

Bajumi Wahab and Others v Afro-Asia Shipping Co (Pte) Ltd and other applications and
Others
[2002] SGHC 182

Case Number : OS 727/1996, CWU 162/1996, BOC 600366/2001, SIC 600170/2002, 600174/2002, 600175/2002
Decision Date : 14 August 2002
Tribunal/Court : High Court
Coram : Choo Han Teck JC
Counsel Name(s) : Wong Meng Meng SC and Tan Hsiang Yue (Wong Partnership) for Wong Partnership; Manjit Singh and Sree Govind Menon (Manjit & Partners) for the second and third defendants; Boey Swee Siang (Allen & Gledhill) for the fourth and fifth defendants

Parties : Bajumi Wahab — Afro-Asia Shipping Co (Pte) Ltd

Civil Procedure – Costs – Taxation – Application for review of assistant registrar's taxation order – Solicitor's bill of costs different from original bills presented to defendant clients – Defendants complaining that solicitor alters bill of costs without their consent – Whether solicitor can alter a bill so as to pressure client to accept original bill – Whether solicitor guilty of such conduct

Civil Procedure – Costs – Taxation – Application for review of assistant registrar's taxation order – When solicitor can amend bill of costs rendered for taxation – Whether 'consent' in O 59 r 28(4) referring to taxation or alteration of bill – Whether solicitor has amended bill – O 59 r 28(4) Rules of Court

Civil Procedure – Costs – Taxation – Application for review of assistant registrar's taxation order – Defendants complaining that award too generous – Case not complex – Whether award too generous

Words and Phrases – 'Consent' – O 59 r 28(4) Rules of Court

Judgment

GROUND OF DECISION

1. There were three applications before me for a review of the taxation order made by the assistant registrar below on a Bill of Costs presented by the Wong Partnership, the erstwhile solicitors of the defendant Tan family (as well as their family company, the first defendant) in Originating Summons No. 727 of 1996. The first application was by the second and third defendants now represented by Mr. Manjit Singh. The second was by the fourth and fifth defendants now represented by Mr. Boey. The third application was the application of the Wong Partnership, represented at the review proceedings before me by Mr. Wong Meng Meng.

2. The Wong Partnership had presented its Bill of Costs No. 600366 of 2001 for \$617,541.25 for its Section 1 costs. The assistant registrar taxed off \$197, 541.25, thereby allowing costs at \$420,000. The defendants objected to this award on two grounds. First, on the ground that the Wong Partnership had altered the bills delivered to the defendants without leave of court. Secondly, that the quantum allowed was too generous. The argument on the first ground was presented by Mr. Singh and the argument on quantum was presented by Mr. Boey.

3. To follow Mr. Singh's argument some background facts need to be stated. The Wong Partnership had presented three detailed and itemized bills to the defendants. The bills were rendered on 31 January 2001, 29 May 2001, and 21 June 2001. I shall refer to them as the commercial bills, a

term used by counsel. The defendants did not make payment under any of the bills, although bills prior to these three had been paid. The defendants asked that the three bills be taxed. Consequently, the Wong Partnership drew up a Bill of Costs No. 600696 of 2002 for taxation. Mr. Singh submitted that the Bill of Costs presented by Mr. Wong was not the same as the commercial bills rendered. In particular, he pointed out that three major items that were in the commercial bills had been omitted in the Bill of Costs. One of these items was described as "drafting advice on 'fair value'; reviewing your letter of 15 December 1998 on removing BW as director".

4. The main grouse of the defendants is set out in 8 of Mr. Singh's written submission. Counsel argued that his clients "did not request for a fresh bill that changes the basis for the work done. They want the basis appearing in the rendered bills justified." Mr. Singh further argued that s 126 of the Legal Profession Act, Ch 161 does not empower a solicitor to draw up a fresh bill that changes the basis for work done as set out in the rendered bill (s 126 merely says that a bill of cost shall be drawn in the manner provided by the Rules of Court, and that the taxation be governed by those Rules). He then suggested what the Wong Partnership ought to have done. He submitted that the clients should first be consulted over the proposed amendments or alterations and, if they object, the Wong Partnership must then apply to the court for leave to amend or alter. Counsel relied on the authority of *Lee Hiok Ping v Lee Hiok Woon* [1988] SLR 884 for his propositions. Mr. Wong correctly pointed out that *Lee Hiok Ping* was decided before the amendment to the Rules of Court providing for the new O 59 r 28 (4): "The delivery of a bill of costs by a solicitor to his client shall not preclude a solicitor from presenting a bill for a larger amount or otherwise for taxation, if taxation is ordered by the court, or consented to by the solicitor and his client." Mr. Singh's contention was that his client did not consent to the alteration. With respect, the consent here is clearly a reference to a consent to the taxation of the bill. Hence, although the substance of the *Lee Hiok Ping* decision has been overtaken by the new O 59 r 28, its spirit remains very much alive; and that is, a bill ought not to be substituted purely as a means of applying pressure to bear upon the client, that is, in order to make him accept the original bill. When such tactics are employed, the taxing officer may adjust the costs accordingly so as to neutralise the said tactics. The proceedings before me were not at all like that. Mr. Wong contended, without challenge, that the quantum sum of his three commercial bills was not larger than the quantum in his Bill of Costs. This was also noted by the assistant registrar below. Furthermore, Mr. Wong contended that the clients had paid all his bills previously without complaint and must know his charging rate.

5. In my view, the error of the defendants in their objection lay in believing that the original bills cannot be amended without leave of court. The Rules of Court was misread and misapplied by them. It may be true that a solicitor having rendered his Bill of Costs for taxation (as opposed to the commercial bill), should not amend it without consent of the client, or, in the absence of which, the leave of court. There was no attempt to amend the Bill of Costs submitted by the Wong Partnership in this case.

6. I now turn to the question of quantum. Mr. Boey took over the arguments from Mr. Singh on this aspect, by reading a written submission prepared by Mr. Singh. The thrust of the objection was that the matter was not complex in terms of the law, and that the bulk of the work was done by the experts. Counsel also maintained that the work was not urgent, and that the trial lasted only ten days. Having admitted that the documents in this case was voluminous, counsel suggested that the work done had no bearing at the trial and listed a number of particulars directly criticizing the work of the solicitors. At paragraph ix of the submission, an outright accusation of negligence was made, but Mr. Boey quickly retracted and tendered his apology to Mr. Wong for the obvious *faux pas*. Taking into account the matters that mattered, I agree entirely with the assistant registrar's assessment on quantum, and I am of the view that the work done in this case, where the law may not be complex, the complexity and complications come in many other forms. Any case involving the valuation of the

shares of a public company, or a huge commercial building or a rubber plantation, is likely to be difficult and much work has to be done by the solicitor in getting up the case and briefing experts and understanding their reports. In this case, the dispute included all three of the items I had just mentioned. The assessment of \$420,000, all in, appears to me, reasonable in the circumstances.

7. For the reasons above, the applications for review were dismissed.

Sgd:

Choo Han Teck

Judicial Commissioner

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