

Aamna Taseer v Shaan Taseer and others
[2012] SGHC 32

Case Number : Originating Summons No 866 of 2011
Decision Date : 10 February 2012
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Daniel Chia and Emily Choo (Stamford Law Corporation) for the plaintiff; Sim Bock Eng, Chloe Lee and Joel Chng (WongPartnership LLP) for the defendants.
Parties : Aamna Taseer — Shaan Taseer and others

Land

[LawNet Editorial Note: The appeal to this decision in Civil Appeal No 22 of 2012 was dismissed by the Court of Appeal on 23 July 2012. See [\[2012\] SGCA 52.](#)]

10 February 2012

Judgment reserved.

Choo Han Teck J:

1 Salman Taseer, the Governor of Punjab, was assassinated on 4 January 2011. He was a Sunni Muslim and a citizen of Pakistan, as is his widow and second wife Aamna Taseer, the plaintiff. They have three children aged between 22 and 28. Salman Taseer divorced his first wife in 1983. The defendants are the three children from his marriage to the first wife. Salman Taseer's estate is the subject of litigation in Pakistan, and the defendants have obtained an injunction from the Pakistani Court restraining the plaintiff from disposing of all assets of Salman Taseer's estate until further order. The Pakistani Court order dated 29 September 2011 concluded with this qualification:

However, this order shall not be prejudiced to any legal/judicial proceedings going on in any court.

The order was clearly, at the least, a personal order binding the defendants named therein, which included the plaintiff and her three children. Mr Daniel Chia ("Mr Chia"), counsel for the plaintiff, submitted that the order made no claim to oust the jurisdiction of any other court, including this court, should it have jurisdiction to adjudicate on any property or rights of any of the claimants.

2 This application before me arose because Salman Taseer had purchased 82 Cove Drive, a property in Singapore, in his and the plaintiff's names. The property was purchased for S\$11m. According to Miss Sim Bock Eng ("Miss Sim"), counsel for the defendants, it is now worth S\$16m. The defendants had lodged a caveat against this property in Singapore citing the claim that they are beneficiaries to the property and that the plaintiff was holding the property on trust for Salman Taseer. The plaintiff filed this application for the defendants to show cause why the caveat should not be removed and an order for the defendants to remove the caveat if they failed to show that the caveat should remain.

3 Mr Chia's case was that the defendants have no legal standing to lodge the caveat. The law is that no one can lodge a caveat unless he has a "caveatable interest". Under the Torrens System, the caveatable interest arises out of an interest in the land. Only persons who have an interest in the

land itself may lodge a caveat. Mr Chia cited *Guardian, Trust, and Executors Company of New Zealand, Limited v Hall* [1938] NZLR 1020 ("*Guardian, Trust*") as authority for the proposition that "[u]ntil the residue of a deceased estate has been ascertained, a beneficiary entitled to a share in such residue is not 'entitled to or beneficially interested' in land forming part of that estate." This statement, if it represents the correct position in law so far as caveatable interest is concerned, is directly on point and would be highly persuasive to this court. Mr Chia augmented this point by referring to two more cases, namely *In re Savage's Caveat* [1956] NZLR 118; and *Gangemi v Gangemi* [2009] WASC 195, which support the principle expressed in *Guardian, Trust*.

4 Miss Sim, on the other hand, submitted that the equitable interest in 82 Cove Drive arose and vested in the defendants in this way. The property was truly the sole property of Salman Taseer even though it was purchased in the joint names of himself and the plaintiff. The defendants have, as both counsel accepted, a 40% interest in the value of the estate. Since they are beneficiaries who have an interest in the estate of Salman Taseer (which estate includes the property in Singapore) they have an interest in the property which entitles them to lodge a caveat. Miss Sim cited *Wong Moy (administratrix of the estate of Theng Chee Khim, deceased) v Soo Ah Choy* [1996] 3 SLR(R) 27 ("*Wong Moy*") in support. In this case, the Court of Appeal held that the appellant there had no equitable or beneficial interest in any particular asset comprised in that estate which was yet unadministered. The court held, however, that that did not prevent the beneficiary of such an estate from bringing an action to recover assets belonging to the estate under certain circumstances. In my view, this case does not assist the defendants. The circumstances in *Wong Moy* were significantly different in that the estate property had already been sold and the beneficiaries were only at liberty to commence proceedings against the estate from disposing the proceeds of sale until the claims against them were resolved. It was not an authority for holding that they had a caveatable interest.

5 Miss Sim also submitted that in order for the defendants to have access to the entire property, this court should find that any presumption of advancement in favour of the plaintiff wife has been rebutted. She argued that the property was purchased solely with Salman Taseer's money and that he had given instructions to his property agent to sell the property just three months before he was killed. More importantly, Miss Sim submitted that the presumption had been rebutted by the affidavits of the defendants stating that Salman Taseer never gave the plaintiff anything of value during their marriage. Various other assertions were made in those affidavits to the effect that there was no love between Salman Taseer and the plaintiff upon which the presumption could be maintained. Miss Sim submitted that there were no evidence against the defendants' assertions and thus this court must find that the presumption has been rebutted. I am of the view that the presumption cannot be rebutted on the basis of the allegations set out in the defendants' affidavits. Evidence tending to refute a presumption must generally be tested at trial. There is no reason why this case should be an exception. However, there is no other legal action between the parties in Singapore. This case is concerned strictly with the question of whether the defendants had a caveatable interest in the property.

6 Furthermore, as a matter of law, I find myself in full agreement with the authorities cited by Mr Chia in that only persons who have a direct interest in the property will have a caveatable interest in that property. The defendants had only a share in the assets of an unadministered estate and their claim is not a claim in respect of any specific property of the estate. It is a claim for a portion of the value of the estate. That is a different proposition altogether. The case of *Wong Moy* is of no assistance to the defendants as it merely affirmed the rights of beneficiaries to sue to protect the assets of the estate. It did not go so far as to say that the beneficiaries of an unadministered estate had a caveatable interest. These are two distinct concepts.

7 Since the defendants have failed to show any caveatable interest in 82 Cove Drive, I allow the

plaintiff's prayers 1 and 2 and will hear the question of costs at a later date.

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