

Liau Cheng Mee James & another v Liau Ee Ling Julie
[2013] SGHC 147

Case Number : Suit No 693 of 2012
Decision Date : 31 July 2013
Tribunal/Court : High Court
Coram : Chan Seng Onn J
Counsel Name(s) : Edmond Pereira (Edmond Pereira Law Corporation) for the plaintiffs; Lucy Netto (Netto & Magin LLC) for the defendant.
Parties : Liau Cheng Mee James & another — Liau Ee Ling Julie

Probate and Administration – Administration of Assets

31 July 2013

Chan Seng Onn J:

1 This case concerned the estate of one Madam Liau Siew Lan nee Teo Siew Lan (“the Deceased”). The plaintiffs and the defendant (“the parties”) are children of the Deceased. Under the terms of the Deceased’s will, the parties were appointed as joint executors and trustees of the will. The parties were also beneficiaries under the will. The plaintiffs sought the following orders from the court:

(a) A declaration that the expenses incurred by the plaintiffs in the discharge of their duties as executor and executrix of the estate of the Deceased as outlined in sub-paragraphs 6(a) and (c) of the statement of claim and in the sums of \$6,476.90, \$11,879.56 and \$6,000 be part of the expenses of the estate of the Deceased and be paid to the plaintiffs.

(b) A declaration that the sum of \$66,100, being the commission paid to the property agents, be considered an expense that arose as a result of the sale of the property and be part of the expenses of the estate of the Deceased.

(c) That the balance proceeds in the OCBC estate account be distributed in equal shares to the three beneficiaries of the estate of the Deceased.

2 In the counterclaim, the defendant prayed for the following orders:

(a) That the plaintiffs as executors do provide an account of the Deceased’s estate of \$6,779,087.49.

(b) That the defendant’s claim of \$5,401.83 be paid out of the Deceased’s estate.

3 On 8 July 2013, I made the following orders in an oral judgment:

(a) I granted a declaration that the expenses of \$6,476.90 and \$11,879.56, incurred by the plaintiffs in their discharge of their duties as executors of the estate, form part of the expenses of the estate. The sum of \$6,476.90 should be paid to the plaintiffs from the estate as the plaintiffs had paid for this sum personally. As for the sum of \$11,879.56, this had already been

paid by the Estate and no reimbursement to the plaintiffs was necessary.

(b) I did not allow the alleged sum of \$6,000 in funeral expenses to form part of the expenses of the estate because this sum was not substantiated by any documentary evidence.

(c) I allowed the sum of \$66,100, being the commission paid to the property agents (DTZ Debenham Tie Leung (SEA) Pte Ltd), to form part of the expenses of the estate.

(d) The defendant's counterclaims were dismissed, save for the \$600 expense incurred by the defendant for moving the furniture out of the Deceased's property. Accordingly, the estate was to reimburse the defendant for this \$600 expense.

(e) There was no need to further account for the sum of \$6,610,000 as this had already been accounted for by the plaintiffs.

(f) The plaintiffs were not required to account for the said sum of \$129,087.49.

(g) I ordered the distribution of the balance proceeds in the OCBC estate account to the plaintiffs and defendant, who are the beneficiaries of the estate of the Deceased, in equal shares.

(h) Costs were to be paid by the defendant to the plaintiffs, to be taxed if not agreed.

4 The defendant has appealed against the whole of my decision. I now set out my reasons.

The sums of \$6,476.90 and \$11,879.56 as expenses of the estate

5 The sums of \$6,476.90 and \$11,879.56 represented the legal fees of May Oh & Wee and Edmond Pereira & Partners respectively for work done in obtaining the grant of probate. These expenses were plainly necessary for the administration of the Deceased's estate. The defendant argued that there was an understanding reached between the parties on 1 February 2008 that the parties (and not the estate) would bear the costs of their respective lawyers. In my judgment, the defendant's contention was not supported by the documentary evidence. In particular, the contemporaneous notes that were allegedly taken at the 1 February 2008 meeting referred to matters that were irrelevant for the purposes of the present suit. I did not believe that an understanding was ever reached such that the plaintiffs had to bear personally the legal costs of obtaining the grant of probate.

The sum of \$66,100 as an expense of the estate

6 The sum of \$66,100 represented the 1% commission paid to the property agent for the sale of the Deceased's property at \$6,610,000. The defendant managed to find a buyer who made an offer of \$6,538,888 (without commission) for the property. However, this offer was still lower than the eventual sale price of \$6,610,000 even after the 1% commission was taken into account. It was also not disputed between the parties that the closed tender process conducted by the property agent produced the highest offer for the Deceased's property. I therefore found no credible objection to the sum of \$66,100 being declared as an expense of the estate.

The counterclaims

7 The defendant made a claim of \$5,401.83 for, *inter alia*, expenses in relation to the upkeep of the Deceased's property. I found that the defendant's claim was not supported by proper

documentary evidence because the alleged receipts that she presented appeared to have been typed out by the defendant herself. The only exception I found was the receipt issued by The Salvation Army and I accordingly allowed her claim of \$600 for that receipt.

8 I declined to order that the plaintiffs further account for the sum of \$6,610,000 as this had been fully accounted for by the plaintiffs in their letter to the defendant dated 4 November 2010.

9 Similarly, I did not require the 2nd plaintiff to further account for the sum of \$129,087.49 because she had already given an account of it at the trial. I was satisfied with her detailed explanation on how she had used the monies from the joint account for the benefit of the Deceased when she was alive and thereafter, how she had expended further sums for the purpose of maintaining the Deceased's property (*ie*, gardening fees, property tax and utilities). She also paid out a total sum of \$100,000 from that account in order to discharge the NTUC reverse mortgage on the Deceased's property. After paying for these expenses, the balance amount was paid into the estate account for distribution according to the will as the 2nd plaintiff had decided not to claim any money in the joint account for herself. I found that she had fully accounted for the use of the monies in the joint account.

Conclusion

10 For the foregoing reasons, I allowed the majority of the plaintiffs' claims and dismissed almost the entirety of the defendant's counterclaim. I ordered costs to be paid by the defendant to the plaintiffs, to be taxed if not agreed.