

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2023] SGHC 103

Suit No 384 of 2021

Between

- (1) Ajeet Gobindram Vaswani
- (2) Viresh Ajeet Vaswani

... Plaintiffs

And

- (1) Salvatore Gregory Takoushian
- (2) Lau Chun Wah @ Davy Lau
- (3) Carl Gabriel Florian Stubbe
- (4) Tarun Kataria
- (5) Tan Wee Peng Kelvin
- (6) Ng Kheng Choo

... Defendants

FOUNDATIONS OF DECISION

[Civil Procedure — Privileges]

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Ajeet Gobindram Vaswani and another
v
Salvatore Gregory Takoushian and others

[2023] SGHC 103

General Division of the High Court — Suit No 384 of 2021 (Summons Nos 2545 and 2546 of 2022)

Lee Seiu Kin J

28 September 2022

19 April 2023

Lee Seiu Kin J:

1 On 28 September 2022, I dismissed Mr Salvatore Gregory Takoushian's ("the First Defendant") applications in summons no 2545 of 2022 and summons no 2546 of 2022. The First Defendant applied for leave to appeal to the Appellate Division of the High Court ("SGHC(A)") by way of AD/originating application no 18 of 2022 and AD/originating application no 19 of 2022. On 13 February 2023, the SGHC(A) granted leave to appeal but limited it to one question, whether there was a *prima facie* case of error arising from the approach I had taken in making the assumption that privilege existed as regarding certain documents. I therefore limit my grounds to just this issue for which leave was granted.

2 In both summonses, the First Defendant sought to restrain the remaining defendants in this action (“Other Defendants”) from disclosing a set of documents and from lifting redactions made in another set of documents on the ground that they were privileged and that the First Defendant had not waived that privilege. I shall refer to these documents as the Disputed Documents.

3 The First Defendant had claimed that the Disputed Documents were privileged on the ground that they constituted legal advice rendered to, *inter alia*, the First Defendant. It is on this basis that the First Defendant came before me in both these summonses. If they were not privileged, then the First Defendant would not have any basis to make the applications.

4 It seemed to me that, even if the Disputed Documents were privileged, the First Defendant had, by virtue of the pleading in his Defence that he had relied on the legal advice given in the Disputed Documents, impliedly waived his privilege. As this point disposes of the summonses, I saw no need to venture into a determination of whether the Disputed Documents were indeed privileged. This is because, if the Disputed Documents are not privileged, the summonses would also be dismissed.

5 I should also deal with the following point. The legal advice in the Disputed Documents was rendered to the defendants, as directors of the REIT, as well as to Eagle Hospitality REIT Management Pte Ltd and Eagle Hospitality Trust Management Pte Ltd (“the REIT Managers”) (who are not a party to the suit). The question is whether, if the Disputed Documents are subject to privilege and the REIT Managers are entitled to assert it, my decision on the summonses ought to be any different. I am of the view that it makes no

difference because the REIT Managers had not asserted that privilege before me (on the assumption that, not being a party, they are each entitled to do so).

Lee Seiu Kin J
Judge of the High Court

Yeo Yi Ling Eileen, Shalini Rajasegar and Saadhvika Jayanth
(Advocatus Law LLP) for the first defendant;
Pillai K Muralidharan SC, Luo Qinghui and Ong Ken Wei (Rajah &
Tann Singapore LLP) for the second to fifth defendants;
Daniel Chia Hsiung Wen and Charlene Wee Swee Ting (Morgan
Lewis Stamford LLC) for the sixth defendant.
