

Attorney-General v Lai Swee Lin Linda
[2015] SGHC 269

Case Number : Originating Summons No 1014 of 2014
Decision Date : 19 October 2015
Tribunal/Court : High Court
Coram : Woo Bih Li J
Counsel Name(s) : Zheng Shaokai, Ruth Yeo and Germaine Boey (Attorney-General's Chambers) for the plaintiff; The defendant is in person.
Parties : Attorney-General — Lai Swee Lin Linda

Courts and Jurisdiction – Vexatious litigants

[LawNet Editorial Note: The appeal to this decision in Civil Appeal No 205 of 2015 was dismissed by the Court of Appeal on 5 September 2016. See [\[2016\] SGCA 54.](#)]

19 October 2015

Judgment reserved.

Woo Bih Li J:

Introduction

1 The defendant in Originating Summons No 1014 of 2014 (“OS 1014/2014”), Mdm Linda Lai Swee Lin (“Mdm Lai”), is no stranger to the court. She has a long history of legal proceedings against the Government and other related entities spanning over the last 15 years relating to the circumstances surrounding the termination of her employment with the Land Office of the Ministry of Law (“the Land Office”) in 1998. The Attorney-General (“AG”) seeks to put an end to this protracted litigation via OS 1014/2014, which is an application under s 74 of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed) (“SCJA”) for orders, *inter alia*, that:

(a) Mdm Lai shall not without the leave of the High Court commence legal proceedings in any court established by the SCJA or constituted under the State Courts Act (Cap 321, 2007 Rev Ed) with respect to matters or legal proceedings against the Government (whether in the name of the Public Service Commission (“PSC”), the AG or otherwise) in any way arising from and/or connected to:

- (i) Her employment at the Land Office from 28 November 1996 to 21 December 1998;
- (ii) The extension of her probationary period as Senior Officer Grade III retrospectively for one year with effect from 28 November 1997 to 27 November 1998;
- (iii) The termination of her said employment by the Senior Personnel Board F constituted under the Public Service (Special and Senior Personnel Boards) Order 1994 with effect from 21 December 1998;
- (iv) Her appeals to the Appeals Board constituted under the Public Service (Personnel Boards and Appeals Boards) Regulations 1994 (“Appeals Board”) and the PSC; and/or

(v) The subject matter of the legal proceedings enumerated in Appendix A, which is appended to this judgment; and

(b) Any such legal proceedings in any way arising from and/or connected to matters described in 1(a) above instituted by Mdm Lai in any court before the making of this order shall not be continued by her without such leave, and such leave shall not be given unless the High Court is satisfied that the proceedings are not an abuse of process of the court and that there is *prima facie* ground for the proceedings.

Background Facts

2 Mdm Lai was appointed as a Senior Officer Grade III at the Land Office on a one-year probationary period on 28 November 1996. This meant her probationary period was supposed to end on 27 November 1997. On 1 June 1998, Mdm Lai was informed by the then Commissioner of Lands that he would not be recommending her confirmation. Subsequently, Mdm Lai received a letter from the human resources division of the Land Office dated 19 August 1998 officially stating that she would not be confirmed in her appointment. The letter also informed Mdm Lai that her probation would retrospectively be extended for another year, *ie*, from 28 November 1997 to 27 November 1998. On 17 December 1998, Mdm Lai's employment was eventually terminated by the Senior Personnel Board F constituted under the Public Service (Special and Senior Personnel Boards) Order 1994 and she was given one month's remuneration in lieu of notice. Mdm Lai then appealed to the Appeals Board on 23 January 1999, but the Appeals Board turned down her appeal. On the advice of the Appeals Board, Mdm Lai further appealed to the PSC on 10 June 1999. However, that too was unsuccessful.

3 Dissatisfied with the outcome, Mdm Lai then filed Originating Summons No 96 of 2000 ("OS 96/2000") on 20 January 2000 for leave to bring judicial review proceedings against the PSC. Mdm Lai sought quashing orders against (i) the decision of the Commissioner for Lands/Permanent Secretary of Law and/or such other Appointing Authority to extend her probationary period retrospectively for one year; (ii) the decision of the Senior Personnel Board F terminating her employment as Senior Officer Grade III with effect from 21 December 1998; and (iii) PSC's decision to refuse her appeals. She also sought a mandatory order to reinstate her as a confirmed Senior Officer Grade III. OS 96/2000 was first heard by MPH Rubin J, who granted Mdm Lai leave to seek the quashing orders only (see *Linda Lai Swee Lin v Public Service Commission* [2000] SGHC 162). The PSC appealed against Rubin J's decision in Civil Appeal No 69 of 2000 ("CA 69/2000") and the Court of Appeal ("CA") allowed the appeal, holding that the matters Mdm Lai complained of involved private rights arising from the contract of employment between Mdm Lai and the Government (through the PSC) and were not susceptible to judicial review (see *Public Service Commission v Lai Swee Lin Linda* [2001] 1 SLR(R) 133).

4 Mdm Lai subsequently commenced Suit No 995 of 2004 ("S 995/2004") on 17 December 2004 against the Government for, *inter alia*, damages arising from the alleged wrongful termination of her employment contract. She also sought declarations that her purported termination was illegal, void and inoperative, and that she be reinstated as a Senior Officer Grade III. [\[note: 1\]](#) Before S 995/2004 was heard, Mdm Lai was involved in a series of applications and proceedings.

5 The first was an application (Summons-in-Chambers No 123 of 2005) brought by the AG to strike out certain parts of Mdm Lai's Statement of Claim in S 995/2004 as scandalous and constituting an abuse of process of the court because Mdm Lai had attempted to re-litigate matters which had been determined in OS 96/2000. Assistant Registrar Yeong Zee Kin ("AR Yeong") heard the application and allowed it. AR Yeong's decision was substantially affirmed by Tan Lee Meng J on appeal in Registrar's Appeal No 66 of 2005 ("RA 66/2005").

6 On 11 April 2005, the AG also served a statutory demand on Mdm Lai for payment of the costs that she had been ordered to pay in OS 96/2000. Mdm Lai then applied to set aside or stay the statutory demand in Originating Summons in Bankruptcy No 38 of 2005 ("OSB 38/2005"). The setting aside/stay application was heard by Assistant Registrar Joyce Low ("AR Low") who dismissed it. AR Low's decision was affirmed by Tan J on appeal (see *Lai Swee Lin Linda v Attorney-General* [2005] SGHC 182).

7 Mdm Lai then appealed against both decisions made by Tan J in RA 66/2005 (the striking-out order against Mdm Lai's Statement of Claim in S 995/2004) and OSB 38/2005 (the order refusing a stay of the statutory demand the AG served on Mdm Lai), consolidated in a single notice of appeal in Civil Appeal No 87 of 2005 ("CA 87/2005"). In response, the AG filed Notice of Motion No 81 of 2005 to set aside Mdm Lai's appeal against the striking-out order. The CA allowed the AG's application and held that Mdm Lai's attempt to consolidate the two appeals was "irretrievably flawed" (*Lai Swee Lin Linda v Attorney-General* [2006] 2 SLR(R) 565 at [19]). The CA also observed at [50] and [51] that insofar as Mdm Lai's Statement of Claim in S 995/2004 pertained to her claim for costs in OS 96/2000 and judicial review, those matters have already been determined by the CA in previous proceedings and were *res judicata*. Mdm Lai was essentially attempting to re-litigate these issues and this was an abuse of the process of the court. CA 87/2005 (in respect of the remaining order refusing a stay) was eventually deemed withdrawn upon Mdm Lai's failure to file and tender her Record of Appeal, Core Bundle and Appellant's Case within the stipulated deadline.

8 Approximately a year later, Mdm Lai filed her amended Statement of Claim in S 995/2004 on 8 February 2007. At a pre-trial conference, Assistant Registrar Kenneth Yap ("AR Yap") ruled that S 995/2004 had been deemed discontinued pursuant to O 21 r 2(6) of the Rules of Court (Cap 322, R 5, 2006 Rev Ed) ("2006 ROC") because neither party had taken any steps in the proceedings between August 2005 and August 2006. AR Yap directed the amended Statement of Claim to be expunged and directed Mdm Lai to file an application to reinstate S 995/2004, failing which no further document was to be accepted for filing. [\[note: 2\]](#) Mdm Lai appealed AR Yap's order. Tay Yong Kwang J heard the appeal in Registrar's Appeal No 61 of 2007 ("RA 61/2007") and dismissed it (see *Lai Swee Lin Linda v Attorney-General* [2008] 2 SLR(R) 794). [\[note: 3\]](#)

9 On 8 August 2007, Mdm Lai filed Summons No 3473 of 2007 which appeared to be an application seeking an extension of time to appeal against Tay J's decision in RA 61/2007. [\[note: 4\]](#) This application was dismissed by Lai Siu Chiu J. [\[note: 5\]](#) Mdm Lai then took out Originating Summons No 1369 of 2007 before the CA seeking, *inter alia*, leave for an extension of time to file an appeal against Tay J's decision. The CA granted Mdm Lai's application for an extension of time and Mdm Lai proceeded to file Civil Appeal No 134 of 2007 ("CA 134/2007") on 6 November 2007. However, Mdm Lai failed to file her Record of Appeal, Appellant's Case and Core Bundle by the stipulated deadline and her appeal was deemed withdrawn pursuant to O 57 r 9(4) of the 2006 ROC. [\[note: 6\]](#)

10 On 25 June 2008, Mdm Lai then filed Summons No 2767 of 2008 to reinstate the action brought in S 995/2004. Her application went before Belinda Ang Saw Ean J who allowed the reinstatement (see *Lai Swee Lin Linda v Attorney-General* [2009] SGHC 38) and ordered that Mdm Lai's amended Statement of Claim filed on 8 February 2007 be allowed to stand. The AG was also directed to file and serve its Defence by 8 October 2008, which the AG complied with.

11 On 5 December 2008, Mdm Lai applied for summary judgment in S 995/2004 (Summons No 5365 of 2008). [\[note: 7\]](#) Lai J heard the application and dismissed it on 20 July 2009. [\[note: 8\]](#) S 995/2004 eventually proceeded to trial before Lai J on 16, 19 and 20 August 2010. Lai J dismissed S 995/2004

on the ground that Mdm Lai's termination had been in accordance with the terms of her employment contract (see *Lai Swee Lin Linda v Attorney-General* [2010] SGHC 345 at [42]). Lai J also held that the Land Office had valid and cogent reasons for terminating Mdm Lai's employment, which were that Mdm Lai's work performance was not up to expectations and that she was unable to work well with her colleagues (at [78]–[83]). Mdm Lai did not appeal Lai J's decision.

12 On 23 November 2011, Mdm Lai filed Summons No 5332 of 2011 ("SUM 5332/2011") for an order that the CA "reopen[s] and rehear[s] its earlier decisions" in CA 69/2000, CA 87/2005 and the decision of Lai J in S 995/2004 ("the Three Decisions"). SUM 5332/2011 was heard and dismissed by Choo Han Teck J (see *Lai Swee Lin Linda v Attorney-General* [2012] SGHC 47). Choo J held that Mdm Lai had failed to establish any basis for the Three Decisions to be reopened or reheard and that, contrary to her allegations, there was insufficient evidence to indicate that either Lai J or the CA was "biased, unfair, or that [Mdm Lai] was not given a full hearing."

13 Mdm Lai then filed Civil Appeal No 31 of 2012 ("CA 31/2012") against Choo J's decision on 2 April 2012. There was some correspondence between the Registry of the Supreme Court ("the Registry") and Mdm Lai between April and December 2012 in relation to whether Mdm Lai was required to tender four hardcopies of her Core Bundle and Skeletal Case and to pay the court fees of \$2,400 for the Core Bundle. In a letter dated 11 July 2012 from the Registry, Mdm Lai was directed to tender the documents and make payment of the court fees by 15 August 2012, the non-compliance of which would lead to the scheduled hearing for CA 31/2012 being vacated. Mdm Lai was also informed that the "appropriate orders (including an unless order for compliance failing which the appeal may be struck off) may be made if there continue[d] to be non-compliance with [the directions] after the vacation of the hearing." [\[note: 9\]](#) Mdm Lai failed to comply with the directions and the hearing was duly vacated. Subsequently, at a pre-trial conference before Assistant Registrar Shaun Leong ("AR Leong") on 10 September 2012, Mdm Lai informed the court that she would comply with the directions. However, Mdm Lai had yet to comply by the next pre-trial conference before AR Leong on 10 December 2012. This led AR Leong to order that unless Mdm Lai complied with the directions by 5pm on 12 December 2012, CA 31/2012 would be struck out without any further order ("the Unless Order").

14 On 12 December 2012 at about 4pm, Mdm Lai purported to comply with the Unless Order by tendering hardcopies of her Core Bundle. However, AR Leong rejected those hardcopies as they did not correspond with the softcopies that Mdm Lai had previously submitted to the court on 1 June 2012. Further, Mdm Lai had yet to pay the court fees for the Core Bundle. Accordingly, CA 31/2012 was struck out pursuant to the Unless Order.

15 Instead of appealing against AR Leong's Unless Order which resulted in the striking out of CA 31/2012, Mdm Lai filed Originating Summons No 1246 of 2013 ("OS 1246/2013") on 10 December 2013. OS 1246/2013 did not set out clear prayers for relief, but rather prayed for the CA to rule on a number of questions of law in relation to, *inter alia*, the Unless Order and the termination of her employment with the Land Office. The AG applied to strike out OS 1246/2013 in its entirety in Summons No 2297 of 2014 ("SUM 2297/2014") on the grounds that OS 1246/2013 (a) disclosed no reasonable cause of action; (b) was scandalous, frivolous and vexatious; and/or (c) was otherwise an abuse of process of the court. On 31 October 2014, Assistant Registrar James Elisha Lee ("AR Lee") allowed the AG's application.

16 On the same day, *ie*, 31 October 2014, the AG filed OS 1014/2014, which is the present application. Mdm Lai then filed Summons No 5748 of 2014 ("SUM 5748/2014") on 14 November 2014. Under SUM 5748/2014, Mdm Lai sought to appeal AR Lee's judgment. She also sought discovery of certain documents pertaining to the circumstances of her termination.

17 Both OS 1014/2014 and SUM 5748/2014 were fixed to be heard by me on the same date. I decided to hear SUM 5748/2014 before hearing OS 1014/2014. After hearing the parties on 26 February 2015 and 14 July 2015, I dismissed both Mdm Lai's prayers in SUM 5748/2014. Mdm Lai has appealed against my decision in respect of SUM 5748/2014 and I am giving separate grounds of decision for that. This judgment pertains only to OS 1014/2014.

18 For ease of reference, I have summarised the abovementioned proceedings in Schedule A attached to this judgment.

19 Before I proceed to consider OS 1014/2014 proper, it bears mentioning that Mdm Lai had asked for me to be recused after I had dismissed her application for discovery under SUM 5748/2014. She made her request again as she was going through her arguments for her appeal against AR Lee's decision and during the course of her submissions in OS 1014/2014 when I refused her repeated requests for discovery. Mdm Lai gave no valid reason for her requests for my recusal. It appeared to me that she made her requests only because I had dismissed her discovery application. This is not a valid ground for me to recuse myself and I therefore refused her requests.

Arguments

20 The AG made the following arguments in support of its application under s 74(1) of the SCJA:

- (a) Mdm Lai has repeatedly and with dogged insistence instituted proceedings to re-open matters that were *res judicata* so long as the decision was one which she deemed was not in her favour; [\[note: 10\]](#)
- (b) It was vexatious for Mdm Lai to institute multiple fresh proceedings without reasonable basis and which effectively disregarded previous court decisions; [\[note: 11\]](#)
- (c) Mdm Lai has repeatedly made scandalous allegations against her former superiors for the collateral purpose of garnering sympathy for herself; [\[note: 12\]](#)
- (d) Mdm Lai has made serious allegations of bias and lack of transparency against the judiciary despite these allegations being irrelevant to the application and the absence of evidence given in support of these allegations; [\[note: 13\]](#)
- (e) Mdm Lai has brought her applications in a manner that disregarded the rules of civil procedure and court directions; [\[note: 14\]](#) and
- (f) The court should exercise its discretion to make an order in terms as Mdm Lai's claims only served to tax the resources of the court and her own. [\[note: 15\]](#)

21 Mdm Lai argued that an order under s 74(1) should not be made against her for the following reasons:

- (a) She was pursuing this matter as her career was compromised and her reputation was tarnished when she was wrongly accused of being incompetent; [\[note: 16\]](#)
- (b) She will be made a bankrupt if she did not pursue the matter; [\[note: 17\]](#)

(c) She wished to improve the Singapore system and to benefit Singaporeans by righting the alleged wrongs of the Public Service; [\[note: 18\]](#)

(d) The following issues have not been decided on the merits: [\[note: 19\]](#)

(i) Whether the facts of her case fall within the ambit of administrative law;

(ii) Whether the retrospective backdating and extension of her probation period by another year was wrongful;

(iii) Whether she was a confirmed or unconfirmed officer when her services were terminated;

(iv) Whether the Senior Personnel Board F had the jurisdiction to terminate her services and consequently, whether the termination of her services was wrongful; and

(e) The CA's decision that her claim did not lie in administrative law was egregious. [\[note: 20\]](#)

My Decision

Principles applicable in the present case

22 Section 74 of the SCJA provides as follows:

Vexatious litigants

74.—(1) If, on an application made by the Attorney-General, the High Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings in any court or subordinate court, whether against the same person or against different persons, the High Court may, after hearing that person or giving him an opportunity of being heard, order that —

(a) no legal proceedings shall without the leave of the High Court be instituted by him in any court or subordinate court; and

(b) any legal proceedings instituted by him in any court or subordinate court before the making of the order shall not be continued by him without such leave, and such leave shall not be given unless the High Court is satisfied that the proceedings are not an abuse of the process of the court and that there is *prima facie* ground for the proceedings.

(2) If the person against whom an order is sought under subsection (1) satisfies the High Court that he lacks the means to retain an advocate and solicitor, the High Court shall assign one to him.

(3) No appeal shall lie from an order under subsection (1) refusing leave for institution or continuance of legal proceedings.

(4) A copy of any order under subsection (1) shall be published in the Gazette.

(5) In this section, "legal proceedings" includes any proceedings, process, action, application or appeal in any civil matter or criminal matter.

23 Section 74(1) aims at preventing an abuse of the process of the courts. Vexatious litigation causes problems because it diverts the court's resources from dealing with meritorious disputes. It also diverts the attention and resources of the respondent and is oppressive.

24 The mere institution of vexatious proceedings does not in itself bring s 74(1) into play. The respondent must have "habitually and persistently and without any reasonable ground instituted vexatious legal proceedings". The terms "habitually" and "persistently" have been considered by the High Court previously in *Attorney-General v Tee Kok Boon* [2008] 2 SLR(R) 412 ("*Tee Kok Boon*") (at [105]) and *Attorney-General v Mah Kiat Seng* [2013] 4 SLR 788 ("*Mah Kiat Seng*") (at [15]). The term "habitually" suggests that the institution of legal proceedings occurs as a matter of course, or almost automatically when the appropriate conditions, whatever they may be, exist. The term "persistently" suggests determination, and continuing in the face of difficulty or opposition, with a degree of stubbornness. Although I have given some broad definitions, I emphasise that the terms "habitually" and "persistently" are ordinary English expressions which do not require precise elaboration and the definitions I have given should not be taken to be absolute or of universal application. The term "vexatious" also need not be given an exhaustive definition. It is presently sufficient to say that proceedings are regarded as "vexatious" if, irrespective of the motive of the litigant, they are so obviously untenable as to be utterly hopeless and only serve to tax the resources of the court. They can also be vexatious if they are brought for collateral purposes and not for the purpose of having the court adjudicate on legitimate issues.

25 The following principles are also applicable to an application under s 74(1) of the SCJA:

(a) The court has to take an objective view of the facts. It is immaterial that the respondent acted in good faith and/or honestly believed in the correctness and justice of his cause (see *Mah Kiat Seng* at [17]).

(b) The court should also take a broad view of the legal proceedings instituted by the respondent. This means that the court should consider the general character and result of all those proceedings, and not merely whether there may or may not have been possible causes of action in some of those proceedings (see *Mah Kiat Seng* at [17]).

(c) The number of proceedings instituted by the respondent may well be a factor to be taken into account in the question of whether those proceedings were instituted "habitually" or "persistently", but it is not determinative, nor is it necessarily an important factor (see *Mah Kiat Seng* at [16]).

(d) Proceedings initiated before the CA and interlocutory proceedings can be taken into account when considering whether an application under s 74(1) is made out (see *Tee Kok Boon* at [94] and [99]).

(e) In civil cases, the costs factor can only go so far as a deterrent and there may well be cases where it will not deter a vexatious litigant. Furthermore, the victim will find little comfort even if he is reimbursed costs which he should not have had to incur in the first place (*Tee Kok Boon* at [41]).

(f) The court retains a residual discretion to decline to make an order under s 74(1) of the SCJA.

26 Lastly, it is important to note that an order under s 74(1) of the SCJA does not deprive a

litigant of the right to access to justice absolutely, but qualifies the exercise of that right. He can still do what he proposes to do as long as he obtains leave of the court to do so. The process of obtaining leave is a sieve and not an absolute prohibition.

Whether Mdm Lai's conduct is caught by s 74(1) of the SCJA

27 I turn now to apply the definitions and principles set out above to the facts before me.

28 Mdm Lai has been instituting legal proceedings in relation to the circumstances surrounding the termination of her employment from the Land Office for the past 15 years. In total, her case has come up ten times before the High Court and five times before the CA. She has also had a significant number of hearings before the assistant registrars of the Supreme Court. The total number of proceedings brought by a litigant, however, is not determinative of the question of whether an order under s 74(1) of the SCJA should be made. The more crucial question is which of these proceedings are vexatious, if any, and if there are proceedings which are vexatious, whether the litigant's conduct in bringing these vexatious proceedings may properly be described as "habitual" and "persistent".

29 The first application Mdm Lai brought was for leave to bring judicial review proceedings against the PSC in OS 96/2000. At that time, she was represented by counsel. She was initially partially successful before the High Court but the CA eventually held that the matters Mdm Lai complained of were not susceptible to judicial review. As events demonstrated, Mdm Lai refused to accept this ruling of the CA. Bolstered by various opinions from academics and practitioners that her claim came within the ambit of administrative law, she was convinced that the CA was incorrect. Thus, she found other means to have this issue re-litigated.

30 First, when Mdm Lai subsequently filed S 995/2004 (her action against the Government based on her employment contract), she included paragraphs pertaining to judicial review in her Statement of Claim despite the CA having already held that judicial review was unavailable. The AG accordingly applied to strike out those paragraphs. The issue of striking out eventually came on appeal before the CA in CA 87/2005. The CA held that it had already decided that Mdm Lai was not entitled to seek relief under the rubric of administrative law and her rights lay, if at all, in the sphere of contract law. The issue of whether or not judicial review was available in respect of the termination of Mdm Lai's employment was therefore *res judicata* and her attempt in S 995/2004 to essentially re-litigate this issue was an "abuse of the process of court". The CA thus maintained the High Court's decision to strike out those paragraphs.

31 Further, when Mdm Lai filed her amended Statement of Claim in S 995/2004 on 8 February 2007, she continued to insert paragraphs and clauses pertaining to judicial review with the view to revive her action based on judicial review. Mdm Lai admitted as such. As she stated in her latest affidavit filed on 9 April 2015 ("the Defendant's 8th Affidavit"), "[she is] still pursuing judicial review in this case". [\[note: 21\]](#) Mdm Lai clearly refused to accept that the CA had held (not once, but twice) that judicial review was not available and that this issue was now *res judicata*. She was determined to have this issue re-litigated and I will come to her further attempts to do so shortly.

32 Mdm Lai's claim under her employment contract in S 995/2004 finally went to trial in 2010. During the trial, she displayed an intransigent attitude towards the conduct of her case and even to the court. In *Lai Swee Lin Linda v Attorney-General* [2010] SGHC 345, Lai J noted at [31] and [32]:

31. On 19 August 2010, [Mdm Lai] should have proceeded with her cross-examination of Liew. However, when invited to do so by the court, [Mdm Lai] refused. Instead, she read loudly from a document she had prepared. She persisted in doing so despite advice by the court that it was

not the time for submissions and she should resume her cross-examination of Liew and despite admonitions that the court could and would find her in contempt. In view of [Mdm Lai's] obstinate refusal to resume her cross-examination of Liew, the court released Liew.

32. [Mdm Lai] persisted in her conduct for the [Attorney-General's] five remaining witnesses. ... These witnesses affirmed their affidavits on the stand. When [Mdm Lai] was invited to cross-examine each witness in turn, she responded by reading the same document in [31] and refused to answer the court on whether she wished to cross-examine them. Consequently, all five witnesses were released without cross-examination. ...

33 Lai J eventually dismissed Mdm Lai's claim under contract. At the end of her judgment, she noted that the AG had made an open offer to Mdm Lai to pay Mdm Lai six months' salary amounting to \$28,600 notwithstanding that it considered Mdm Lai's claim to be meritless. Lai J encouraged Mdm Lai to accept the offer and move on with her life. It appeared that Mdm Lai refused to do so.

34 Instead of filing an appeal against Lai J's decision, Mdm Lai insisted on re-litigating her claim both in administrative law and contract law by filing SUM 5332/2011 where she sought an order for the CA to reopen and rehear its earlier decisions in CA 69/2000, CA 87/2005 and Lai J's decision in S 995/2004. Choo J dismissed the application and observed that (*Lai Swee Lin Linda v Attorney-General* [2012] SGHC 47 at [4]–[5]):

4 ... [N]o grounds or basis were given by [Mdm Lai] as to why these matters should be re-heard. Citing the *Lee Tat* case on the power of the Court of Appeal to re-hear a case is neither a sufficient nor adequate basis to have a concluded case "re-opened".

5 ... In any event, nothing raised by the plaintiff before me is new. All her complaints related to her inability to have a fair and open hearing as to whether her contract of employment had been lawfully terminated. This central issue was raised, heard and dismissed at many levels from the many directions [Mdm Lai] had taken in order to advance her cause.

35 Undeterred by this, Mdm Lai appealed against Choo J's decision. However, as I mentioned at [14] above, Mdm Lai's appeal was struck out pursuant to the Unless Order made by AR Leong. Instead of filing an appeal against AR Leong's Unless Order which resulted in the striking out of her appeal against Choo J's decision, Mdm Lai filed OS 1246/2013 which sought, *inter alia*, a declaration or ruling from the CA that the Unless Order was illegal, wrongful, *ultra vires* and void, and that the CA revisit previous numerous rulings as between Mdm Lai and the AG on the ground that those decisions were "egregious" as the full facts of her case had not "come to light".

36 In my view, OS 1246/2013 was yet another attempt by Mdm Lai to reopen matters which were *res judicata*. Insofar as OS 1246/2013 related to her application for judicial review, the CA had already conclusively held that judicial review was not available and those issues cannot be re-litigated. Insofar as OS 1246/2013 related to Mdm Lai's claim in contract, Lai J had already decided the claim in S 995/2004. If Mdm Lai was unhappy with the result in S 995/2004, the only recourse available to her was to file an application for an extension of time to appeal. Similarly, insofar as OS 1246/2013 pertained to AR Leong's Unless Order, Mdm Lai's recourse was to file an application for an extension of time to appeal and not file an originating summons for a ruling or declaration by the CA that the Unless Order was illegal, wrongful, *ultra vires* and void.

37 Mdm Lai argued that the reason why she did not file an appeal against both Lai J's decision and AR Leong's Unless Order was because both Lai J and AR Leong were allegedly biased. [\[note: 22\]](#) She even alleged that the Supreme Court as an entity was biased. I do not accept her reason. Mdm Lai

cited a whole list of “proof/evidence” in support of her allegations in the Defendant’s 8th Affidavit, such as how the AG was allegedly allowed four years to file his Defence in S 995/2004 whereas she was not given extra time to comply with the CA’s directions in CA 31/2012; how the courts have ignored the opinions of the experts which support her case; how she was repeatedly asked to mediate and settle; and how her formal complaint to the former Chief Justice was dismissed and her request for AR Lee to be recused for her case was refused. [\[note: 23\]](#) She also alleged that all three present judges of the CA have conflicts of interest in her case and the only judge who did not was then Judge of Appeal V K Rajah. However, he was appointed AG in 2014, right before OS 1246/2013 was due to be heard, and this, according to Mdm Lai, “reflected bad faith on the part of the Government.” [\[note: 24\]](#)

38 It is a very serious thing to raise allegations against the impartiality of the Supreme Court and its officers. I have considered the “evidence” that Mdm Lai has raised and there is nothing to indicate that Lai J, AR Leong or any other officer of the Supreme Court was biased, unfair, or did not give Mdm Lai a full hearing. Her allegations are completely baseless and are scandalous. It appears that she has raised these allegations of bias simply because she had obtained unfavourable decisions or her requests were not entertained by the court.

39 If Mdm Lai was of the opinion that the judge or assistant registrar who heard and decided her matter was biased, then the proper course of action was for her to appeal that decision and not file applications to “reopen” or “rehear” the decision. If she thinks that the CA, or the entire judiciary for that matter, were biased, such that it was pointless for her to appeal, then it makes no sense for her to continue making applications to have the CA reopen the previous decisions made against her. In my view, Mdm Lai is simply attempting to re-litigate her claim time and again, be it in judicial review or in contract, despite knowing that the court has ruled determinatively on them, in the hope that some court may subsequently rule in her favour. She has no basis for doing so other than her stubborn refusal to accept the court’s decisions as final. Although Mdm Lai was not represented by counsel in many of these proceedings, she is legally trained and should know at the very least that issues that have been decided by the court are *res judicata* and cannot be re-litigated. Her attempts disclose a complete disregard to the principle of finality and are vexatious.

40 To make matters worse, Mdm Lai has appealed every single decision that dismissed her attempts to re-litigate her application for judicial review and the issues related thereto (see CA 87/2005, where Mdm Lai appealed Tan J’s decision to strike out portions of her Statement of Claim in S 995/2004 that pertained to judicial review; CA 31/2012, where Mdm Lai appealed Choo J’s decision to dismiss her application in SUM 5332/2011 to “reopen” and “rehear” previous decisions heard by the CA and the High Court; and SUM 5748/2014, where Mdm Lai appealed AR Lee’s decision to strike out OS 1246/2013 in its entirety because, amongst other reasons, it attempted to reopen issues pertaining to judicial review). Time and again, the High Court and the CA have informed Mdm Lai that these issues cannot be re-litigated. It should have become abundantly clear to Mdm Lai that it was wholly untenable to do so. Yet, Mdm Lai persisted in filing her appeals. Having said that, however, I emphasise that every litigant is entitled to pursue an appeal so long as the law provides him or her with that right. But when one does so as a matter of course without due regard to the principle of *res judicata*, such conduct may well qualify as being vexatious.

41 Finally, I would add that many of Mdm Lai’s applications have been brought in a manner that disregarded the rules of civil procedure and the court’s directions. For example, Mdm Lai attempted to consolidate two completely unrelated appeals into one in CA 87/2005. The CA commented that (*Lai Swee Lin Linda v Attorney-General* [2006] 2 SLR(R) 565 at [6]):

... [Mdm Lai] in the present appeal clearly contravened several rules of civil procedure. Indeed, we found that such contravention, if sanctioned by this court, would be productive of substantive injustice with regard both to the specific issues in the present appeal in particular and to the respective rationale underlying the relevant rules of civil procedure in general. ...

In CA 31/2012, Mdm Lai refused to comply with the CA's directions to tender four hard copies of her Core Bundle and Skeletal Case and to pay the requisite filing fees despite being afforded numerous opportunities to do so. This led her appeal to be struck out pursuant to the Unless Order. AR Leong observed that it was not the case that Mdm Lai *could not* comply with the rules, but rather she *chose* not to comply with them and was "symptomatic of a complete indifference for the court rules and procedure." [\[note: 25\]](#) A final example would be Mdm Lai's application for discovery in SUM 5748/2014. The documents Mdm Lai sought were documents that were related to the action in S 995/2004. If Mdm Lai desired to have discovery of these documents, then she should have filed an application for discovery in S 995/2004. She did not. To compound matters, even after I had dismissed her prayer for discovery in SUM 5748/2014, she repeatedly requested during the hearing of another prayer in SUM 5748/2014 and of the present application under s 74 of the SCJA for me to order discovery of the documents she had sought in SUM 5748/2014.

42 Mdm Lai argued that she had reasonable grounds for instituting all the legal proceedings she has brought thus far. She listed them in her skeletal submissions dated 9 April 2015 at para 6 and I have highlighted some of them in [21(a)]–[21(c)] above. In my view, the "reasonable grounds" that Mdm Lai has raised are merely her motives for instituting the legal proceedings. I appreciate that Mdm Lai may feel genuinely aggrieved by what had transpired. Indeed, she argued that she had no choice but to continue pursuing the matter as she was of the view that her career was compromised and her reputation was tarnished. She also felt the need to right the alleged wrongs of her superiors who terminated her employment as it was her "sincere wish to improve our system and to benefit Singaporeans." However, as I mentioned earlier, the court has to take an objective view of the facts. The phrase "reasonable grounds" under s 74(1) of the SCJA refers to the merit in the instituted proceeding and not the motive of the respondent for bringing the proceeding. Mdm Lai's motives in bringing these proceedings are immaterial to the present analysis.

43 In summary, I am satisfied that the following proceedings were instituted by Mdm Lai without reasonable ground in that she had not furnished any valid basis to re-litigate matters that have already been decided, and are vexatious in that they were obviously untenable:

- (a) S 995/2004, insofar as part of the Statement of Claim filed by Mdm Lai attempted to re-litigate matters pertaining to judicial review;
- (b) SUM 5332/2011, as it was an attempt by Mdm Lai to re-litigate her claims in judicial review and contract which are *res judicata*;
- (c) OS 1246/2013, as it was another attempt by Mdm Lai to re-litigate her claims in judicial review and contract. Mdm Lai had also attempted to circumvent the proper process of filing an appeal against Lai J's decision in S 995/2004 and AR Leong's Unless Order; and
- (d) CA 87/2005, CA 31/2012 and SUM 5748/2014 as they are appeals by Mdm Lai against decisions that dismissed her attempts to re-litigate matters which are *res judicata*, ie, whether judicial review was available and her claim under her employment contract.

44 I am also satisfied that the abovementioned proceedings were brought "habitually" in that Mdm Lai instituted them almost as a matter of course. They were also brought "persistently" in that Mdm

Lai pursued them over an extended period of time (roughly 15 years) with a degree of stubbornness, unfazed by the obstacles she faced in succeeding on her applications. The passage of time has not lessened her determination to litigate her claim by even the slightest bit, and I have no doubt that she will continue to pursue it with single-mindedness in the future if nothing is done to deter such conduct.

45 Therefore, I am of the view that Mdm Lai's conduct and behaviour has satisfied s 74(1) of the SCJA in that she has "habitually and persistently and without any reasonable ground instituted vexatious legal proceedings" both in this court and in the CA.

Whether the court should exercise its discretion not to make the order

46 As previously mentioned at [25(f)], the court retains a discretion to decline making an order under s 74(1) of the SCJA despite the statutory requirements being satisfied. Such discretion is to be exercised keeping in mind the objective of the statutory provision, which is to ensure that judicial time and resources are not diverted away from potentially meritorious cases by persons pursuing vain causes. An order against a litigant under s 74(1) of the SCJA is thus for the protection of the court, in the interests of other people in society, especially the litigant's opponent, and for the benefit of the litigant himself. The following passage from a speech by the Right Hon Sir Anthony Clarke, MR, entitled "Vexatious Litigants & Access to Justice: Past, Present and Future" is particularly apposite:

Vexatious litigation poses problems for the courts and society at large. It can even be said to pose problems for the litigants who initiate such proceedings. It does so as it represents an inability to draw a rational and reasonable halt to a dispute which has been fairly and properly adjudicated, albeit the result of that adjudication was clearly not one the litigant firmly, perhaps too firmly, believed he deserved to achieve.

47 Mdm Lai alleged that certain issues pertaining to her claim in S 995/2004 have not been determined on the merits (at [21(d)] above) and therefore she should not be precluded from pursuing them. In my view, these issues have all been dealt with before and are caught by the doctrine of *res judicata*. Before I proceed with my analysis, I quote the following passage from Sir James Wigram VC in *Henderson v Henderson* (1843) 3 Hare 100, which was endorsed by the CA in *Lee Tat Development Pte Ltd v MCST Strata Title Plan No 301* [2009] 1 SLR(R) 875 at [58]:

... the Court requires the parties ... to bring forward their whole case, and will not (*except under special circumstances*) permit the same parties to open the same subject of litigation in respect of [a] matter which might have been brought forward as part of the subject in contest, but which was not brought forward, only because they have, from negligence, inadvertence, or even accident, omitted part of their case. The plea of *res judicata* applies, *except in special cases*, not only to points upon which the Court was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have brought forward at the time. [emphasis in original]

48 The first issue that Mdm Lai alleged had not been decided is whether the facts of Mdm Lai's case falls within the ambit of administrative law. This issue has undoubtedly been decided in the negative by the CA in *Public Service Commission v Lai Swee Lin Linda* [2001] 1 SLR(R) 133. In fact, that was the *ratio* of the decision.

49 The next two issues Mdm Lai raised were whether the retrospective backdating and extension of her probation period was wrongful and whether the termination of her services was wrongful. These

issues have also been dealt with in S 995/2004. At [20] of *Lai Swee Lin Linda v Attorney-General* [2010] SGHC 345, Lai J noted that the AG had conceded in that action that Mdm Lai was never informed by the Land Office of its decision to extend her probation period and that the Land Office had thereby breached the Government Instruction Manuals. Nonetheless, Lai J went on to hold at [95] as follows:

... I find that [Mdm Lai] had not been wrongfully terminated. Although the defendant had admittedly breached ... the Government [Instruction Manuals] ... [Mdm Lai] had not proven that she suffered any loss or damage by reason of those breaches.

Finally, Mdm Lai claimed that the issue of whether she was a confirmed or unconfirmed officer when her services were terminated has not been decided. Granted, this issue was not dealt with in Lai J's decision. However, that is simply because the action was not decided on that basis. In my view, this issue is one that, at the very least, "properly belonged to the subject of litigation" and Mdm Lai is precluded from raising it again. There are also no special circumstances warranting the court to hold otherwise.

50 Mdm Lai also made the argument that s 74(1) of the SCJA provides her with an "opportunity to be heard", and if she was not provided with the documents that she sought in her discovery application under SUM 5748/2014, she will in effect be deprived of this "opportunity to be heard". [\[note: 26\]](#) This argument is without merit. First, Mdm Lai's application for discovery in SUM 5748/2014 has already been dismissed. Second, although s 74(1) provides that the court may make an order under that provision against a litigant "after hearing that person or giving him an opportunity of being heard", this refers to the litigant being heard or being given an opportunity to be heard in respect of the s 74(1) application *itself*. It does not provide an opportunity to the litigant to re-ventilate issues that have already been decided, which is clearly what Mdm Lai was seeking to do with the documents she sought in SUM 5748/2014. Presently, Mdm Lai had an entire half day hearing on 18 September 2015 where she went through her written submissions on OS 1014/2014 in great detail. Therefore, she has been "heard" and/or given "an opportunity of being heard" for the purposes of s 74(1).

51 Having considered all the circumstances, I am of the view that it is in the interest of the public and all the parties involved that an order under s 74(1) of the SCJA be made against Mdm Lai.

52 It must be remembered that the scope of the order sought presently does not extend to *all* legal proceedings that Mdm Lai might possibly bring. The order seeks only to restrict Mdm Lai's access to the courts in relation to those matters specified in the present originating summons. I also note that Mdm Lai technically still has not exhausted her right to appeal against both Lai J's decision in S 995/2004 and the Unless Order, though both appeals would be significantly out of time. If Mdm Lai genuinely desires to appeal Lai J's decision and the Unless Order and the striking out pursuant to the Unless Order, she may do so only if she is successful in obtaining the leave of the court to do so under s 74(1) of the SCJA. She may also have to apply for an extension of time where appropriate. An order under s 74(1) allows the court to ensure that Mdm Lai does not attempt to revive or reopen issues that have already been decided. It balances the public interest in preventing abuses of the court process and Mdm Lai's right to pursue those avenues of recourse which she is statutorily entitled to.

53 As Mdm Lai herself has stated, she has "[expended] considerable time, effort and money to file and pay substantial filing fees for pleadings, applications after applications, affidavits after affidavits and appeals after appeals, time and time again" resulting in her case "[coming] up 5 times before the CA ... 10 times before High Court Judges ... and 9 written judgments." It is apparent that Mdm Lai is unwilling or unable to come to terms with any decision of the court that goes against her. Her legal

tussle with the Government and the AG has not only impacted her psychologically and economically, it has taken up a substantial amount of the court's resources that could have been more effectively employed elsewhere. In my view, her legal battle has gone on for too long. It is in the interest of the court, society in general, the AG and Mdm Lai herself that I grant the AG's application. It is my sincerest hope and desire that this order will help Mdm Lai move on with her life.

Conclusion

54 I grant an order in terms for OS 1014/2014.

55 I understand that Mdm Lai has since appealed against my decision in SUM 5748/2014 to the CA. For the avoidance of doubt, that appeal is stayed unless Mdm Lai obtains leave from the High Court to continue her appeal under s 74(1)(b) or my present decision to make an order under s 74(1) is set aside.

56 I grant the parties liberty to apply.

57 If either party wishes to apply for any other consequential order, including costs, that party is to submit a written submission within 21 days from the date of this judgment.

Appendix A

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

Schedule A

Case Number	Summary
OS 96/2000 7 Aug 2000 (decision)	Mdm Lai's application for leave to bring judicial review proceedings against the PSC. Outcome: MPH Rubin J allowed Mdm Lai's application partially and granted leave to her to seek the quashing order only.
CA 69/2000 29 Jan 2001 (decision)	PSC's appeal against Rubin J's decision. Outcome: appeal allowed. Judicial review not available.
S 995/2004 24 Nov 2010 (decision)	Mdm Lai's claim under her employment contract. Outcome: Lai Siu Chiu J dismissed Mdm Lai's claim.
SIC 123/2005 23 Feb 2005 (decision)	AG's application to strike out parts of Mdm Lai's Statement of Claim in S 995/2004 that pertained to judicial review. Outcome: AR Yeong Zee Kin allowed the application.
RA 66/2005 5 Apr 2005 (decision)	Mdm Lai's appeal against AR Yeong's decision. Outcome: Tan Lee Meng J substantially affirmed AR Yeong's decision.
OSB 38/2005 1 Jun 2005 (decision)	Mdm Lai's application to set aside/stay the statutory demand served on her by the Attorney-General. Outcome: AR Joyce Low dismissed the application.
RA 153/2005 27 Sep 2005 (decision)	Mdm Lai's appeal against AR Low's decision. Outcome: Tan Lee Meng J dismissed the appeal
CA 87/2005 7 Dec 2005 (decision)	Mdm Lai's appeal against both of Tan J's decisions in RA 66/2005 and RA 153/2005.

NM 81/2005 7 Dec 2005 (decision)	<p>Attorney-General's application to set aside Mdm Lai's appeal against Tan J's decision in RA 66/2005.</p> <p>Outcome: CA allowed the Attorney-General's application.</p> <p>CA 87/2005 in respect of Mdm Lai's remaining appeal against Tan J's decision in RA 153/2005 eventually deemed withdrawn because Mdm Lai failed to file requisite documents.</p>
RA 61/2007 31 Jan 2008 (decision)	<p>Mdm Lai's appeal against AR Kenneth Yap's decision that S 995/2004 was deemed discontinued.</p> <p>Outcome: Tay Yong Kwang J dismissed the appeal.</p>
SUM 3473/2007 21 Aug 2007 (decision)	<p>Mdm Lai's application for an extension of time to appeal Tay J's decision.</p> <p>Outcome: Lai Siu Chiu J dismissed the application.</p>
OS 1369/2007 26 Oct 2007 (decision)	<p>Mdm Lai's application to the CA seeking leave for an extension of time to appeal Tay J's decision.</p> <p>Outcome: CA granted Mdm Lai's application.</p>
CA 134/2007 23 May 2008 (appeal deemed withdrawn)	<p>Mdm Lai's appeal against Tay J's decision.</p> <p>Eventually deemed withdrawn because Mdm Lai failed to file requisite documents.</p>
SUM 2767/2008 17 Feb 2009 (decision)	<p>Mdm Lai's application to reinstate S 995/2004.</p> <p>Outcome: Belinda Ang Saw Ean J allowed the reinstatement.</p>
SUM 5365/2008 20 Jul 2009 (decision)	<p>Mdm Lai's application for summary judgment in S 995/2004.</p> <p>Outcome: Lai Siu Chiu J dismissed the application.</p> <p>Note: S 995/2004 was heard and dismissed in 2010.</p>

SUM 5332/2011 6 Mar 2012 (decision)	Mdm Lai's application for an order that the CA "reopen and rehear its earlier decisions" in CA 69/2000, CA 87/2005 and Lai J's decision in S 995/2004. Outcome: Choo J dismissed the application.
CA 31/2012 12 Dec 2012 (appeal struck out)	Mdm Lai's appeal against Choo J's decision. Appeal was struck out pursuant to AR Leong's Unless Order.
OS 1246/2013 31 Oct 2014 (OS struck out)	Mdm Lai's application for the CA to rule of a number of questions of law in relation to, <i>inter alia</i> , the Unless Order and the termination of her employment.
SUM 2297/2014 31 Oct 2014 (decision)	The Attorney-General's application to strike out OS 1246/2013 in its entirety. Outcome: AR James Elisha Lee allowed the application.
SUM 5748/2014 26 Feb; 14 Jul 2015 (decision)	Mdm Lai's application for discovery of certain documents and her appeal against AR Lee's decision to strike out OS 1246/2013. Outcome: Woo Bih Li J dismissed her application for discovery and her appeal against AR Lee's decision.
OS 1014/2014	The Attorney-General's application under s 74 of the SCJA.

[\[note: 1\]](#) 1st Affidavit of Boey Yi Ling Germaine ("Pf's 1st Affidavit") at p 87.

[\[note: 2\]](#) *Ibid* at p 167.

[\[note: 3\]](#) *Ibid* at p 169.

[\[note: 4\]](#) *Ibid* at p 179.

[\[note: 5\]](#) *Ibid* at p 184.

[\[note: 6\]](#) *Ibid* at p 191.

[\[note: 7\]](#) *Ibid* at p 200.

[\[note: 8\]](#) *Ibid* at p 202.

[\[note: 9\]](#) *Ibid* at p 324.

[\[note: 10\]](#) Attorney-General's Submissions ("Pf Submissions") at para 9.

[\[note: 11\]](#) Pf Submissions at para 11.

[\[note: 12\]](#) Pf Submissions at para 12(a).

[\[note: 13\]](#) Pf Submissions at para 12(b).

[\[note: 14\]](#) Pf Submissions at para 12(c).

[\[note: 15\]](#) Pf Submissions at paras 13 and 14.

[\[note: 16\]](#) Linda Lai's Submissions ("Df Submissions") at para 6(1).

[\[note: 17\]](#) Df Submissions at para 6(3).

[\[note: 18\]](#) Df Submissions at paras 6(11) and 6(40).

[\[note: 19\]](#) Df Submissions at para 6(29).

[\[note: 20\]](#) Df Submissions at para 6(31)

[\[note: 21\]](#) 8th Affidavit of Linda Lai's filed on 9 April 2015 ("Df's 8th Affidavit") at paras 9–11.

[\[note: 22\]](#) Df's 8th Affidavit at paras 23–49 and 50–66.

[\[note: 23\]](#) *Ibid.* at paras 67–127.

[\[note: 24\]](#) *Ibid.* at paras 134–136.

[\[note: 25\]](#) Pf's 1st Affidavit at p 384, paras 12 and 13.

[\[note: 26\]](#) Mdm Lai's Skeletal Submissions for SUM 5748/2014 which she referred to in her letter to the court dated 4 October 2015 at paras 67–85.