

Pang Giap Onn (alias Arif Peter Pang) v Harmesh Singh s/o Ram Singh
[2016] SGHC 149

Case Number : Bill of Costs No 45 of 2016 (HC/Summons No 2822 of 2016 and HC/Summons 2823 of 2016)
Decision Date : 29 July 2016
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Pang Giap Onn @ Arif Peter Pang (Peter Pang & Co) for the applicant; Harmesh Singh s/o Ram Singh (in-person) for the respondent.
Parties : Pang Giap Onn @ Arif Peter Pang — Harmesh Singh s/o Ram Singh

Civil procedure – Costs – Taxation

29 July 2016

Judgment reserved.

Choo Han Teck J:

1 The applicant, Mr Arif Peter Pang (“Mr Pang”) is an advocate and solicitor of 42 years’ standing. Mr Harmesh Singh s/o Ram Singh (“Mr Singh”), the respondent, signed a Warrant to Act dated 7 December 2015 and engaged the services of Mr Pang to act for him in Suit 543 of 2013 (“the Suit”). According to the Warrant to Act, Mr Singh agreed to pay Mr Pang for his professional services a \$10,000 non-refundable retainer and at an hourly rate of \$500 with disbursements.

2 After several disagreements over the conduct of the Suit, on 10 December 2015, Mr Pang told Mr Singh that he no longer wished to act for him. Nevertheless, the parties remained in contact and Mr Pang continued to provide Mr Singh with legal advice up until 8 January 2016. On 10 January 2016, Mr Pang ceased to act for Mr Singh. On 11 January 2016, Mr Pang sent his bill to Mr Singh for work done. Mr Singh disagreed with the bill and the parties submitted the bill for taxation.

3 The Assistant Registrar (“AR”) taxed the costs for work done other than for taxation (“Section 1 costs”) at \$15,000, the cost for work done for taxation (“Section 2 costs”) at \$450 and the cost of disbursements (“Section 3 costs”) at \$4,481.45. This was based on the AR’s assessment of the complexity of the matter, nature of work done and period of engagement. In reference to his bill of costs, Mr Pang was awarded the whole of the Section 2 and Section 3 costs but his Section 1 costs were reduced from \$22,500 to \$15,000. Dissatisfied with the AR’s decision, both Mr Pang and Mr Singh filed the present applications for review of the taxation order.

4 On review, Mr Pang contends that the Section 1 costs awarded by the AR was taxed incorrectly because it was done on a standard basis rather than on an indemnity basis as it should have been for solicitor and client costs. Mr Pang also raises the point that Mr Singh’s application for review was defective in that he did not specify the items on the bill that he was disputing in his application. Mr Pang hence submits that since the items on the bill had not been challenged, he should be entitled to 43 hours of work at his charge out rate of \$500 per hour. The amount of 43 hours is reached after deducting 2 hours from the original bill which stated 45 hours which Mr Pang accepts should be excluded because those 2 hours of work had already been paid for by Mr Singh with a cheque in the amount of \$1,000.

5 Mr Singh did not dispute that work had indeed been done by Mr Pang during the period of engagement but contends that the Section 1 costs of \$15,000 awarded by the AR was too high. Mr Singh also disputes the contents of the Warrant to Act alleging that Mr Pang had tampered with it by striking off a handwritten portion which stated an agreement between him and Mr Pang on fees to be fixed at a monthly rate of \$10,000 for an estimated period of 6 – 9 months with a total estimated cost of \$150,000. Mr Singh also expresses his dissatisfaction of Mr Pang withholding the \$10,000 non-refundable retainer. He complained that Mr Pang had not filed a Notice of Appointment to act in the Suit or attended a pre-trial conference/hearing or sent a single letter to the parties involved in the Suit despite having been paid the non-refundable retainer.

6 Solicitor and client costs are taxed on an indemnity basis where any doubts as to whether the costs were reasonably incurred or were reasonable in amount will be resolved in favour of the receiving party (see Order 59 r 27(3) of the Rules of Court (Cap 332, R 5, 2014 Rev Ed)). The fact that any doubt will be resolved in favour of the receiving party in a taxation on an indemnity basis does not mean that a taxing Registrar or Judge should invariably accept whatever is claimed by the receiving party at face value (see *Lin Jian Wei and another v Lim Eng Hock Peter* [2011] 3 SLR 1052 at [64]). In determining the appropriate costs, the court must have regard to all the relevant circumstances as listed on Appendix 1 to Order 59 of the Rules of Court, such as the complexity of the action, the amount of work actually done, and the skill and knowledge required of the solicitor in performing such work.

7 In the light of the above, the AR's finding is not an unreasonable one having duly considered the complexity of the matter, nature of the work done and the period of engagement. An examination of the bill of costs shows that the nature of the work done by Mr Pang mainly related to research, perusing documents and providing advice to Mr Singh on the Suit. At the time, the Suit had already been commenced and there were many documents that Mr Pang had to peruse. I also note that there had been numerous meetings and discussions between Mr Pang and Mr Singh during the period of engagement. I do find that certain items on the bill such as the time taken for Mr Pang to get up on the "law of Wills, Probate and Intestacy" (8½ hours) to be a little long since we do not know what problems troubled Mr Pang in that area or whether it was even an estate issue at all. Even if Mr Pang was an avid reader of law he ought to at least indicate the issues confronting his client that required the declared diligence. Further, the time billed by Mr Pang in corresponding by email with Mr Singh should also be adjusted downward in the light of the many acrimonious emails between the two of them during the period of engagement. I would have been reluctant in this case to make Mr Singh pay for being scolded by Mr Pang were I taxing this bill, but Mr Singh gave as good as he received. Lastly, Mr Pang was unable to point me to any part of the Notes of Evidence where the AR had taxed the bill on a standard basis rather than an indemnity one. Nonetheless, as a whole, I find that the Section 1 costs arrived at by the AR of \$15,000 is not unreasonable.

8 As regards the allegation of Mr Singh about the Warrant to Act being tampered with, I find that this is a matter that is outside the scope of this bill of costs proceedings. In any event, this allegation was not substantiated by any evidence placed before the AR or myself.

9 With regards to Mr Singh's complaint about the \$10,000 non-refundable retainer paid to Mr Pang, I need only point out that paragraph 44 of the Law Society of Singapore's Practice Directions and Rulings 2013 on non-refundable retainers that although s 111 of the Legal Profession Act (Cap 161, 2001 Rev Ed) allows solicitors and clients to agree as to costs for contentious business, it does not give solicitors the right to agree to an unreasonable fee. Overcharging a client may amount to professional misconduct. Further, no agreement for payment of costs between client and solicitor is immune from an investigation by the court on whether it is reasonable and fair (see *Wong Foong Chai v Lin Kuo Hao* [2005] 3 SLR(R) 74 at [29] – [31]). Nonetheless, no evidence on misconduct, if any,

has been placed before me. There is also no application by Mr Singh to challenge the validity or effect of his agreement with Mr Pang. I therefore make no findings on this issue. Mr Singh's recourse is to complain to the Law Society of Singapore if he thinks that he has been overcharged. He may also choose to make an application to the court to examine and determine the validity and effect of the agreement with Mr Pang pursuant to s 113(2) of the Legal Profession Act.

10 Accordingly, I see no reason to disturb the order made by the AR and therefore dismiss the present applications. I will make no orders as to costs for this review and each party is to bear their own costs.

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