

Zeleenah Begum v KK Women's & Children's Hospital Pte Ltd (trading as KK Women's & Children's Hospital)
[2017] SGHC 126

Case Number : HC/RAS No 15 of 2017 (DC Suit No 3343 of 2012)
Decision Date : 26 May 2017
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Daniel Atticus Xu (Exodus Law Corporation) for plaintiff/appellant; Karen Yong (Legal Clinic LLC) for defendant/respondent.
Parties : Zeleenah Begum — KK Women's & Children's Hospital Pte Ltd trading as KK Women's & Children's Hospital

Civil Procedure – Discontinuance

26 May 2017

Choo Han Teck J:

1 The appellant was a patient in the KK Women's & Children's Hospital ("the Hospital") for a medical check-up on 29 May 2007. An intravenous drip was inserted into her hand to infuse antibiotics. That part of her hand developed a radial nerve injury for which she sued the Hospital. She filed her writ on 20 November 2012. By the Rules of Court (Cap 322, R 5, 2014 Rev Ed) she had to serve the writ within six months.

2 She served her writ within the time limited but her counsel applied for an extension of time to file her statement of claim. Counsel was directed to file an affidavit of the appellant in support of her claim. Instead of filing the affidavit, counsel filed a second application for extension of time. Both applications were heard on 23 December 2014. The appellant was granted an extension of time to file her statement of claim. The court made an order that unless it was filed by 5 January 2015 the claim would be struck out. The appellant's counsel filed the statement of claim on 5 January 2015 and on 19 January 2015 the defence was filed. The plaintiff filed the summons for directions on 3 March 2016. Between the filing of the defence and the summons for directions more than 12 months had elapsed. By virtue of O 21 r 2(6) of the Rules of Court proceedings were thus deemed to be discontinued. Order 21 r 2(6) of the Rules of Court reads –

(6) Subject to paragraph (6A), if no party to an action or a cause or matter has, for more than one year (or such extended period as the court may allow under paragraph (6B)), take any step or proceeding in the action, cause or matter that appears from records maintained by the Court, the action, cause or matter is deemed to have been discontinued.

Yet it took the plaintiff another six months to file District Court/Summons No 3065 of 2016 to try and get her case back on record. She claimed that she only found out in 2009 that her injury was caused by the defendant. The injury was the pain to her hand and that could only be from the procedure performed on 30 May 2007. Her application for leave to restore the action was dismissed by the Deputy Registrar. Her appeal to the District Judge was also dismissed.

3 The plaintiff then filed this appeal before me (against the District Judge's dismissal of her appeal

from the Deputy Registrar's order). Counsel for the plaintiff asked for an adjournment of this appeal because the plaintiff needed a medical report from one Dr Lim Beng Hai. There is no reason why a medical report cannot be sought from Dr Lim much earlier since he had attended to the plaintiff on her injury as far back as 2007. Counsel also submitted that he had informed the plaintiff that he would only lodge the Notice of Appeal to the High Court for her but cannot argue the appeal. Yet no other counsel had been appointed to take over his place.

4 Counsel related a sad story about his own personal problems in the past few years that prevented him from fully discharging his duty to the plaintiff. However much I sympathise with counsel, his personal problems cannot justify reinstating his client's lost cause when it prejudices the other party, or will put that party through the judicial process when proceedings had already ended long ago.

5 I am also of the view that the chances of the plaintiff succeeding in her claim in negligence against the defendant is palpably weak, and is not likely to get stronger even if further extensions of time are granted. There are no grounds whatsoever in her favour from start to end. This case should be labelled, 'Do Not Resuscitate'. It will spare the plaintiff, who is not wealthy, the hardship of paying legal costs at the end of a full trial that she is unlikely to win.

6 For the reasons above, I dismissed her application for an adjournment of the appeal and the appeal. Counsel for the hospital asked for \$4,000 for costs for the appeal. Counsel for the plaintiff submitted that \$2,800 would be adequate. I fixed costs at \$2,800.