

Chan Boon Siang and others v Jasmin Nisban
[2017] SGHC 249

Case Number : HC/RAS No 18 of 2017 (DC Suit No 556 of 2016)
Decision Date : 09 October 2017
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Wong Tjen Wee, Michelle Lee and Kong Xie Shern (Wong & Leow LLC) for the appellants; Lau Kok Keng, Chia T-Chien and Quek Yi Liang Daniel (Rajah & Tann Singapore LLP) for the respondent.
Parties : Chan Boon Siang — Nicholas Giles Aplin — Chan Chor Lup — Chia Chung Mun Alphonsus — Choong Liong On — Chung Kim Kui — Gan Yeow Beng — Goh Hin Tiang — Goh Koon Jong Jason — Hui May — Vincent Khng Nguan Hock — Sandra Lim Kuan Kuan — Leong Kok Onn — Luke Leong Chee Ming — Liu Shaoyong — Ng Li Hwa Grace — Seow Yongli — Tan Hian Yew George — Teo Kok Cheng — Daniel Wong Liang Toon — Yeo Yok Ching Alan — Club Intchess — Eastern Knights Chess Club — Watson Tay — Jasmin Nisban

Civil procedure – Striking out

9 October 2017

Judgment reserved.

Choo Han Teck J:

1 The plaintiff is the treasurer in the Executive Committee of the Singapore Chess Federation (“SCF”). He is suing 39 members of the SCF for libel. The plaintiff alleges that the libel is found in a letter of requisition for an extraordinary general meeting (“EOGM”) signed by the signatories. The defendant sent the requisition to the Executive Committee to seek a vote of no confidence in the president of the SCF as well as the members of the Executive Committee. The letter of requisition is dated 6 January 2016.

2 The reasons for the request are found in an undated letter attached as part of the letter of requisition. This undated letter referred to the resignation of Miss Anjela Khegay (“Anjela”), who was employed by SCF as a trainer from January 2014 and resigned on 31 August 2015.

3 The plaintiff’s case is that the attached letter is defamatory because it claimed that Anjela resigned because of an incident which took place on 30 August 2015 in the SCF’s office, involving “two Council members” and “sexual misconduct in the premises of SCF”. The letter goes on to say that two vice-presidents of the SCF had been asked to interview “Anjela and the two Council members implicated (Tony Tan and Nisban Jasmin [the plaintiff])”.

4 All 39 defendants are part of the group of 51 signatories to the letter requesting an EOGM, but not all 51 had been named as defendants. 15 defendants are not involved because they are separately represented and are not parties to the application to strike out and this appeal. The other 24 defendants applied to strike out the plaintiff’s suit under Order 18 r 19(1)(a) and (d) of the Rules of Court (Cap 322, R5, 2014 Rev Ed). That order provides as follows —

19.—(1) The Court may at any stage of the proceedings order to be struck out or amended any pleading or the endorsement of any writ in the action, or anything in any pleading or in the

endorsement, on the ground that —

(a) it discloses no reasonable cause of action or defence, as the case may be;

...

(d) it is otherwise an abuse of the process of the Court,

and may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

The application was struck out by a deputy registrar of the State Courts. The plaintiff appealed to District Judge David Lim who allowed his appeal and restored the action. The defendants then appealed before me against District Judge Lim's order.

5 Mr Wong Tjen Wee ("Mr Wong") represented the appellants here and relies on an English Court of Appeal case, *Jameel (Yousef) v Dow Jones & Co Inc* [2005] QB 946 ("*Jameel*") to justify an order that this action be struck out. Mr Wong submitted that *Jameel* is authority for the proposition that where a defamation action is so trivial or pointless such that it would be disproportionate to permit it to proceed it any further, such an action would be struck out for an abuse of process of the Court as the action does not amount to a 'real and substantial tort'. This statement must be understood in the context of the *Jameel* case itself.

6 *Jameel* involved the publication of the alleged libel through the internet and read worldwide. The plaintiff chose England as the forum to sue even though only five persons in the UK read it; three of the five were associates of the plaintiff. The Court of Appeal there was of the view that the plaintiff was forum shopping; and that the question of jurisdiction was another issue the plaintiff had to properly establish. Furthermore, the idea of striking out a libel action in England was more readily acceptable because of two developments there. The first was the then new Civil Procedure Rules and the second was the Human Rights Act of 1998. Lord Philips held that English courts must thus balance the freedom of expression with the protection of individual reputation. It was in the above context that the court considered whether "the game was worth the candle". Improving on the comment at first instance, Lord Philips held that it was not only "not have been worth the candle, it will not have been worth the wick".

7 The crux of the matter is that although the court's resources ought not to be used for the pursuit of trivial or pointless claims, each case must be determined on its own facts. Counsel referred to the *Jameel* case as espousing the "*Jameel Doctrine*", as if it were an exception in law or a law unto itself. It is, for the reasons I set out above, not entirely so. The law that ultimately governs the striking out of an action is under O 18 r 19(d), as the words there express: "it is otherwise an abuse of the process of the Court". Each case must turn on its own facts.

8 In the present case before me, the defamatory words are found in a letter circulated among members of the SCF seeking signatures in support of an EOGM with the view of expelling the sitting executive committee. This letter was signed by 51 members. We do not know how many others read it but did not sign. The defamatory words are in item 2 of the letter under the heading "Resignation of SCF Trainer Ms Anjela Khegay".

9 When a letter refers to the resignation of a female staff and states that it involved sexual misconduct "and the two Council members implicated (Tony Tan and Nisban Jasmin)", it is *prima facie* defamatory. Whether the letter can be justified, and whether there is substantial or minimal damage

are matters for trial. This is a case that cannot be regarded as an abuse of the process of court. Where else can the plaintiff seek redress and justice if his claim is struck out?

10 Mr Wong raised a further argument that the only recipients of the defamatory letter, were the executive committee members and the administrative staff. Mr Wong contended that these recipients would not have believed the libel against the plaintiff. That argument is generally speculative and is in any case more relevant at the assessment of damages when liability is established.

11 For the reasons above, the appeal is dismissed with costs to be taxed if not agreed.

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