

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

[2024] SGHC 252

Originating Application No 163 of 2024

Between

Lee Cheng Ling

... Applicant

And

(1) Argyle Fund Investments Pte
Ltd

(2) Lim Chih Li @ Jared Lim
Chih Li

... Respondents

GROUND OF DECISION

[Trusts — Resulting trusts — Presumed resulting trusts]

[Trusts — Constructive trusts — Common intention constructive trusts]

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Lee Cheng Ling
v
Argyle Fund Investments Pte Ltd and another

[2024] SGHC 252

General Division of the High Court — Originating Application No 163 of 2024

Valerie Thean J

15 August, 23 September 2024

10 October 2024

Valerie Thean J:

Background

1 This dispute concerned a property (“the Property”)¹ held in the names of the applicant (“Mdm Lee”) and her husband, the second respondent (“Mr Lim”), as joint tenants.² Its purchase for \$5,250,000³ was completed on 3 September 2012.⁴ Mdm Lee and Mr Lim (collectively, “the Lims”) financed the purchase with a mortgage loan in both their names from OCBC Bank, for \$4,173,000.⁵

¹ 1st Affidavit of Lee Cheng Ling dated 16 February 2024 (“LCL-1”) at para 2.

² LCL-1 at para 28.

³ 1st Affidavit of Lim Chih Li @ Jared Lim Chih Li dated 14 May 2024 (“JL-1”) at p 15.

⁴ JL-1 at p 57.

⁵ LCL-1 at p 48.

2 In earlier and separate proceedings (HC/OC 396/2023, or “OC 396”), the first respondent (“Argyle”) obtained summary judgment in its favour for the sum of \$10,000,000 plus interest and costs.⁶ As Mr Lim had failed to respond to Argyle’s demands for payment, the latter commenced enforcement proceedings (HC/EO 141/2023 (“EO 141”)),⁷ seeking to seize Mr Lim’s half-share in the Property. EO 141 was served on the Property on 29 December 2023. Mdm Lee filed a Notice of Objection on 20 January 2024, two weeks after the relevant deadline for so doing. The ground of objection stated that she is the 100% beneficial owner of the Property, and that Mr Lim is a joint tenant in name only.⁸ On 7 February 2024, Argyle filed a Notice of Dispute to Objection.⁹ On 8 February 2024, the Sheriff directed Mdm Lee to apply by summons to release the specified debt pursuant to O 22 of the Rules of Court 2021 (“ROC 2021”) by 15 February 2024.¹⁰ She obtained an extension of time until 19 February 2024.¹¹ Instead of following up with the requisite summons, however, she filed this application (“OA 163”) on 16 February 2024.

Legal context and issues

3 By prayer 1 of OA 163, Mdm Lee sought to set aside EO 141, and by Prayer 2, she sought a declaration that she is the sole beneficial owner of the Property. These prayers raised two substantive issues:

⁶ 1st Affidavit of Yu Linqing dated 8 March 2024 (“YL-1”) at para 7.

⁷ YL-1 at para 9.

⁸ LCL-1 at p 43.

⁹ YL-1 at para 17.

¹⁰ YL-1 at para 18.

¹¹ YL-1 at para 19.

- (a) whether Mdm Lee is the sole beneficial owner of the Property (Prayer 2); and
- (b) whether this court should set aside EO 141, an order given in OC 396, in this suit, OA 163 (Prayer 1).

4 After hearing parties, I found that the Lims held equal beneficial ownership in the Property and dismissed OA 163. These are my grounds of decision.

Beneficial ownership of the Property

5 The starting point is that, in the absence of any other evidence, the Lims hold the Property according to their legal title. At law, the Property is held in their joint names as a joint tenancy. Argyle submitted that the beneficial ownership of the Lims in the Property was the same as their legal title and they held equal beneficial ownership in the Property.¹²

6 On the other hand, the Lims were aligned that Mdm Lee is the sole beneficial owner of the property. They contended the following:

- (a) There was a common intention between the Lims, at the time that the Property was purchased, that Mdm Lee would be the sole beneficial owner of the Property,¹³ giving rise to a common intention constructive trust (“CICT”) over the Property in favour of Mdm Lee.¹⁴

¹² Mr Lim’s Further Written Submissions dated 30 August 2024 (“2RWS”) at para 23.

¹³ Mdm Lee’s Written Submissions dated 1 August 2024 (“AWS”) at paras 53–54; Argyle’s Written Submissions dated 1 August 2024 (“1RWS”) at para 41.

¹⁴ AWS at paras 53–54; 2RWS at para 12.

(b) An alternative claim (that either reflected the Lims’ common intention, or was based on resulting trust) that Mdm Lee fully funded the property, and if any payments were made by Mr Lim, these were gifts on his part.¹⁵

The burden was on Mdm Lee to establish that there was a CICT or a resulting trust at the time of the acquisition.

7 Initially, Argyle was the sole respondent in OA 163. Mdm Lee’s affidavit in support of her application contended that she paid wholly for the Property.¹⁶ Subsequently, Mr Lim was added as a respondent and his affidavit referenced payments made out of his bank accounts towards the mortgage.¹⁷ He contended that his contributions to the mortgage and maintenance payments were intended as gifts to Mdm Lee.¹⁸ Mdm Lee subsequently confirmed Mr Lim’s position in a later affidavit.¹⁹ The Lims were cross-examined on their affidavits.

8 I deal with Mdm Lee’s alternative claims in turn.

¹⁵ 2RWS at para 41.

¹⁶ LCL-1 at paras 32–36, 39–41.

¹⁷ JL-1 at pp 51–54.

¹⁸ JL-1 at para 15.

¹⁹ 2nd Affidavit of Lee Cheng Ling dated 5 August 2024 (“LCL-2”) at para 8.

Whether there was a common intention constructive trust

9 Mdm Lee’s primary claim was that a CICT was in place, arising out of the Lims’ common intention that she was to be the Property’s sole beneficial owner.²⁰

10 The parties did not dispute the relevant legal principles. For a CICT to be established, there must be sufficient evidence of an express or inferred common intention that the parties should hold the beneficial interest in the property in a certain proportion (*Chan Yuen Lan v See Fong Mun* [2014] 3 SLR 1048 (“*Chan Yuen Lan*”) at [160(b)]). The burden would be on Mdm Lee to adduce evidence of such a common intention. While the Court of Appeal endorsed the possibility of such a common intention arising after the acquisition (*Chan Yuen Lan* at [160(f)]), Mdm Lee’s case was that the Lims’ common intention “arose *at the point of acquisition* of the Property and that there was no departure from this common intention” [emphasis in original].²¹

11 Foundational to Mdm Lee’s primary claim, therefore, was the Lims’ assertion that there existed a common intention between them prior to the acquisition of the Property that Mdm Lee should hold the entire beneficial interest in the Property. There was no written record of this intention; it was an assertion made by the Lims. As I explain, neither Mdm Lee’s nor Mr Lim’s bare assertions held up on cross-examination. Two categories of evidence required explanation:

²⁰ AWS at paras 76–77; Mdm Lee’s Further Written Submissions dated 30 August 2024 (“AFWS”) at paras 30 and 41.

²¹ AFWS at para 41.

- (a) the reason why, despite their common intention, the Lims were registered as joint tenants and took out a joint mortgage loan to finance the property; and
- (b) the reason why they repaid almost equal amounts towards the loan.

The nature of the legal holding

12 Mdm Lee furnished two inconsistent explanations for the legal title:

- (a) It was easier to obtain a favourable bank loan with Mr Lim's high salary in Singapore.²² Mdm Lee departed from this explanation under cross-examination, offering the next point in its stead.²³
- (b) Mdm Lee could have obtained the bank loan by herself if she had gone through a number of administrative processes, given the affluence and prominence of her family. However, it was difficult for her as a foreigner to open a bank account in Singapore. Therefore, it was more convenient to use Mr Lim's name to open a bank account and obtain a bank loan.²⁴

13 Assertion (a), which revealed that Mr Lim was living and working in Singapore, sat ill at ease with Mdm Lee's initial contention that she first formed the intention to purchase a property in Singapore for her sole benefit because she was based in Kuala Lumpur and frequently met buyers, investors and

²² LCL-1 at para 28; 2RWS at para 19.

²³ Transcript 41:22–42:13.

²⁴ Transcript 42:9–44:8; 45:10–12.

architects in Singapore.²⁵ If this contention were true, her requirement for a residence for her occasional visits would imply that Mr Lim did not require to live in Singapore. The benefit of the property was not hers alone. The course of her evidence revealed, as well, that after the Lims purchased the Property, the couple lived in it together when they were in Singapore. Assertion (b), on the other hand, was not accompanied by any explanation as to how it would be difficult for Mdm Lee to open a bank account in Singapore, despite her affluence. The two explanations were not consistent with each other. Assertion (a) relied on Mr Lim's salary, implying that Mdm Lee would not have been able to obtain a loan on equivalent terms on her own. Assertion (b), in contrast, contended that she could have obtained an equivalent loan but wished to avoid inconvenience. The inconvenience was not specified or elaborated upon.

14 Mr Lim, for his part, kept to the explanation at [12(a)] above, that the mortgage loan was taken out in the Lims' joint names in order for them to obtain better loan terms.²⁶ It was notable that Mr Lim at no point offered the explanation at [12(b)] that it was inconvenient for Mdm Lee to open a bank account or obtain a loan in Singapore owing to her status as a foreigner.

Payment for the mortgage

15 In Mdm Lee's first affidavit, she asserted that she made all payments for the property. Mr Lim, for his part, adduced a spreadsheet listing Mdm Lee's various contributions to the purchase price, stamp duty and mortgage repayments that were routed through his bank accounts.²⁷

²⁵ LCL-1 at para 26–27.

²⁶ Transcript 104:9–17; JL-1 at para 12.

²⁷ JL-1 at paras 17–18; pp 51–55.

16 Mr Lim’s spreadsheet was not credible. First, while it specified transactions attributed to specific dates, many of the transactions were not reflected in the source bank documents exhibited in Mr Lim’s affidavit. Argyle was able to highlight 13 such anomalies where entries would have been expected but were not reflected.²⁸ I set out two specific examples here. First, the spreadsheet contained an alleged transaction labelled “TT for [the Property]” for the amount of “SGD 14,831.00”, with the payer being “TT from Blu Constellation for partial Housing Loan for Aug-Oct14”, and the payee being “Jared Lim’s UOB Bank”.²⁹ The spreadsheet dated this transaction as 10 July 2014. However, the actual UOB Statement of Account for the period 1 July 2014 to 31 July 2014 showed no record of \$14,831 being transferred into Mr Lim’s UOB bank account (indeed, there were no transactions for that account in that month).³⁰ Second, the spreadsheet contained an alleged transaction labelled “CIMB 46030” for the amount of “RM 41,920.88”, with the payer being “Cheque Payment Clearwater Development for partial Housing Loan for Oct-Nov17”, and the payee being “Jared Lim’s RHB Bank”.³¹ The spreadsheet dated this transaction as 23 November 2017. However, the RHB Account Statement for the period 16 November 2017 to 15 December 2017 showed no cheque deposit on 23 November 2017 into that account, much less for the specified amount.³² Aside from the 13 anomalies, there were 19 instances where transfers listed for 2023 and 2024 lacked any contemporaneous supporting documentation at all. As a general matter, there were no bank documents exhibited after 14 April 2020.

²⁸ 1R-5.

²⁹ See 1R-5, first highlighted entry.

³⁰ JL-1 at p 87.

³¹ 1R-5, fourth highlighted entry.

³² JL-1 at p 188.

17 In contrast, when Argyle compiled the inflow and outflow of funds shown in the bank documents that were exhibited in Mr Lim's affidavit, it was able to show that Mdm Lee repaid into Mr Lim's account, at regular intervals, sums equivalent to approximately half of what was paid out. To take two examples, for a period of almost a year from 2 May 2013 to 3 February 2014, \$9,131 flowed out of Mr Lee's account every month. At three-month intervals, Mdm Lee would pay \$13,676.50 into the account, which is 49.927% of payments of \$9,131 (\$27,393). Similarly, for another period from 21 October 2014 to 24 April 2015, \$11,401 (or, on one occasion, \$11,400) flowed out of Mr Lim's account monthly, and Mdm Lee paid in \$17,100 every three months, with the latter being 49.996% of three times of \$11,401. While this pattern is not universal, it recurs quite frequently in the payments.³³ Overall, for the period from 1 October 2012 up to 2 December 2019, Mdm Lee reimbursed Mr Lim for about 55.7% of the amounts that were paid out.³⁴

18 Therefore, Mdm Lee's pattern of payment was consistent with the legal holding of the Property but not consistent with her alleged common intention. In her evidence and during cross-examination, Mdm Lee attempted multiple, and at times inconsistent, explanations for this inconsistency:

- (a) She averred in her initial affidavit that she paid the entire purchase price.³⁵ This was not supported by evidence. After Mr Lim was joined as second respondent, the bank documents he adduced

³³ See generally 1R-1.

³⁴ Transcript 92:13–93:1.

³⁵ LCL-1 at paras 39–41.

contradicted her initial stand, and in her reply affidavit she agreed with his version of events.³⁶

(b) A central assertion first made by Mr Lim was that Mr Lim's payments were gifts to Mdm Lee.³⁷ This was also Mdm Lee's position by the time of her second affidavit.³⁸ If that were the case, there was no need for Mdm Lee to pay Mr Lim almost exactly half of the amounts paid out for the purposes of the mortgage.

(c) Mdm Lee, at various points in her cross-examination, insisted that she had repaid to Mr Lim "every single cent that he paid out".³⁹ There was no evidence of this. It also contradicted their position that Mr Lim's payments were gifts. She retreated from this position when confronted with evidence to the contrary.⁴⁰

(d) She explained that Mr Lim made the gifts because he was flush with cash and was "super-liquid" at the time.⁴¹ If that were the case, he could have simply made all the mortgage payments for her, with no need for her to pay him back.⁴² She was not entirely consistent with this explanation either. At a later point, she said Mr Lim and her "were always having some kind of financial problems", but then reiterated that

³⁶ LCL-2 at paras 8–10.

³⁷ 2nd Affidavit of Lim Chih Li @ Jared Lim Chih Li ("JL-2") at para 15; Transcript at 24:3–12.

³⁸ LCL-2 at paras 8–10.

³⁹ Transcript 24:13–17.

⁴⁰ Transcript 24:13–17, 31:11–33:15.

⁴¹ Transcript 34:3–9

⁴² Transcript 34:13–20.

Mr Lim was sufficiently liquid at the time of the purchase of the Property to pay for its purchase.⁴³

(e) Mdm Lee asserted that Mr Lim owed Mdm Lee money, such that his payments towards the mortgage were meant to repay those debts.⁴⁴ If that were the case, it was difficult to understand why *Mdm Lee* was making payments *into Mr Lim's bank account*. Further, this contradicted the assertion that his payments were gifts to her.

(f) Mdm Lee said that she had issued a standing instruction to the CEO of her companies to reimburse Mr Lim for 50% of the outflows from his bank accounts.⁴⁵ The explanation for this was relevant because such a standing instruction could be consistent with an intention on the part of both parties to share the mortgage equally as beneficial owners in equal shares. Her explanation was as follows. Mr Lim was drawing a salary in Singapore, and thus the Lims preferred to use his salary to pay for the mortgage first. This was to reduce the need to convert Malaysian ringgit to Singapore dollars, in light of the weakness of the Malaysian ringgit.⁴⁶ However, the Lims wanted to leave some Singapore dollars in Mr Lim's bank account for daily expenses when they were in Singapore.⁴⁷ As Mr Lim summed up, in order to pay for the mortgage but leave some money in Mr Lim's bank account, the Lims made the "arbitrary decision" that Mdm Lee would reimburse (through a standing instruction to her CEO) roughly half of the mortgage payments that were

⁴³ Transcript 37:18–19.

⁴⁴ Transcript 34:21–35:5.

⁴⁵ Transcript 35:22–25.

⁴⁶ Transcript 37:10–12.

⁴⁷ Transcript at 27:19–28:14, 30:25–31:10.

coming out of the bank account.⁴⁸ This explanation, which I term the “currency exchange explanation”, was not persuasive. It was not consonant with a standing instruction to Mdm Lee’s CEO to make transfers amounting to half the amounts that Mr Lim paid out, which could have resulted in a significant excess of Malaysian ringgit being converted into Singapore dollars. The object of minimising the conversion of Malaysian ringgit would have been better achieved by the CEO topping up Mr Lim’s bank account whenever it was low.

(g) Mdm Lee contended that she was merely “using [Mr Lim’s] [bank] account like [her] own personal account, so whatever money that has gone out from his account came from [her]”.⁴⁹ This was inconsistent with the prior explanations. Moreover the inflow and outflow of funds in the account did not support this assertion.

19 Mr Lim, on his part, was also unable to explain why he would make gifts to his wife and yet have about half the sums paid back into his bank account in respect of those same gifts. All his explanations were unconvincing:

(a) Mr Lim was repaying debts that he owed to Mdm Lee, incurred when his businesses had suffered.⁵⁰ These debts supposedly amounted to around \$3m to \$4m.⁵¹ The logical inconsistency with this argument was dealt with at [18(e)]. Mr Lim adduced no documentary evidence either.

⁴⁸ Transcript at 93:15–94:7.

⁴⁹ Transcript at 40:5–10.

⁵⁰ Transcript at 88:7–15.

⁵¹ Transcript at 128:22–129:2.

(b) Mr Lim could have easily paid for the property given his strong liquidity at the time, but the couple intended for Mdm Lee to pay for the Property so that she would beneficially own it.⁵² This explanation is not consonant with the facts as detailed at [17] above. Mdm Lee did not pay for all of the mortgage but around half of it. In any event, Mr Lim’s case on affidavit was to the contrary as well. His contention there was that he paid for some of the mortgage, and in as far that he did, these repayments were gifts to Mdm Lee.

(c) The proportion that Mdm Lee repaid to Mr Lim was “arbitrary”. It resulted from a standing instruction that Mdm Lee had issued to her CEO.⁵³ These two contentions were not logically linked. The standing instruction did not appear arbitrary, and the assertion that it was did not constitute credible evidence that it was.

(d) The currency exchange explanation.⁵⁴ I rejected this for the reasons explained at [18(f)].

20 In addition to the foregoing, Mr Lim offered the further explanation that the Lims intended for Mdm Lee to hold the entire interest in the Property because he did not believe in buying properties in Singapore due to the high stamp duty.⁵⁵ Following this, the specific payment mechanism where Mdm Lee repaid moneys into Mr Lim’s bank account, arose as a means for Mdm Lee to assist Mr Lim when he subsequently encountered financial difficulty.⁵⁶

⁵² Transcript at 89:6–21.

⁵³ Transcript at 93:22–94:7.

⁵⁴ Transcript 93:22–94:7, 96:20–97:6.

⁵⁵ Transcript 98:18–25.

⁵⁶ Transcript 98:18–21; 99:15–21.

However, the payment mechanism began quite near the time of purchase. The first repayment by Mdm Lee occurred on 5 March 2013).⁵⁷ This also contradicted the explanation that Mr Lim was *simultaneously* repaying the debts he owed to Mdm Lee by servicing the mortgage (see above at [18(e)] and [19(a)]).

Conclusion on evidence of common intention

21 Neither Mdm Lee nor Mr Lim were credible witnesses. I found, therefore, that there was no common intention on the part of the Lims for Mdm Lee to be the sole beneficial owner of the Property. The documentary evidence relating to their acquisition of the Property reflected quite the contrary: first, the Lims were registered as joint owners of the Property and were joint mortgagors; and second, mortgage payments were made out of Mr Lim's bank accounts, with Mdm Lee regularly making repayments of approximately half of what was paid out.

Whether there was a resulting trust

22 A resulting trust crystallises at the time the property is acquired; therefore, the extent of the beneficial interests of the respective parties where a resulting trust arises must be determined at the time when the property was purchased and the trust created (*Lau Siew Kim v Yeo Guan Chye Terence* [2008] 2 SLR(R) 108 ("*Lau Siew Kim*") at [112]; affirmed in *Chan Yuen Lan* at [53]). As a result, the parties' contributions that are to be considered should generally be confined to those made at the time of the acquisition of the property (*Lau Siew Kim* at [114]), unless subsequent payments are made on the basis of an agreement between the parties at the time of acquiring the property in question

⁵⁷ 1R-1 at p 1.

as to the ultimate source of funds for the purchase of that property (*Lau Siew Kim* at [116]–[117]).

Payments due at time of purchase

23 The payments made at the time of purchase were:⁵⁸

- (a) total stamp duty payable of \$677,100, including additional buyer’s stamp duty (“ABSD”);
- (b) a deposit of \$262,500; and
- (c) the remaining cash component of \$814,500.

24 The Lims submitted that Mdm Lee paid for \$577,100 out of (a), and the entire sum of (c),⁵⁹ but admitted that (b) was unaccounted for.⁶⁰ They explained that the moneys could be said to have come from Mdm Lee because they came from companies beneficially owned by Mdm Lee.⁶¹ One of these companies, Extra Charm Sdn Bhd, now named Work at Be Sdn Bhd (“Extra Charm”),⁶² paid \$577,100 towards the ABSD and \$469,915 towards the cash component,⁶³ while Clear Water Developments Sdn Bhd (“Clear Water Developments”) paid \$400,000 towards the cash component.⁶⁴ This total of \$819,195 included various

⁵⁸ Mr Lim’s Further Written Submissions dated 30 August 2024 (“2RFWS”) at paras 6–11.

⁵⁹ AFWS at paras 26-27; 2RFWS at paras 7–9.

⁶⁰ 2RFWS at para 6.

⁶¹ AWS at paras 6(c), 51(b), 55, 58, and 60–62.

⁶² JL-1 at para 20(1).

⁶³ JL-1 at paras 20(1) and 20(2).

⁶⁴ JL-1 at para 20(3).

other fees such as the solicitors’ bill.⁶⁵ This money, whether from Extra Charm or Clear Water Developments, was routed through Be Revolution Pte Ltd (“Be Revolution”), a Singapore-incorporated company.⁶⁶

25 I accepted that Extra Charm and Clear Water Developments (the “two Companies”) made the payments alleged above. These payments were supported by contemporaneous communication referencing the exact amounts owed.⁶⁷

26 Nevertheless, even if the payments were made by the two Companies, they are separate legal entities from Mdm Lee. Therefore, the occurrence of the payments outlined above would only result in the two Companies, *and not Mdm Lee*, having some beneficial interest in the Property as a result of those payments. Mdm Lee’s bald allegation that the two Companies are associated with her and/or her family was not sufficient to pierce the corporate veil, such that their payments should be attributed to her personally. Besides, even if Mdm Lee could prove that she is the sole owner of the two Companies, that would still not be sufficient to pierce the corporate veil. In the absence of corporate veil-piercing, if Mdm Lee wished to prove that she was the source of the moneys that the two Companies paid through Be Revolution, she had to adduce evidence showing a trail of payments originating from her personally, going through the two Companies, and ultimately ending up in Be Revolution. This she did not do.

⁶⁵ JL-1 at p 57.

⁶⁶ JL-1 at para 20.

⁶⁷ JL-1 at p 65.

27 Even putting aside the corporate veil, Mdm Lee failed to prove her shareholdings in the two Companies. Extra Charm is owned fully by a company called Work@Clearwater Sdn Bhd (“Work@Clearwater”).⁶⁸ Not only was the shareholding of Work@Clearwater unclear, but both of the Lims admitted under cross-examination that *Mr Lim* owned a minority shareholding in Extra Charm.⁶⁹ As for Clear Water Developments, only 400,000 out of its 1,600,000 of its shares were owned by Mdm Lee personally. A substantial proportion (1,000,000) of Clear Water Development’s shares were owned by Trident Aim Sdn Bhd (“Trident Aim”),⁷⁰ and in turn, half of Trident Aim’s shares were owned by Mr Lim.⁷¹ Mdm Lee acknowledged this.⁷² However, to get around this, the Lims asserted that in each case, Mr Lim merely held the shares on Mdm Lee’s behalf.⁷³ I did not accept this assertion; there was no documentary evidence in support.

28 Therefore, there was no evidence sufficient to prove Mdm Lee’s assertion that she paid for ABSD and the initial cash component.

Payments made subsequent to purchase

29 The Lims submitted that two other categories of payments are relevant in determining the extent of their interests in the Property under a resulting trust analysis:

⁶⁸ JL-1 at pp 200–201.

⁶⁹ Transcript at 49:17–23; 106:10–21.

⁷⁰ Transcript at 50:21–51:6.

⁷¹ 1R-3 at p 2.

⁷² Transcript at 51:7–12.

⁷³ Transcript at 51:13–19, 107:7–10.

- (a) mortgage payments;⁷⁴ and
- (b) renovation payments.⁷⁵

I deal with each in turn.

30 Mortgage payments may only be regarded as a contribution to the purchase price of a property if they are made pursuant to an agreement, entered into when the mortgage was taken out, regarding the ultimate source of funds of the purchase of that property (*Lau Siew Kim* at [115]–[117], followed in *Khoo Jee Chek v Lim Beng Tiong* [2023] SGHC 233 (“*Khoo Jee Chek (HC)*”) at [118]). On the present facts, the mortgage payments indicated an intention contrary to the Lims’ assertion that Mdm Lim was to have full beneficial ownership of the property.

31 Turning to the question of renovation expenses, these are only relevant where such renovations occur closely after purchase and where they increase the value of the property (*Lau Siew Kim* at [126], applied in *Khoo Jee Chek (HC)* at [116]). In this case, there was no evidence that the renovations increased the value of the Property.

32 Therefore, the payments made towards the mortgage and renovations were not relevant in determining the Lims’ interest in the Property under a resulting trust analysis.

⁷⁴ AWS at para 56; 2RWS at paras 27–30.

⁷⁵ AWS at paras 56–58; 2RWS at para 14.

Conclusion on beneficial interest

33 For the reasons above, I found that there was no common intention between the Lims that Mdm Lee should hold the entire beneficial interest in the Property. Further, Mdm Lee has not proven that she was the source of the payments made prior to the acquisition of the Property. The payments made after the acquisition of the Property also did not reflect any intention that Mdm Lee was to fund the purchase solely. To the contrary, the evidence reflected an equal contribution by both Mdm Lee and Mr Lim. Therefore, I dismissed Prayer 2.

EO 141

34 Prayer 1 was also dismissed. In this suit, Mdm Lee’s primary frame for Prayer 1 was on the basis that she was the sole beneficial owner. On that frame, in the light of my finding on Prayer 2, Prayer 1 lacked factual premise.

35 In addition, Mdm Lee had made an alternative argument that joint tenancies could not be severed and therefore were not amenable to seizure and sale. She argued therefrom that even if she owned only half of the beneficial interest, EO 141 should be set aside.⁷⁶ In the brief oral reasons I gave parties on 23 September 2024, I stated that I made no finding on whether Mdm Lee and Mr Lim’s joint interests were exigible. This is because I was of the view that the relevant application, and the relevant analysis, ought to be made in OC 396. This was also Argyle’s position.

36 I explain with reference to the three concepts of a court’s jurisdiction, power and discretion. The analysis of the Court of Appeal in *Li Shengwu v AG*

⁷⁶ AWS at paras 20–21 and 47–49.

[2019] 1 SLR 1081 (“*Li Shengwu*”) at [101] explains the relationship between jurisdiction and power:

101 In *Re Zero Nalpon*, we clarified the conceptual difference between the “jurisdiction” of a court, and the “power of a court”, and stated that the jurisdiction of a court is “its authority, however derived, to hear and determine a dispute that is brought before it”, whereas the “powers” of a court “constitute its capacity to give effect to its determination by making or granting the orders or reliefs sought by the successful party to the dispute”: *Re Zero Nalpon* at [31], citing *Muhd Munir v Noor Hidayah* [1990] 2 SLR(R) 348. We considered that this distinction was reflected in the structure of the SCJA itself – ss 16 and 17 of the SCJA set out the circumstances in which the High Court is seized of jurisdiction in relation to civil matters, whereas s 18 SCJA sets out what the High Court is empowered to order to give effect to its determination: *Re Zero Nalpon* at [32].

37 In this case, the applicable provision regarding jurisdiction is s 16(1)(a)(i) of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) (“SCJA”):

Civil jurisdiction — general

16.—(1) The General Division has jurisdiction to hear and try any action in personam where—

(a) the defendant is served with an originating claim or any other originating process —

(i) in Singapore in the manner prescribed by Rules of Court or Family Justice Rules; or...

(b) the defendant submits to the jurisdiction of the General Division.

The provision makes clear that jurisdiction can either be established by valid service or by the defendant’s submission. Here, there was no dispute that the respondents were validly served. In addition, having filed affidavits without any objection, the respondents have submitted to the jurisdiction of the General Division of the High Court (“GDHC”): see *Zoom Communications Ltd v Broadcast Solutions Pte Ltd* [2014] 4 SLR 500 (“*Zoom Communications*”) at

[43]–[44], affirmed in *Shanghai Turbo Enterprises Ltd v Liu Ming* [2019] 1 SLR 779 (“*Shanghai Turbo*”) at [37]. The GDHC therefore possesses jurisdiction to deal with the enforcement order.

38 The next issue would then be whether the GDHC has the power to set aside the enforcement order. The relevant provision is s 18(1) of the SCJA (see *Li Shengwu* at [101] and [159]): “[t]he General Division has the powers that are vested in it by any written law for the time being in force in Singapore”. Section 18(3) states that the powers granted by s 18(2) of the SCJA are to be exercised in accordance with any written law, Rules of Court or Family Justice Rules relating to those powers.

39 The specific provision granting the GDHC the power to set aside an enforcement order is O 22 r 10 of the ROC 2021, which sets out a procedure that must be followed. In the present case, it was common ground that this procedure in O 22 r 10 of the ROC 2021 was not followed despite a direction from the Sheriff. Argyle took the position that Mdm Lee ought to have taken out the summons in OC 396 as directed by the Sheriff. Nevertheless, her failure to do so was not fatal to the Lims’ application. This is because O 3 r 2 of the ROC 2021, a power-conferring provision entitled “General Powers of Court”, gives the GDHC a general power to depart from the procedures in O 22 r 10. In particular, O 3 r 2(4)(a) allows the GDHC to waive non-compliance with any rule in the ROC 2021. The provision reads as follows:

General powers of Court (O. 3, r. 2)

2.—(4) Where there is non-compliance with these Rules, any other written law, the Court’s orders or directions or any practice directions, the Court may exercise all or any of the following powers:

(a) subject to paragraph (5), waive the non-compliance of the Rule, written law, the Court's order or direction or practice direction; ...

40 I declined to exercise my discretion. Mdm Lee did not proffer any appropriate reason or evidence on affidavit for the exercise of my discretion. Further, O 3 r 2(1) makes clear that the court is guided by “the interests of justice”. In my view, it is generally not in the interests of justice for a court to make an order in another suit other than the one pending before it. Courts of concurrent jurisdiction should respect the suits in which the issues are raised, the rationale being that there could be possible mayhem if the court in one suit or proceeding makes an order concerning another suit or proceeding being heard before a coram of concurrent jurisdiction. This principle is illustrated by provisions such as s 3(e) of the Civil Law Act 1909 (2020 Rev Ed), which prevents any pending suit or proceeding in the High Court from being restrained by an injunction granted by another coram of the High Court. This reflects Parliament's aversion to one court making an order in one suit or proceeding that affects another suit or proceeding pending determination on the merits before another court of concurrent jurisdiction.

Conclusion

41 OA 163/2023 was dismissed. Costs were ordered in favour of Argyle and fixed, inclusive of disbursements, at \$34,000, to be borne by Mdm Lee and Mr Lim on a joint and several basis. As requested by Mr Nakoorsa and Mr Khan, I ordered, pursuant to O 19 r 4(1) of the ROC 2021, that the time for

the filing of any appeal was ordered to run from the date of the release of my grounds of decision.

Valerie Thean
Judge of the High Court

Nakoorsa bin Abdul Kadir, Michelle Tang Hui Ming and
Rasveen Kaur (Nakoorsa Law Corporation) for the applicant;
Ker Yanguang, Low Hui Xuan Carrisa and Tan Yi Liang
(Prolegis LLC) for the first respondent;
Nazim Khan and Chua Ze Xuan (PDLegal LLC) for the second
respondent.