"), Lord Walker reiterated this (at 1788):

...[unconscionability] does in my opinion play a very important part in the doctrine of equitable estoppel, in unifying and confirming, as it were, the other elements. If the other elements appear to be present but the result does not shock the conscience of the court, the analysis needs to be looked at again.

It is because the landowner Acted in some unconscionable manner that he is estopped from denying the claimant's claim. This emphasis on the landowner's unconscionability must be so, because proprietary estoppel creates property rights in the claimant where there were none, and destroys existing property rights in the landowner.

51 The inquiry into proprietary estoppel logically follows the inquiry into the presumed intention resulting trust. It was only because of the findings that led to the understanding that the plaintiff held the entire Property beneficially, that it makes sense to regard her as a landowner who could allegedly make representations to the defendant that gave rise to the defendant's alleged beliefs and detrimental reliance.

52 The defendant relied on the following facts to support her claim in proprietary estoppel. The plaintiff had made certain representations to her which included that the plaintiff would take care of the defendant and that the defendant “need not worry about having a roof over her head”. The defendant, in reliance on these representations, agreed to sell the Bishan flat and move into the Property with the plaintiff. The main detriment suffered by the defendant lay in her agreeing to sell the Bishan flat, because now that she had been evicted from the Property, she had nowhere to live and no roof over her head. The defendant also complained that she had been subject to “house rules” while living in the Property, which rules were imposed by the plaintiff and had not fettered the defendant in the Bishan flat; the plaintiff had reduced the defendant’s regular monthly allowance of \$1,000 to an unspecified amount (the plaintiff had to use this money to pay for the upkeep of the Property).

53 Therefore the defendant’s counsel submitted that the plaintiff should be estopped from asserting her claim to be the sole beneficial owner of the Property, and the defendant had an equity that should be satisfied by this court. Mr Tan left the defendant’s remedy to the discretion of the court but suggested that her alleged equity could be satisfied by ordering the plaintiff to pay the defendant a monthly sum equivalent to the defendant’s cost of renting suitable accommodation for herself.

54 I should point out that the representations must be in relation to the defendant receiving some interest in land, in order to distinguish this from promissory estoppel which is incapable of constituting an independent cause of Action, and must also be clear and unequivocal. But the assessment of what is clear and unequivocal must be conducted from the claimant’s point of view. This question is an objective one considered in the particular context of the case, and asks what the reasonable meaning of the representations made by the landowner to the claimant were, from the claimant’s viewpoint.

55 In the recent English case of *Thorner v Major* [2009] 1 WLR 776 (“*Thorner*”), the House of Lords considered the traditional formulation that the representation must be “clear and unequivocal”, and reformulated this question in several ways, all of which could be distilled to the same principle. *Thorner* concerned two reticent farmers, one of whom was the landowner who had made oblique remarks to the other, the claimant, about inheriting the farm they worked on. Lord Hoffmann stated (at 779) that:

The question was whether [the landowner’s] words and Acts would reasonably have conveyed to [the claimant] an assurance that he would [inherit].

This was echoed by Lord Rodger who stated (at 786) that:

I would hold that it is sufficient if what [the landowner] said was “clear enough”. To whom? Perhaps not to an outsider. What matters, however, is that what [the landowner] said should have been clear enough for [the claimant], whom he was addressing and who had years of experience in interpreting what he said and did, to form a reasonable view that [the landowner] was giving him an assurance that he was to inherit the farm and that he could rely on it.

Similar opinions, that the court could determine the reasonable meaning of the landowner’s representations from the claimant’s point of view, were expressed in the speeches of the other Law Lords.

### ***The plaintiff’s representations***

56 Returning to the facts of this case, the defendant claimed that the plaintiff had made several

representations with regard to the Property. These were made during the period of their joint ownership of the Bishan flat and in the lead up to the purchase of the Property, although the defendant could point to no specific instances of when the plaintiff had made such assurances:

1....I have relied on what the Plaintiff has[sic] said to me over the period of our joint ownership of the Bishan HDB flat and further when she was bent on buying the Property telling me that it was to come to me if anything were to happened[sic] to me and also that she will take care of me for the rest of my days.

2. ...I had agreed to her suggestion and her decision to sell the Bishan HDB Flat because of her declared intention to house me including her twin sisters in the Property and but for that I would not have agreed otherwise to the sale of the Bishan HDB Flat.

57 The defendant in her first affidavit also pointed to other occasions, before the Property was bought, on which the plaintiff had made certain representations. The first quote related to the Bishan flat, and the second quote related to the Eden Grove property:

[the plaintiff] told me that since the Bishan flat was now in our joint names only, if anything were to happen to her, the Bishan flat will be considered as mine alone. She told me this to assure me that she will always take care of me which she has done throughout.

...

In or around May 2005, Michelle bought a condominium...She similarly told me that she has put me in as a joint tenant so that if anything happened to her, the condominium will[sic] belong to me. When I hear her say and do these things, it made me very happy as I could see that she was always thinking of providing for me. Her assurances of taking care of me were matched by her deeds.

58 At this juncture I should point out that I found the defendant's testimony in court difficult to believe let alone accept – unlike the plaintiff, I was not impressed with her as a witness. Her other daughters did not testify to corroborate the defendant's evidence even though her eldest daughter (Neo Ling Ling) and one of the twins (Neo Hui Ping) had filed affidavits on her behalf. (One of the twins apparently sat in court throughout the hearing). I formed the distinct impression that the defendant had embellished her story, adding in tales about how: (i) her eldest daughter's husband was supposed to be the purchaser of the Property initially but passed the option to the plaintiff at the defendant's/latter's request; (ii) that the plaintiff had allegedly promised to give her 50% of the sale proceeds of the Property; (iii) the plaintiff promised to buy her two condominiums if the Property was sold and give her and the twins \$50,000 each from the sale proceeds. I did not believe that the plaintiff had made any such promises. The defendant also came across as a frivolous person. Despite not pursuing Civil Appeal No 142 of 2010 and being advised by the court on 11 January 2011 that her appeal was deemed to be withdrawn, she made no efforts to find alternative accommodation. Notwithstanding her supposed impecuniosity, the defendant continued to spend substantial sums purchasing beauty supplements even as late as 7 February 2011, which was nine days before the writ of possession was executed by the Sheriff on 16 February 2011. I disbelieved the defendant's claim that she was purchasing the products on her other daughters' behalf.

59 The plaintiff on her part disagreed that she had given any such assurances and claimed that what she had said to her mother was far narrower. The first quote, contained in her AEIC, was in relation to the Property and the second, extracted upon cross-examination, was in relation to the Bishan flat:

During the [d]efendant's birthday dinner meal on 5 June 2007, I announced my plans to purchase a landed property and to explore the possibility of having the [d]efendant, my twin sisters, my fiancé, Keith Anthony Lazaroo and I living under the same household.

...

Q: So you would agree with me that the Bishan property was to provide a roof as a family home for the purpose of housing your mother right?

A: The Bishan flat was a place that she can--- that she can stay and has been staying.

Q: And this is in line with what you have been saying to her...that she need not worry about a roof over her head because this is her house that's housed her.

A: No, I told her that she need not worry about having no place to stay, she can always come and stay with me or be with me if I have enough space or wherever I am, whatever I do, yah.

Q: Would you not agree with me that what you have stated in those words reassured her as to the fact that she need not worry about having a roof over her head?

A: I cannot control her perception.

60 The defendant, the plaintiff's three sisters and the plaintiff's then fiancé Mr Lazaroo, were all present at the birthday dinner. However, only Mr Lazaroo was called to testify, and his evidence was that the discussion at the dinner was conducted in Mandarin which he did not understand, although the plaintiff explained to him after the dinner that she had indicated her intention to buy a property to "house everybody" and set out the conditions of living together.

61 It was clear that there was no consensus between the parties as to what the plaintiff had represented to the defendant, and Mr Lazaroo's evidence as to the events of the birthday dinner in 2007 was inconclusive. The defendant's case, taken at its highest, would suggest that the plaintiff had represented that the plaintiff would take care of the defendant for the rest of the defendant's life, and that those assurances were supported by the plaintiff's Actions in purchasing the Bishan flat, the Eden Grove property, and the Property in their joint names. The plaintiff however, maintained that she had merely told the defendant that the defendant could come and stay with her whenever she wished.

62 I found it likely that the plaintiff's representations to the defendant in relation to the Property were probably along the lines of the plaintiff assuring the defendant that the defendant need not worry about not having a place to live for the foreseeable future.

63 The context in which the representations should be assessed has to be considered. The defendant was not well educated and was financially dependent on the plaintiff and her other daughters. At the point just before the defendant agreed to sell the Bishan flat, the plaintiff had previously purchased three properties in the parties' joint names *viz*, the Bishan flat, the Eden Grove property and the Property. The plaintiff had also previously assured the defendant that the defendant need not worry about accommodation. The representations considered for the proprietary estoppel were solely those that related to the Property. However, the plaintiff's other representations regarding the Bishan flat and the Eden Grove property were taken into account as part of the context in which the first set of representations was assessed.

64 The Eden Grove property in particular was interesting, because in contrast to the Bishan flat and the Property at which the parties had resided, the Eden Grove property was acquired purely for investment purposes. This might have encouraged the defendant somewhat, because it suggested that the plaintiff wanted to give her something more than just a place to stay. At the time the Eden Grove property was bought, the parties contemporaneously held and lived at the Bishan flat. Thus, if the plaintiff predeceased the defendant, both properties would have passed to the defendant who would not only have a roof over her head but also another place from which to generate rental income. However, as discussed above (especially at [\[31\]](#)) the plaintiff's intention was that the properties would only pass to her mother upon her demise, and the defendant was not to receive any share before that. The defendant was aware of this distinction, as she herself stated in her AEIC (para 5.5):

For this purchase which she said was meant as in[sic] investment she similarly told me that she has included me also as a joint tenant so that if anything happened to her, the Eden Grove Property will belong to me.

The defendant understood that it was only if anything untoward happened to the plaintiff, that the Eden Grove property would belong to the defendant. Similarly, in relation to the Bishan flat, the defendant's evidence showed that she was also able to grasp the conditional nature of the statement the plaintiff had made to her (see [\[32\]](#) above). In such a case, it is difficult to accept that the defendant truly held the belief that she should be entitled to any share of the Bishan flat or Eden Grove property in her lifetime.

65 In any event, the defendant's own characterisation of the plaintiff's statements suggested that the extent of her belief was that the plaintiff would provide housing for her and did not extend to a belief that she was entitled to a beneficial share in the Property. This is supported by the fact that even though the defendant stated that the plaintiff had "backed up" her assurances by her "actions" in purchasing the properties in their joint names, the defendant never asserted a right over the sales proceeds of the Bishan flat and the Eden Grove property *before* the plaintiff brought this Action. The defendant only made such a claim belatedly, and in my view, disingenuously.

66 I concluded therefore that the plaintiff's representations to the defendant related to the defendant not having to worry about accommodation for the foreseeable future, and it was probably reasonable for this particular defendant to interpret that as meaning that the plaintiff would be the one to provide her with accommodation. This however, did not necessarily extend to it being reasonable for the defendant to interpret the representations as meaning that she would have a right to accommodation in a particular property. In fact, the defendant's own narration of the plaintiff's representations lacked that specificity. It was also not reasonable for the defendant to interpret this as meaning that she would be entitled to any beneficial share of any property let alone the Property, and this was in fact borne out by the defendant's own ability to understand the operation of the rule of survivorship.

67 In summary, the most that was reasonable for the defendant to interpret of the plaintiff's representations was that the plaintiff would provide her with accommodation for the foreseeable future. In fact, the defendant's belief only extended that far, since her retelling of the plaintiff's representations did not specify that the accommodation provided would be in the Property, and the defendant understood the implications of the rule of survivorship. In this light, the defendant would not be beneficially entitled to the sale proceeds of the Property on the ground of proprietary estoppel.

68 The remaining question to be addressed was whether the defendant had an equity that would



entitle her to a monthly payment from the plaintiff for the cost of accommodation, given her belief that she was entitled to accommodation from the plaintiff. This question really fell more in the realm of promissory estoppel, which would not operate as a cause of Action. However, to fortify the conclusion on proprietary estoppel it would be appropriate to consider the other requirements of detriment, reliance and the overarching question of unconscionability.

69 The next stage of the inquiry therefore turned on whether the defendant had relied on this belief to her detriment.

### ***Detrimental reliance***

70 The requirement of reliance is similar to the concept of causation and asks whether the defendant Acted in the belief that she was entitled to a right of accommodation. I accept that this requirement was satisfied when the defendant agreed to sell the Bishan flat.

71 As for whether the defendant suffered detriment consequential on this reliance, the answer is a little more doubtful. The scope of detriment is very wide and as stated by Walker LJ (see [\[48\]](#)) in *Gillett v Holt* (at 836):

The detriment need not consist of the expenditure of money or other quantifiable financial detriment, so long as it is something substantial. The requirement must be approached as part of a broad inquiry as to whether repudiation of an assurance is or is not unconscionable in all the circumstances.

72 The defendant claimed that she had suffered three kinds of detriment. The first was that she had nowhere to live after the eviction from the Property, the second was that she was subject to "house rules", and the third was the loss of her monthly allowance. Only the first is of any consequence. The "house rules" were a form of domestic protocol laid down by the plaintiff to ensure harmonious living in the Property which housed her mother, the twins and later her fiancé/husband. Clearly the "house rules" were of limited efficacy, but in any event they cannot be considered a detriment because they were an incidence of domestic living and not related to the defendant's reliance in selling the Bishan flat. The loss of the defendant's monthly allowance was also not related to her reliance.

73 Therefore, the question to be considered was really whether the defendant had suffered a detriment by agreeing to sell the Bishan flat and having no place to stay. While the consequence sounded drastic, the more important question this court had to decide was how the consequence of the defendant having no place to stay was a detriment related to her selling the Bishan flat in reliance on the plaintiff's representation.

74 The defendant apparently had no place to stay because the plaintiff applied to sell the Property and evict the defendant, which was granted. Counsel for the plaintiff (Lisa Sam) had submitted that the defendant had not suffered any detriment because even if she had insisted on retaining the Bishan flat, she would not have had the financial capability to do so in any event. This submission suggested that even if the defendant had not Acted in reliance, her current position would be no better or no worse than what it was at the date of the hearing. I am not entirely satisfied that the inquiry into the defendant's detriment should take this form. This would compare the defendant's hypothetical present day situation, had she not relied on, with the defendant's Actual present situation, after reliance. This seemed a little too speculative an inquiry, since we would never know if the defendant could have reconveyed the Bishan flat into the names of herself and one of her other daughters, and somehow serviced the mortgage on the Bishan flat on her own with contributions from

both or one of the twins. I found it puzzling that she did not in fact embark on this sensible course of Action, but given that it did not happen, it would be pointless to speculate on whether it would have eventuated or not.

75 Further, this method of comparison did not square with previous authorities on proprietary estoppel. In the English case of *Greasley v Cooke* [1980] 1 WLR 1306, the claimant, a domestic helper, cared for the landowner and his family for many years for no or very little pay. In *In re Basham* [1986] 1 WLR 1498, the claimant worked unpaid for the landowner for many years and refused an opportunity to move elsewhere. In *Gillett v Holt*, the claimant gave up the opportunity for further education and career development to work for the landowner. Closer examination of these decisions reveals that they did not anticipate what distinction the claimants might have achieved had they not suffered the detriment they did, but rather asked what kinds of opportunities and potential those claimants had sacrificed.

76 The preferred inquiry would thus concentrate on the defendant's position as it was before she relied on her belief, and juxtapose that with her position consequential on that reliance. Before her reliance, the defendant had a joint tenancy with the plaintiff in the Bishan flat. The defendant had contributed a small amount of about \$2,500 towards the purchase price of the Bishan flat and \$870.78 from her CPF account; the flat was valued at around \$360,000. It was also established that the intention of the parties in conveying the Bishan flat into their joint names was for the rule of survivorship to apply (see [\[31\]](#) above). Under those circumstances, it could not be said that the defendant's purported rights against the plaintiff in relation to the Bishan flat, whether to accommodation or to the sale proceeds, were any more secure or guaranteed than in relation to the Property. Had the parties quarrelled while living in the Bishan flat and had the plaintiff similarly applied to sever the joint tenancy and evict the defendant, the defendant would only be entitled to a very small amount of the sale proceeds on the presumed intention resulting trust analysis conducted earlier.

77 The paragraph above might on the face of it seem to similarly be a speculative inquiry. But this was not so for the reason that it was necessary to test the strength of the defendant's position before her reliance. The analysis did not speculate on whether the plaintiff would have evicted the defendant or not, but rather considered the consequences if this happened. It did not make sense to acknowledge that the defendant held a joint tenancy of the Bishan flat without examining its implications.

78 So, what opportunities and potential had the defendant sacrificed? The answer appeared to be none or very little since her position in relation to the Bishan flat was no different to her position in relation to the Property. Had the defendant suffered any other sort of detriment beyond loss of the opportunity to retain the Bishan flat and live in it? The answer again seemed to be "no", because the defendant did not suffer any financial loss from the sale of the Bishan flat. Her contributions to the purchase price were refunded in full.

79 The requirement that the defendant show that she had suffered detriment is very closely related to the inquiry into the plaintiff's unconscionability. In large part, it is because a claimant suffered or would suffer detriment that would make it unconscionable for a landowner to insist on his strict legal rights. Proprietary estoppel seeks to avoid detriment to the claimant by compelling the landowner to Act in accordance with the belief on which the claimant had Acted (see *Gillett v Holt* [at 836]).

80 The inquiry then shifts to the unconscionability of the plaintiff. This is a broad inquiry answered after surveying the initial conclusions on the different requirements of representations, reliance and

detriment, and assessing if those contributed to a finding of unconscionability. It should be stressed that the initial conclusions are not conclusive of the question of unconscionability, and the degrees to which the individual requirements are satisfied do not necessarily lead to a similar degree of unconscionability. After all, the question of unconscionability must be looked at in the round.

81 What of the fact that the defendant apparently had no place to live after being evicted from the Property by the plaintiff, and what of the defendant's belief that she could rely on the plaintiff to provide her with accommodation? On the face of it, those questions seemed to cast the plaintiff in a negative light. However, one incident in particular convinced me that this was not so, and that the plaintiff had not Acted in an unconscionable manner.

82 After the court order that the Property should be sold was granted, the plaintiff made an offer through her lawyers on 3 September 2010 to the defendant to house the defendant in a flat in Ang Mo Kio, which flat was apparently furnished and located in a convenient area. This arrangement was to the exclusion of the twins, whom the plaintiff viewed as being able to, and should support themselves. The plaintiff offered to pay for the advance rental and sought contribution from her siblings to cover the future rent. However, the defendant rejected this offer. The timing of the offer may be of some interest, since it came after the plaintiff applied to sell the Property but before the plaintiff applied for the entire sales proceeds to be released to her and whilst the defendant was still in occupation of the Property. A more cynical view of the plaintiff's offer would be that it was meant to tempt the defendant out of the Property. Therefore, the offer was one which could properly be considered as part of the plaintiff's behaviour *before* she asserted her legal rights, and not as an after-the-event remedial measure. As stated previously, the extent to which it was reasonable for the defendant to believe in the plaintiff's representations was that the plaintiff would provide accommodation for the defendant. Given that the alternative accommodation was offered by the plaintiff without any request from the defendant, it appeared that the plaintiff was indeed Acting in accordance with the defendant's reasonable belief that the plaintiff would provide her with housing. It could not be said that the plaintiff was Acting unconscionably, whether in this particular incident or the entire matter looked at in the round. The defendant's rejection of this offer militated against the satisfaction of any equity which she claimed to have.

## **Conclusion**

83 For the various reasons set out above, I dismissed the defendant's claim to half the sale proceeds of the Property and also her claim to an equity in the same on the basis of proprietary estoppel. I directed that the sum held by the plaintiff's solicitors as stakeholders was to be released forthwith to the plaintiff. Further, costs were awarded to the plaintiff on a standard basis but only up to 12 May 2011 as legal aid to the defendant commenced on 13 May 2011.

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