

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGHCF 56

District Court Appeal No 22 of 2025

Between

XLX

... Appellant

And

(1) XLZ

(2) XLY

... Respondents

GROUND OF DECISION

[Probate and Administration — Administration of assets]

TABLE OF CONTENTS

INTRODUCTION.....1

PROCEDURAL BACKGROUND2

LEGAL CONSIDERATIONS3

**WHETHER THERE WAS A FAIR AND ACCURATE
ACCOUNT OF THE ESTATE.....6**

**WHETHER THE DJ SHOULD HAVE GIVEN DIRECTIONS ON
THE ESTATE.....12**

COSTS BELOW.....13

CONCLUSION.....14

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher’s duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

XLX
v
XLZ and another

[2025] SGHCF 56

Family Division of the High Court — District Court Appeal No 22 of 2025
Kwek Mean Luck J
19 September 2025

25 September 2025

Kwek Mean Luck J:

Introduction

1 This is an appeal against the decision of the District Judge (“DJ”) in FC/OSP 20/2024 (“OSP 20”), where the appellant prayed for an order for a “[f]air and accurate statement of accounts relating to Probate case number [redacted]” and “[t]imely execution of Probate case number [redacted]” in relation to his mother’s estate. His siblings, the respondents, are the executors and trustees of his mother’s estate. The DJ found the information provided by the respondents in a Statement of Account (“SOA”)¹ to be fair and accurate. The parties are all litigants in persons. After considering the parties’ case, I allowed the appeal in part and ordered the respondents to make certain rectifications to the accounts. This sets out my full grounds of decision.

¹ Record of Appeal (“ROA”) at p 39.

Appellant's case

- 2 The appellant raised three main issues on appeal, namely, whether:
- (a) the SOA provided by the respondents is a fair and accurate account of the estate;
 - (b) the DJ should have ruled on certain issues relating to the appellant's entitlement under the estate; and
 - (c) the DJ should have ordered that parties bear their own costs.

Procedural Background

3 The appellant filed OSP 20 against the respondents on 20 March 2024, seeking a fair statement of accounts to be set up and timely execution of the probate. On 14 October 2024, the respondents filed a joint affidavit, annexing the SOA, which had been sent to the appellant on 13 September 2024. On 31 January 2025, the DJ heard the parties and dismissed the application.

4 The parties' written cases were filed by 3 July 2025. At the Pre-Trial Conference ("PTC") conducted by the Assistant Registrar ("AR") on 8 July 2025, I conveyed through the AR that if there were any further documents that parties wish to adduce for the appeal, they were to make the appropriate applications ahead of the hearing. It was also conveyed that there are a few disputed items for which this may be needed:

- (a) Item 3.2 of the SOA. The appellant disputed whether this is a joint account. The document that the respondents exhibited in their joint affidavit at Exhibit 3-2 is a statement of transactions which does not indicate whether the account is joint or single.

(b) Item 8 of the SOA. The appellant contended that there should be a scrap value of the vehicle which was not accounted for.

(c) Items 9 and 11, relating to certain insurance policies. Their values in the SOA are listed as pending. The respondents were informed that they should provide an update from the insurers and if there is no update, to exhibit their correspondence with the insurers for purposes of showing their status.

(d) The appellant contended that two properties, namely the [Property 1] and [Property 2], are no longer subject to mortgage loans. Hence, they should not have liabilities in the SOA. The respondents were informed that if they disagree, they should adduce documents to show the existence of such liabilities.

5 At the PTC subsequently conducted on 22 July 2025, the respondents informed the AR that they were ready to go ahead with the hearing for the appeal and would not be making any applications. The AR directed that they address the queries highlighted by the court in skeletal submissions. These were subsequently filed.

Legal considerations

6 I started by considering the *legal case* before me. As all parties involved are self-represented, it was not immediately apparent from their written submissions what the *legal basis* for their contentions was.

7 The appellant asked a “fair and accurate statement of accounts”. In legal terms, this is an application for taking of accounts. An account may be taken on a common basis, where no misconduct has been alleged, or a wilful default

basis, which involves a breach of duty on the part of the fiduciary; see *Cheong Soh Chin v Eng Chiet Shoong* [2019] 4 SLR 714 (“*Cheong Soh Chin*”) at [72]–[85]. For an account to be taken on a wilful default basis, the trustee must have committed some sort of misconduct, and this has to be particularly and properly pleaded; *Cheong Soh Chin* at [80].

8 The appellant averred that the respondents had “failed to fulfil their obligations in administering the estate and distributing the inheritance in accordance with the terms of the will in a fair and timely manner.”² The main complaints of the appellant regarding the respondents’ execution of their duties are the inaccuracies in the SOA and the delay in providing it. I found that the appellant has not proved that the respondents breached their duties, for an account to be taken on a wilful default basis.

9 While there are inaccuracies in the SOA, I was satisfied that the inaccuracies do not point towards any breach of fiduciary duty on the part of the respondents. I also did not find there to be any unjustifiable delay. The appellant sought costs of the hearing below on the grounds of unjustifiable delay. I deal with this in more detail below.

10 I noted that under the Family Justice Rules 2014 (“FJR 2014”), a specific procedure is provided for the taking of accounts. The procedure comes with the filing of Affidavits of Evidence in Chief and the cross-examination of witnesses; see Division 41 – Accounts and Inquiries. This had not been complied with. Nonetheless, given that all parties involved are self-represented, I did not consider this a bar to the examination of the account as provided on a common basis. Rule 22(1) of the FJR 2014 provides that the court is to adopt a judge-led

² ROA at p 29, para 5.

approach to identify the relevant issues and to ensure the relevant evidence is adduced by parties. In adopting a judge-led approach, rule 22(3)(c) of the FJR 2014 states that the court may give directions on the giving of evidence orally or by affidavit. Therefore, I directed the respondents to provide oral evidence at the hearing to clarify certain evidential issues.

11 In making the assessment below, I bore in mind certain considerations. The respondents may still be acting *qua* executor and not *qua* trustee, as the respondents do not appear to have fully administered the estate. An executor is nonetheless liable to furnish an account on a common basis; see *Chye Seng Kait v Chye Seng Fong* [2021] 2 SLR 1131 at [17], G Raman, *Probate and Administration Law in Singapore and Malaysia* (LexisNexis, 4th Ed, 2017) at paras 12.37–12.41.

12 The established principles in relation to the accounting process for trustees, in my view, are also applicable to an account furnished by executors. Trustees “must by the accounting process give ‘proper, complete and accurate justification and documentation for his actions as trustee,’ as the taking of an account is a means to hold the trustee accountable for his stewardship of trust property”; see *Baker, Michael A v BCS Business Consulting Services Pte Ltd* [2023] 1 SLR 35 (“*Baker*”) at [24]. However, the court may make some allowances for a lay trustee’s accounting; *Baker* at [31]. Further, while trustees are not always required to adduce supporting documents for every transaction, that will depend on the nature of the expenses, the quantum and whether such expenses would be typically reflected in some documentation. A trustee who provides documentary evidence would be placed in a favourable position to discharge his burden of proof. Where documentary evidence is not available, oral evidence may suffice, though it will naturally be subject to the court’s scrutiny; *Baker* at [33].

13 I come now to the SOA. The appellant contended that there are various inaccuracies in the SOA and proposed that certain sums be added back to the SOA: certain disbursements were not authorised, certain items ought not to be included, and the respondents had received more than the account records.³

14 The legal basis for the appellant’s case is that certain entries should be falsified (where disbursements were unauthorised or items should not be included) or surcharged (where the trustee had received more than the account records), as appropriate; *Cheong Soh Chin* at [78]–[79]. The respondents bear the burden of proof in relation to falsification to show that the disbursement was authorised; *Cheong Soh Chin* at [78], *Baker* at [25]. Conversely, the appellant bears the burden of proof to show that a sum should be surcharged for being a sum that should be included in the account records; *Cheong Soh Chin* at [79].

15 It was on the legal basis as described above that I assessed the parties’ cases.

Whether there was a fair and accurate account of the estate

16 The appellant identified the following inaccuracies in the SOA.

17 First, item 3.2, which relates to a savings account valued at \$6,224.20 in the Schedule of Assets (Amendment No 1) filed on 3 March 2020 (the “Schedule of Assets”), was valued at zero at the time of distribution. The DJ appeared to have accepted the respondents’ explanation that this was a joint account held by their father and the first respondent (“1R”) and that the law of survivorship enabled 1R to keep this money, hence the zero value at

³ Appellant’s Case dated 28 May 2025 (“Appellant’s Case”) at paras 14–19.

distribution. The appellant contended that item 3.2 is labelled as a single, and not joint, account in the SOA.⁴ There is also no joint account name.

18 I noted that in the Schedule of Assets, this was not listed as a joint account whereas some of the other accounts were.⁵ The letter from DBS which the respondents enclosed in their skeletons also did not indicate that this was a joint account.⁶ Likewise, the statement of transactions which was exhibited in the Respondents' Joint Affidavit does not indicate if this was a single or joint account, although it does show that the balance was only \$0.14 when the account was closed on 6 August 2024.⁷ The burden of proof of demonstrating the authorisation of a disbursement is on the respondents; *Baker* at [16]. At the hearing, 1R confirmed that this is a single account and not a joint account.

19 1R further submitted that while this account initially reflected \$6,224.20 as of 16 July 2013, it only reflected \$0.14 as of 6 August 2024. They did not know why since they did not withdraw the monies, and that this could be due to the bank offsetting it for credit card payments. This could be a further reason to reflect it as nil value.

20 The respondents accepted that this was not a joint account. There was also no evidence supporting the suggestion that the bank used the monies in the account to offset other credit card payments. I hence found that the SOA should not have excluded the amount of \$6,224.20. I hold that the appellant is entitled to falsify this item against the account.

⁴ Appellant's Case at para 15.

⁵ Appellant's affidavit dated 19 March 2024 ("Appellant's Affidavit") at p 9.

⁶ Respondents' Skeletal Submissions dated 12 August 2025 ("RWS") at p 10.

⁷ Joint Affidavit of the Respondents dated 11 October 2024 ("Respondents' Joint Affidavit"), Exhibit 3-2.

21 Second, item 8, which relates to a motor vehicle, was valued at \$12,305 at the time of the Schedule of Assets but is listed as nil. The appellant submitted that when the vehicle was scrapped by the second respondent (“2R”) after the death of their mother, there would have been a scrap value which was kept by either of the respondents, but which was not accounted for in the SOA.⁸ This is an assertion that the respondents had received more than the account records; in legal terms, what the appellant seeks here is a surcharge. The burden is on the appellant to show that there was a sum that should be rightly credited to the estate; *Cheong Soh Chin* at [79].

22 The respondents confirmed in their skeletons that “the motor vehicle expired on 1 June 2015”, was deregistered and eventually scrapped.⁹ Presumably, this would come with a scrap value. The respondents did not contend otherwise, but they did not explain what the scrap value was or what was done with it. At the hearing of the appeal, 2R testified that he sold the car to a dealer, that he did not remember what amount he received, and that it may have been around \$10,000.

23 As the respondents did receive value from the car, that should be reflected in the SOA. As there is no evidence supporting any other value, the market value as reflected in the Schedule of Assets for item 8, *ie*, \$12,305, should have been accounted for and added back to the SOA. I noted that the figure cited by 2R is also close to the figure of \$12,305. I thus found that the appellant has discharged his burden of proof, and is entitled to surcharge this amount against the account.

⁸ Appellant’s Case at para 15.

⁹ RWS at para 8.

24 Third, items 9 and 11, which relate to insurance policies from MSIG and Aviva, have values of \$25,000 and \$10,882.57 respectively in the Schedule of Assets, but with their status noted as “awaiting MSIG” and “[n]ot yet” respectively in the SOA. The appellant submitted that the DJ should have instructed that the policy values be updated prior to passing judgment on the SOA.¹⁰

25 The respondents explained at the hearing below that they are awaiting the insurers to process the claim. In their skeletons, they stated that the insurer required various reports from the Police and the authorities, which have not been forthcoming, in order to process their claim.¹¹ The respondents explained at the hearing that they are uncertain whether the claim will be successful and the zero valuation was a temporary measure.

26 The AR had conveyed to the respondents at the PTC on 8 July 2025 that the respondents should provide an update from the insurers, and if there is no update, to exhibit their correspondence with the insurers for purposes of showing the status of this issue. The respondents did not do so. The last email relating to the MSIG policy is dated 23 July 2017, over eight years ago.¹² MSIG had, on 6 April 2016, requested for the police report, results of the police investigation, coroner’s inquiry and post-mortem report, relating to the death of the parties’ mother, whose cause of death according to the email is head injury. There is no evidence of any communication between the respondents and Aviva.

¹⁰ Appellant’s Case at para 15.

¹¹ RWS at para 9.

¹² RWS at pp 13–14.

27 At the hearing, 2R testified that the Police were not willing to provide him with the Coroner’s Report, which MSIG required, to claim on the MSIG policy which was an accident policy. 2R was not aware of the details of the Aviva policy and has not been in touch with them. More time would be needed to pursue these claims.

28 At the same time, I observed to parties that 2R is the sole beneficiary of these two policies. It would not materially affect the entitlements under the estate to reflect the indicated values for these policies in the SOA. This would allow them as executors to move forward, while 2R separately pursues his claims on the insurance policies. The respondents indicated that they were agreeable to this course of action.

29 Following from the above, the value of these insurance policies, valued at \$25,000 and \$10,882.57, should be included in the SOA. The appellant is entitled to surcharge this against the account.

30 Fourth, the appellant contended that the legal costs in the SOA relating to the [High Court Suit], the [Caveat Summons] and the [Appeal], amounting to a net cost of \$137,351.11, should have been halved instead of being the “full nett cost”.¹³

31 The [High Court Suit] related to two properties, [Property 1] and the [Property 2]. The [Appeal] was an appeal against the decision of the High Court Judge in the [High Court Suit]. The [Caveat Summons] related to caveats lodged in respect of these two properties. As the two properties were found by the court to be held by both parents, the interest in the properties would flow into each of

¹³ Appellant’s Case at para 16.

their respective estates. The costs of the litigation should therefore be borne by both estates. The net legal cost in the SOA should hence be half of the \$137,351.11 that is listed. The appellant is entitled to falsify the entry in part on the basis that only half of the net legal costs was properly chargeable to the estate.

32 Fifth, [Property 1] is listed in the SOA as having a liability of \$282,276 and [Property 2] is listed as having a liability of \$40,390.84.¹⁴ The DJ accepted this on the basis that the order in the [High Court Suit] speaks of the need for the respondents to reimburse from the estate the amounts paid by the appellant towards the properties. The appellant submitted that the amounts stated in the SOA as liabilities are the bank liabilities which existed in 2020 before the [High Court Suit]. Both properties were already free of bank debt by the time of the SOA. [Property 1] was sold before the lawsuits were completed and the proceeds transferred to the estate. [Property 2] was transferred to the estate with no outstanding bank loans. Hence, there should not be any liabilities for these two properties in the SOA.

33 At the hearing, the respondents accepted that the mortgage for these two properties have been discharged and the liabilities for them should not be reflected in the SOA. Following from this, the SOA should not have reflected the [Property 1] and [Property 2] as having liabilities of \$282,276 and \$40,390.84 respectively. The appellant is entitled to falsify this entry in the SOA, and strike out the liabilities.

34 In summary, the SOA should be amended in light of the findings set out above:

¹⁴ Appellant's Case at para 17.

- (a) item 3.2 should reflect the addition of \$6,224.20 in the SOA rather than nil value;
- (b) item 8, which relates to a motor vehicle, should reflect the addition of \$12,305, rather than nil value;
- (c) items 9 and 11, which relate to insurance policies, should reflect the addition of the listed values of \$25,000 and \$10,882.57 in the SOA, rather than as “awaiting MSIG” and “[n]ot yet” respectively;
- (d) the legal costs in the SOA relating to the [High Court Suit], the [Caveat Summons] and the [Appeal], which was reflected as net cost of \$137,351.11, should have been reflected as half that figure instead of the full net cost; and
- (e) [Property 1] and [Property 2] should not have been reflected as having liabilities of \$282,276 and \$40,390.84 respectively.

Whether the DJ should have given directions on the estate

35 The appellant raised two further issues at the appeal which did not relate to whether the SOA is fair and accurate, but related to the asset pool of the estate and the appellant’s exact entitlement under the estate. First, whether the net value of the estate should exclude [Property 1] and [Property 2].¹⁵ The SOA includes these two properties, but the respondents took the view that the net value of the estate should exclude these two properties. Second, the appellant’s exact entitlement under the estate.¹⁶

¹⁵ Appellant’s Case at paras 21–24.

¹⁶ Appellant’s Case at paras 25–28.

36 I noted that OSP 20 had only sought a taking of accounts and timely execution of the probate, and did not include a prayer for the court to adjudge the appropriate application of the estate assets to testamentary expenses in coming to a proper distribution. Nor were there any submissions made by either party to assist the court in determining the appellant's entitlement. I agreed with the DJ that in this, the appropriate applications would be required and submissions made.

37 Following the hearing, I also shared with parties my observation that the net value of the estate should include [Property 1] and [Property 2]. This is purely in *obiter*, and shared to help the parties, who are all siblings, to reduce the need for further litigation and move on.

Costs below

38 Finally, the appellant sought costs for the hearing below. The appellant submitted that having the parties bear their own costs, as ordered by the DJ, suggests that the DJ believed it was right for the respondents to delay the distribution of the estate for two years.¹⁷

39 The appellant submitted that it was only because of this application in OSP 20 that the respondents filed the SOA. The lawsuits relating to the two properties, including the appeal, concluded in July 2022. He made multiple requests for distribution of assets since July 2022 which were met with no response.

40 From the records, the respondents took the position that they were not in the position to distribute assets until after all the testamentary expenses,

¹⁷ Appellant's Case at paras 29–34.

including the costs of litigation for the recovery of the shares in [Property 1] and [Property 2] were finalised.

41 The appellant transferred the disputed assets around October 2023.¹⁸ He exhibited an email dated 15 November 2023 where he said that he would be suing the respondents for breach of trust if they did not complete the distribution process.¹⁹ OSP 20 was filed on 24 March 2024. The respondents sent the SOA to the appellant around 13 September 2024.²⁰ They explained that the preparation of the SOA required time and effort. They needed to make multiple physical trips together to the banks, to file documents and make requests. Time was needed for bank clearances and execution of sales for some of the investments.

42 I did not find that in the circumstances, there was unjustifiable delay from the respondents. Although no account was furnished before the application in OSP 20, and there were indeed some delays, the respondents had explained the reasons for such delays. An order of costs is in the judge's discretion and to warrant appellate intervention, the judge's decision must be shown to be clearly inequitable or wrong in principle; *TNL v TNK* [2017] 1 SLR 609 at [53]. That was not the case here. I therefore found no basis to disturb the DJ's exercise of discretion in making the costs order below.

Conclusion

43 For the reasons set out above, the appeal is allowed in part. Having considered the circumstances of the case, I made no order on costs of this appeal.

¹⁸ Respondents' Joint Affidavit at para 14.

¹⁹ Appellant's Affidavit at p 7.

²⁰ Respondents' Joint Affidavit at para 27.

As shared with the parties at the end of the hearing, I hope that as siblings, they can deal with any remaining issues sensibly, bearing in mind the quantum involved and their family ties, so that they can finally resolve the estate issues and move on.

Kwek Mean Luck
Judge of the High Court

The appellant in person;
The respondents in person.
