

Re Will of Samuel Emily, deceased  
[2001] SGHC 299

**Case Number** : OS 600373/2001  
**Decision Date** : 09 October 2001  
**Tribunal/Court** : High Court  
**Coram** : Tay Yong Kwang JC  
**Counsel Name(s)** : N Ganesan (N Ganesan & Associates) for the Executrix/Trustee; Chelva Rajah SC (Tan, Rajah & Cheah) for beneficiaries 1 to 5, 7 to 9 and 12 to 14 in the will; TPB Menon (Wee Swee Teow & Co) for beneficiaries 6 and 11 in the will and the next of kin of the testatrix; Philip Loh (Philip Loh & Co) for beneficiary 10 in the will (Lam family)

**Parties** : —

*Charities – Charitable trusts – Classification of charities*

*Succession and Wills – Construction – Will – Will drafted in casual fashion with no residuary clause – Gifts purportedly for charity – Names and addresses of charitable institutions not properly ascertained – Testatrix's intention – Admission of extrinsic evidence to determine intention of testatrix – Whether gifts fail for want of certainty – Intestacy as to residuary estate – Bona vacantia – s 102 Evidence Act (Cap 97, 1997 Ed)*

: This originating summons concerns the construction of the will of Emily Samuel (‘the testatrix’) who passed away on 7 May 1999. The applicant, Mrs Ganesan n,e Cho Sui Lan, is the sole executrix and trustee (‘the executrix’) named in the will. Probate has been granted to her by the subordinate courts. The estate has assets of some \$1.759m. In addition, there is also a flat at 53B Lorong Stangee, Chapel Lodge, which was the testatrix’s residence.

|    | NAMES                            | AMOUNTS(S\$) |           |
|----|----------------------------------|--------------|-----------|
|    | Donations for Charities          |              |           |
| 1. | Dr. Gopal Haridas Memorial       | \$           | 5,000.00  |
| 2. | Cancer Society                   | \$           | 5,000.00  |
| 3. | Spastic Society of Singapore     | \$           | 5,000.00  |
| 4. | Methodist Home for the Aged      |              |           |
|    | c/o Wesley Methodist Church      |              |           |
|    | 5 Fort Canning Road S` pore 0617 | \$           | 30,000.00 |
| 5. | Dr Chen Su Lan`s Home            |              |           |
|    | c/o Wesley Methodist Church      | \$           | 5,000.00  |
|    | 5 Fort Canning Road S` pore 0617 |              |           |
| 6. | In memory of my friend the late  |              |           |
|    | Charlotte Lam Giok Wan           |              |           |

|   |   |          |            |
|---|---|----------|------------|
|   | c/o St Andrew`s Cathedral   | \$       | 50,000.00  |
|   | Anglican Home for the Aged  |          |            |
| 7.  | Methodist Welfare Services  |          |            |
|   | 1 St George`s Lane  | \$       | 5,000.00   |
| 8.  | Kidney Foundation   |          |            |
|   | 705 Serangoon Road,<br>Singapore  | \$       | 5,000.00   |
| 9.  | The Salvation Home  | \$       | 5,000.00   |
| 10.   | For the Lam Family  | \$       | 250,000.00 |
| 11.   | Miss Chong Yook Yin   | \$       | 10,000.00  |
| 12.   | Pastors with letter of<br>thanks  | \$       | 2,000.00   |
| 13.   | Tea or lunch after Church<br>Service and other costs to<br>be paid  |          |            |
| 14.   | St Luke`s Hospital  | \$       | 10,000.00  |
| 15.   | I devise and give my flat at<br>53B Lorong Stangee, Chapel<br>Lodge, Singapore to the<br>Methodist Church -<br>(Wesley) Fort Canning<br>Road, Singapore absolutely<br>with no Power to sell but to<br>hold the said flat in trust<br>and all rents accruing from<br>the said flat is to be used<br>to maintain and upkeep the<br>said Church. |          |            |
| IN WITNESS WHEREOF, I<br>HAVE HEREUNTO SET MY<br>HAND TO MY WILL THIS 9TH<br>DAY OF SEPTEMBER 1995. |   |          |            |
| SIGNED BY THE<br>ABOVENAMED   | )   |          |            |
| TESTATRIX AS HER LAST   | )   |          |            |
| WILL AND TESTAMENT IN   | )   |          |            |
| THE PRESENCE OF HERSELF   | )   | (signed) |            |
| AND US WHO ARE UPON HER   | )   |          |            |
| REQUEST AND IN SUCH<br>JOINT  | )   |          |            |
| PRESENCE HAVE<br>SUBSCRIBED   | )   |          |            |
| OUR NAMES AS WITNESSES  | )   |          |            |
| (signed)  |   | (signed) |            |
| .....   |   | .....    |            |
| WITNESS   |   | WITNESS  |            |

## **The will**

The will made on 9 September 1995 reads:

*I, Emily Samuel of 53B Lorong Stangee, Singapore declare this to be my last Will and Testament and I revoke all my former Wills and Testamentary Dispositions made by me hereafter. I appoint Cho Sui Lan to be Executrix and Trustee of my Will, and I direct her to carry out my wishes and intentions and follows:-*

*1. I direct the Executrix to inform the Pastor of the Wesley Church W.C.4 to give my last communion and pray for me. In the alternative to inform Siok Hong and her husband Suretta to inform the pastor likewise.*

*2. Upon my death insert in any newspaper the announcement of my death with just the date and time only of the Wesley Church services and announce in the press after the date of my Funeral a message of thanks to the Pastor of Wesley Methodist Church and friends who attended or helped at my Funeral.*

*3. After my death to arrange with Singapore Casket Company to buy a blue shroud, embalm my body, and subsequently cremate my body.*

*4. During the funeral Church Service, I direct that that following songs be sung in the Church i.e.*

*(1) "I LOVE THY KINGDOM LORD"*

*(2) "A WONDERFUL SAVIOUR IS JESUS MY LORD"*

*(3) "HOW GREAT THOU ART"*

*After all my wishes as above have been fulfilled and after payment of all my Funeral and Testamentary expenses and death duties, I give and bequeath all my monies as follows:-*

*All my money, whatever balance left after all expenses have been met with is to be given to the following:-*

## **The originating summons**

To ensure that all relevant parties are before the court, the executrix applied for and was granted an order appointing:

(1) Mr Chelva Rajah SC to represent items 1 to 5, 7 to 9 and 12 to 14 listed in the will;

(2) Mr Philip Loh to represent item 10 appearing in the will; and

(3) Mr TPB Menon to represent items 6 and 11 appearing in the will and the next of kin of the testatrix.

Mr N Ganesan, counsel for the executrix, also represents the Wesley Methodist Church.

The remaining prayers of this originating summons seek the determination of the court on whether the respective pecuniary legacies have failed on the ground of uncertainty or on the ground that the gifts in question are not charitable in nature and also seek the following relief:

*(v) That it may be determined upon the true construction of clause 15 on page 3 of the Will of the Testatrix that the Flat 53B Lorong Stangee, Chapel Lodge Singapore is an absolute and outright gift to the "Westley Methodist Church" of No. 5 Fort Canning Road, Singapore and that the Flat be conveyed/transferred to the "Trustees of the Methodist Church in Singapore" subject to the trusts set out in the Will of the Testatrix.*

*(vi) That there is an intestacy as to the residuary estate of the Testatrix and that in default of distribution under section 7 of the Intestate Succession Act the Government shall be entitled to the residuary estate of the Testatrix.*

*(vii) Such further or other orders as this Honourable Court may deem fit to make.*

*(viii) The costs of all parties to these proceedings be taxed on an indemnity basis and be paid out of the residuary estate of the Testatrix.*

*(ix) Liberty to apply.*

### ***Executrix`s first affidavit***

The executrix states in her affidavit that she has been advised that the gifts to items 1 to 5, 8, 9 and 14 in the will may be void for uncertainty as there are no charitable institutions with those names. She has also been advised that the gifts to items 6, 10, 11 and 12 in the will may be void for uncertainty or may not be charitable. Item 7 has been correctly described in the will but its registered office is at 11 Mount Sophia Blk B [num]B1-01 Singapore and not at 1 St George`s Lane as stated in the will.

The testatrix had no relatives in Malaysia or in Singapore. As she did not provide a residuary clause in her will, the residuary estate would go to the state under the Intestate Succession Act.

### ***Next of kin***

An advertisement in English setting out the terms of the originating summons was placed on 14 May 2001 in The Straits Times in Singapore and in The New Straits Times in Malaysia inviting persons having any interest as next of kin of the testatrix to contact Mr TPB Menon. To date, no one has made any claim as such.

## ***The state***

The Attorney General's Chambers and the Public Trustee's office have been informed by the solicitors for the executrix about this originating summons. They have indicated they will not be participating in these proceedings.

## ***Executrix's second affidavit***

In her second affidavit, the executrix elaborated on the relationship she had with the testatrix. She first came to know the testatrix in early 1938 while a student in a kindergarten at the Methodist Girls School in Malacca. The testatrix was her teacher and was living in the orphanage run by the Methodist Mission. She became very close to the testatrix as her elder sister also knew the testatrix. She learned that the testatrix was an orphan from a nearby rubber estate who had been living in the orphanage since she was two or three years old.

In late 1938, the testatrix moved to Singapore to take up nursing. She lived and worked at the then Outram Road General Hospital. In 1945, the executrix also followed this career path and became a colleague of the testatrix, who treated her like a younger sister and kept in practically daily contact until her demise.

The testatrix was a spinster and had no relatives in Malaysia or in Singapore. Before she made the will of 9 September 1995, the testatrix discussed with the executrix her desires and intentions concerning the various parties she wished to make bequests to. When she was decided on the list of beneficiaries, the executrix brought her to see the late Mr Haridas Ganesan, an advocate and solicitor and the husband of the executrix. He drafted the will.

They were unaware at that time of the accurate description and correct addresses of the beneficiaries. Accordingly, on 6 April 2000, after the death of the testatrix, a meeting of the representatives of the intended beneficiaries was held in the executrix's present solicitors' office to ascertain their particulars.

In so far as item 10 ('the Lam family') in the will was concerned, the executrix knew that the testatrix was a close friend and colleague of the late Charlotte Lam. They had jointly purchased a house at 26 Siglap Hill and lived there together. When Charlotte Lam passed away in 1982, the testatrix became the sole owner through the right of survivorship. The house was sold in 1994 at a huge profit.

The testatrix had often mentioned to the executrix that she wanted to leave some money for Charlotte's siblings. There were five such siblings but one has since passed away on 12 October 1999 (ie after the testatrix's death on 7 May 1999). The testatrix intended that the \$250,000 bequest be shared by the five siblings equally. They are:

- (1) Michael Lam;
- (2) Beatrice Lam;
- (3) Winifred Lam;
- (4) David Lam; and

(5) Lam Peng Seng (deceased).

The testatrix attended Wesley Methodist Church at Fort Canning Road with the executrix regularly for more than 30 years. The testatrix intended to reward all the pastors for their devotion and commitment to the Church by giving them \$2,000 each.

The testatrix intended to give her flat at 53B Lorong Stangee to the said church. The executrix has ascertained from the representatives of the Church that the proper party to be holding the title to the property ought to be `The Secretary of the Trustees of the Methodist Church in Singapore`. Since the beneficiary is a charitable trust, she asks that the flat be transferred absolutely to the Church without the condition stated in the will.

### ***Beatrice Lam`s affidavit***

Beatrice Lam confirms that her late sister, Charlotte, and the testatrix were colleagues and the best of friends. The testatrix was also very close to the Lam family and went to their home frequently for meals. Her mother and her sisters would cook and serve the testatrix her favourite food such as assam fish, bean paste pork and curry chicken.

In 1956, Charlotte purchased 26 Siglap Hill and went to live there alone. Soon thereafter, Charlotte invited the testatrix to live with her in that house. In 1957, Charlotte mortgaged the property to Malaya Borneo Building Society Ltd and the testatrix stood as surety. The mortgage was subsequently discharged and in 1959, Charlotte conveyed the property to herself and the testatrix as joint tenants.

Before she passed away in 1982, Charlotte, who remained unmarried, expressed her desire to sever the joint tenancy so that she could transfer her share of the property to her siblings. However, the testatrix objected.

After Charlotte passed away, Beatrice, as the sole executrix of Charlotte`s estate, sought legal advice and was informed that the right of survivorship applied in the testatrix`s favour.

The testatrix began to distance herself from the Lam family after Charlotte`s death. The Lam family`s mother passed away in 1986. In the early 1990s, as the Lam family was facing serious financial problems, Beatrice wrote to the testatrix on 9 December 1993 to appeal to her conscience and to ask that Charlotte`s share in the property be returned to the Lam family as she had promised Charlotte on her deathbed. The testatrix did not respond to that letter.

Beatrice is of the view that the testatrix must have felt beholden to her late sister and to their family in making the bequests listed as items 6 and 10 in the will. She states further that the testatrix used to refer to her mother and her siblings as `the Lam family`.

### ***Michael Lam`s affidavit***

Her brother, Michael Lam, the administrator of the estate of the deceased sibling, confirms Beatrice`s evidence contained in her affidavit.

### ***Stanley Peck`s affidavit***

Stanley Peck is the Chairman of the St Andrew`s Cathedral Home for the Aged located at Blk 341 Clementi Ave 5 [num ]01-148 which was established about 20 years ago with the object of promoting the welfare of the aged without distinction of sex, race or creed. The Home currently provides shelter for 25 elderly and destitute women. It is supported by donations from members of St Andrew`s Cathedral and the public. The Home is the only one of its kind set up for the aged by St Andrew`s Cathedral.

### ***Han Kee Fong`s affidavit***

Han Kee Fong, an advocate and solicitor, filed an affidavit on his and Mr Chelva Rajah SC`s behalf. In his affidavit, he states:

*6. Through Mr N Ganesan, solicitor for the Executrix, I learnt that the Testatrix was by nature a charitable person and she also had fond memories of the Executrix`s father-in-law, the late Dr Gopal Haridas. I am also informed that the Testatrix had her will drawn up and executed on the very day she decided to make same and that she did not take the opportunity of checking out the true names of the various organizations, institutions, bodies or persons she intended to make the various donations referred to in her will. She was then already 79 years of age when she made her will on 5 ( **sic** ) September 1995.*

*7. In the result, she had left some of the beneficiaries` names incomplete or misdescribed in her will. Set out herebelow is a comparison of the names and addresses of the relevant beneficiaries as appears in the Testatrix`s will and that which I am able to ascertain to be the true and correct names.*

| Item No.<br>as per Will | Names/Addresses of<br>Beneficiaries as per Will   | Present Names/Addresses of<br>Beneficiaries                                     |
|-------------------------|---|---|
| 1.                      | Dr Gopal Haridas Memorial   | Singapore Paediatric Society,<br>the Trustees                                   |
| 2.                      | Cancer Society  | Singapore Cancer Society<br>15 Enggor Street [num ]04-01<br>Singapore 079716    |
| 3.                      | Spastic Society of Singapore  | Spastic Children`s Assn of<br>Singapore<br>25 Gilstead Road<br>Singapore 309070 |
| 4.                      | Methodist Home for the Aged<br>c/o Wesley Methodist Church<br>5 Fort Canning Road<br>Singapore 0617 | Methodist Home for Aged Sick<br>1 St. George`s Lane<br>Singapore 328047         |
| 5.                      | Dr Chen Su Lan`s Home<br>c/o Wesley Methodist Church<br>Singapore 0617                              | The Chen Su Lan Methodist<br>Children`s Home<br>202 Serangoon Garden Way        |

|     |                            |                             |
|-----|----------------------------|-----------------------------|
|     |                            | Singapore 556057            |
| 7.  | Methodist Welfare Services | Methodist Welfare Services  |
|     | 1 St. George`s Lane        | 11 Mt. Sophia [num ]B1-01   |
|     | Singapore                  | Singapore 228461            |
| 8.  | Kidney Foundation          | National Kidney Foundation  |
|     | 705 Serangoon Road         | 81 Kim Keat Road            |
|     | Singapore                  | Singapore 328836            |
| 9.  | The Salvation Home         | The Salvation Army          |
|     |                            | 20 Bishan St. 22            |
|     |                            | Singapore 579768            |
| 14. | St. Luke`s Hospital        | St. Luke`s Hospital for the |
|     |                            | Elderly Ltd.                |

*8. I have been able to ascertain the status of most of the aforesaid beneficiaries and would set the same out herebelow together with a bundle of the relevant documents marked as "HKF 1" in support of the matters referred to.*

*Item 1 - Dr Gopal Haridas Memorial - \$5,000/-*

*I am informed by Mr N Ganesan that the late Dr Gopal Haridas used to conduct lectures and seminars in the field of Paediatric medicine for the benefit of doctors, nurses and students. After Dr Gopal Haridas died, a memorial fund named after him was established for funding lectures and seminars in the field of Paediatric medicine. Due to the close relationship between the Testatrix and the Executrix, the Testatrix had donated a sum of \$5,000/- in memory of Dr Gopal Haridas.*

*Mr Ganesan also provided me with a copy of a letter of 5.4.2000 from the Singapore Paediatric Society (SPS) to his former firm to confirm that SPS are now the Trustees of the Haridas Memorial Fund. SPS is both a registered society and a charity (HKF 1 - Pages 1, 13 and 23).*

*Item 2 - Cancer Society - \$5,000/-*

*There is no organization by the name "Cancer Society" but there is at the material time and now an organization called "The Singapore Cancer Society". According to its web site, the Singapore Cancer Society was established in 1964 and its objects as stated are charitable. The Singapore Cancer Society is both a registered society and a charity. It has its address at 15 Enggor Street [num ]04-01, Realty Centre, Singapore (HKF 1, Pages 12, 22, 35 and 36).*

*Item 3 - Spastic Society of Singapore - \$5,000/-*

*There was never any organization by the name of "Spastic Society of*



*Singapore" as described in the will but there is one, even before 1995, known as "Spastic Children`s Association of Singapore" and having its address at 25 Gilstead Road, Singapore 309070. The Spastic Children`s Association of Singapore is both a registered society and a charity (HKF 1 - Pages 11 and 24). Apart from the "Spastic Children`s Association of Singapore", no other organization has a name which bears close resemblance to that of "Spastic Society of Singapore".*

*Item 4 - Methodist Home for the Aged*

*c/o Wesley Methodist Church, 5 Fort Canning Road,*

*Singapore 0617 - \$30,000/-*

*I was able to speak with Mr Vernon Kang, the Executive Director of Methodist Welfare Services. I understand from him that the Methodist Welfare Services, (MWS) is a registered charity. MWS had for many years previously been organizing welfare projects and one of its projects was called "Methodist Home for the Aged". From Mr Kang`s reply to my enquiry with him, it would appear that the activities of Methodist Home for the Aged has been merged with another project of MWS to be now known as "Methodist Home for the Aged Sick". The Methodist Home for the Aged was officially registered as a charity in 1984 (HKF 1 - Pages 2 to 7 and 16).*

*Items 5 - Dr Chen Su Lan`s Home c/o Wesley Methodist Church*

*5 Fort Canning Road, Singapore 0617 - \$5,000/-*

*The complete name of this organization having the same address as stated in the will is "The Chen Su Lan Methodist Children`s Home" and it is both a registered society and a charity (HKF 1 - Pages 17 and 21).*

*Item 7 - Methodist Welfare Services, 1 St. George`s Lane - \$5,000/-*

*See Mr Vernon Kang`s reply stating that MWS did operate at No. 1 St. George`s Lane, Singapore until 1995. MWS is both a registered society and a charity (HKF 1 - Pages 1, 16 and 20).*

*Item 8 - Kidney Foundation, 705 Serangoon Road - \$5,000/-*

*Through the kind assistance of Mr. Nikhilesh Gupta, the Finance Director of National Kidney Foundation (NKF), I have ascertained that the address at 705 Serangoon Road used to be the address of the NKF which has always been known by its full name and not just as "Kidney Foundation" as stated in the will. NKF is both a registered society and a charity (HKF 1 - Pages 8, 9, 15 and 25).*

*There is another organization called the "Kidney Dialysis Foundation Limited" but that name could not have been in the mind of the Testatrix when she made the will in 1995. This organization was established only on 1.2.1996 after the Testatrix had written her will.*

*Item 9 - The Salvation Home - \$5,000/-*

*There is no organization with the name "The Salvation Home" and the nearest description to "The Salvation Home" is an organization called "The Salvation Army".*

*To my knowledge, the Salvation Army runs a home in Changi called the "Peace Haven Aged Home". This organization also assists wayward children or children without proper parental care or are neglected by placing them in the care and custody of homes such as Grace Haven in Yio Chu Kang Road. The Salvation Army is officially registered as a charity and is headquartered at 20 Bishan Street 22, Singapore (HKF 1 - Page 14).*

*Item 14 - St. Luke`s Hospital - \$10,000/-*

*There was at the material time when the will was made, a company limited by guarantee registered with the Registry of Companies called "St. Luke`s Hospital for the Elderly Ltd" (HKF 1 - Pages 27 to 31).*

*General*

*In Singapore, under the Charities Act, Cap. 37, all charities are required to be registered with the Commissioner of Charities. By definition, "Charity" means any institution, corporate or not, which is established for charitable purposes. "Charitable purposes" is defined as meaning purposes which are exclusively charitable in accordance with the law of Singapore.*

*In Singapore therefore, when an institution is registered as a charity with the Commissioner of Charities, there is no question of it not being a charity or its objects not being exclusively charitable. Section 6 of the Act, also provided that "an institution shall, for all purposes other than rectification on the register, be conclusively presumed to have been a charity at any time when it is or was on the register of charities".*

I am informed by Mr Chelva Rajah SC that Dr Gopal Haridas ( `the father of paediatrics` ) was the father of the late Haridas Ganesan, the husband of the executrix.

There is no dispute among the parties as to the identity of Ms Chong Yook Yin (item 11 in the will). She has been given the \$10,000 by the executrix.

### ***The decision of the court***

It is helpful to set out some principles on the construction of wills, especially in relation to charities, stated in ***The Law and Practice Relating to Charities*** by Hubert Picarda (2nd Ed, 1995) at pp 226-228:

#### ***General principle: benignant construction***

*There is a well-established maxim that the court leans in favour of charity when construing charitable gifts. Charity is always favoured by equity.*

*In the words of Lord Loreburn, 'there is no better rule than that a benignant construction will be placed upon charitable bequests'. Thus where a gift is capable of two constructions, one which would make it void and the other which would render it effectual, the latter must be adopted. It is better to effectuate than to destroy the intention ...*

*The court must not on the other hand strain the will to gain money for the charity. For in doing so it will cheat the residuary legatees or next of kin ...*

### **Extrinsic evidence**

*Extrinsic evidence, in the discussion which follows, means any evidence other than the document the contents of which are under consideration. Such evidence may, in general, be received whenever a knowledge of extrinsic facts can be made ancillary to the right interpretation of the will or written instrument in question.*

*However, extrinsic evidence is not admissible to rebut plain words ...*

### **Ambiguity**

*Extrinsic evidence is not admissible for the purpose of interpreting a **patent** ambiguity. So, if the amount of a legacy is left blank in a will it cannot be ascertained from parole evidence. The same applies where the name of the charitable beneficiary is left blank ...*

### **Misdescription**

*Where a legacy has been bequeathed to a specified charitable institution the first step is to identify the institution. For if it exists, well and good; but if it does not, a cy-prs problem arises. In most cases executors should be able to identify a named institution by reference to the registers kept by the Charity Commissioners. It is usually only where a testator has named or described incompletely the institution intended to benefit that a point of construction may arise for the court. But the fact that an existing institution is accurately described does not preclude all possibility of there being an ambiguity. There is no absolute rule that a person, whether juridical or natural, answering the description in the will must have the gift whatever other considerations arise.*

Section 102 of the Evidence Act (Cap 97, 1997 Ed) provides that nothing in ss 93 to 101 of the Act shall affect the construction of wills. These sections relate generally to the exclusion of oral evidence by documentary evidence.

Charities can be classified under the following four broad categories:

- (1) trusts for the relief of poverty;
- (2) trusts for the advancement of education;
- (3) trusts for the advancement of religion; and
- (4) trusts for other purposes beneficial to the community not falling within any of the preceding three heads

( **Comrs for Special Purposes of Income Tax v Pemsel** [1891] AC 531 at 583). `The trusts last referred to are not the less charitable in the eye of the law, because incidentally they benefit the rich as well as the poor, as indeed, every charity that deserves the name must do either directly or indirectly` (per Lord Macnaghten in the same case).

It can be seen, without any disrespect to the drafter, that the will was prepared in a rather casual fashion. In fact, p 3 of the will is in a different font from the rest of the five-page will (including the backing sheet). There was obviously no great effort made to ascertain the proper descriptions and addresses of the various intended beneficiaries. By 1 September 1995, the six-digit postal code was already in use but the will signed on 9 September 1995 seems oblivious to that fact. Even the testatrix's own postal code has been omitted. Indeed, the only two postal codes specified in the entire will are those of the Wesley Methodist Church and of the firm of solicitors (at the backing sheet). Even the Church is described in various ways. A residuary clause was not included when it should have been obvious that the testatrix's huge cash assets would still have more than \$1m left after distribution of all the amounts stated.

Such casualness is understandable considering the very close and warm relationship that the testatrix had with the executrix and presumably with her late husband as well. It was not so much a case of solicitor meeting client as a situation of family friends meeting to discuss the testatrix's future wishes. Obviously, they understood one another so well that it never occurred to them that an outsider reading the will would not know immediately what some terms like `the Lam family` signify.

However, the tenor of the will is clear. The testatrix had no blood relatives as the evidence incontrovertibly shows and was planning to give away her worldly possessions to the Church, to institutions which she deemed worthwhile causes and to certain people whom she had associated with in this life. She was clearly intending to be kind and generous and to do good when she expressed the bequests in her will. It is in that broad sense of doing charity that she was making the `Donations for Charities`.

While all the institutions named would fit within the four categories of charities discussed earlier, I have no doubt that on the facts of this case, neither the testatrix nor the solicitor who helped her prepare her will intended to use the word `charities` in its legal sense. The only issue before me therefore becomes one of whether the intended beneficiaries can be sufficiently identified.

I accept the uncontroverted evidence of Han Kee Fong set out in his affidavit. I also accept the evidence of the executrix and of the Lams that `the Lam family` refers to the five siblings mentioned earlier and that the gift is meant to be shared equally among them, including the sibling who passed away subsequent to the testatrix's death. There is no dispute as to the identity of Ms Chong Yook Yin. I also accept the evidence of Stanley Peck. In view of the very close relationship that the testatrix had with Charlotte Lam, it is little wonder that she should choose to make a gift of \$50,000 to the St Andrew's Cathedral Home for the Aged in her memory. The addition of the word `Anglican` changes nothing as the said Cathedral is Anglican.

`Pastors with letter of thanks` (item 12), read in the context of the will, in particular paras 1 and 2, clearly refers to the pastors of the Wesley Methodist Church at Fort Canning Road. I accept the executrix`s evidence that the testatrix intended each of them to receive \$2,000 as a token of appreciation for their devotion and service. I assume the executrix will use her discretion in deciding what ought to be included in the letters of thanks in the same way as she decided the text of the obituary and the message of thanks mentioned in para 2 of the will.

The Director of Administration of the Wesley Methodist Church, in his letter of 10 April 2000 to the executrix`s solicitors, identified five ordained pastors with the honorific `Reverend` and included one Mr Alfred Quah described as a `Lay Staff, Pastoral Care` as the pastors of the Church. The reason given was:

*I have included Mr Alfred Quah on the list of pastors as he has been the staff responsible for providing pastoral care to Emily in the last months of her stay.*

I am informed by Mr N Ganesan that there are many lay pastors like Mr Alfred Quah in that Church. With respect, I feel that including a particular lay pastor when there are many others would probably be giving a twist to what the testatrix meant by `pastors`. I conclude that the only meaningful way of interpreting that clause in the will is to say it refers to the ordained pastors in that Church at the time of the testatrix`s death.

Item 13 in the will (`Tea or lunch after Church Service and other costs to be paid`) with no amount specified as a gift is hopelessly indeterminate both in scope and in quantum and must necessarily fail as a gift.

In so far as the gift of the flat is concerned, I see no justification for transferring the flat to the Church shorn of the restriction imposed by the testatrix.

Mr TPB Menon suggests that the residue of the estate after payment out of all the stated amounts and proper expenses should be placed with the Public Trustee for one year before payment out to the state on the ground of bona vacantia in case some next of kin of the testatrix should appear. I do not think that is necessary here. It is quite clear that there is no such next of kin and the money is after all going to the state and not to some individual or private organisation.

I therefore make the following orders:

(1) Beneficiaries 1 to 5, 7 to 9 and 14 - I declare that these refer to the beneficiaries stated in para 7 of Han Kee Fong`s affidavit of 7 September 2001.

(2) Beneficiary 6 - refers to St Andrew`s Cathedral Home for the Aged.

(3) Beneficiaries 10 and 11 - the gifts are valid and refer to the five Lam siblings and Ms Chong Yook Yin. Each of the Lam siblings should receive \$50,000.

(4) Beneficiary 12 - `Pastors` refer to the five ordained pastors of the Wesley Methodist Church at the time of the testatrix`s death. It does not include lay pastors.

(5) Beneficiary 13 - the gift fails for ambiguity.

(6) 53B Lorong Stangee is to be conveyed to `the Secretary of the Trustees of the Methodist Church in Singapore` with the restriction imposed by the testatrix in her will.

(7) Costs of all solicitors to be paid on an indemnity basis out of the estate.

(8) I declare that there is an intestacy as to the residuary estate of the testatrix and that such residuary estate should be paid to the state after all gifts and expenses have been paid out, without the need to place any moneys with the Public Trustee for any period of time.

**Outcome:**

Order accordingly.

Copyright © Government of Singapore.