

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

[2025] SGHC 85

Originating Application No 997 of 2024

Between

DOO

... *Claimant*

And

DOP

... *Defendant*

Between

DOP

... *Claimant-in-Counterclaim*

And

DOO

... *Defendant-in-Counterclaim*

JUDGMENT

[Trusts — Constructive trusts]

[Trusts — Resulting trusts]

[Equity — Remedies — Equitable accounting]

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DOO

v

DOP

[2025] SGHC 85

General Division of the High Court — Originating Application No 997 of 2024

Choo Han Teck J
16, 23 April 2025

7 May 2025

Judgment reserved.

Choo Han Teck J:

1 The claimant and the defendant, both aged 50, were in a romantic relationship from 2005 to 2018 and cohabited from 2006 to 2019. The claimant is an author and the defendant is a vice president of a software company. Both are French citizens as well as Singapore Permanent Residents. They moved to Singapore in 2010 and decided to have a family here. Although not married, they have two children born in Singapore in 2012 and 2015, respectively. In December 2011, the parties bought a condominium flat in Singapore (the “Property”) as joint tenants. The Property is the subject of this dispute.

2 On 26 September 2024, the claimant filed an application for the sale of the Property, with the net sale proceeds to be divided equally between the parties. The defendant filed a counterclaim on 17 October 2024 for a declaration that the beneficial ownership of the Property is held between the claimant and

the defendant in the ratio of 16.3:83.7 respectively, in accordance with their alleged financial contributions to the Property. The defendant wants the claimant's title and interest in the Property to be sold to the defendant, in lieu of partition, in accordance with the claimant's share of the beneficial ownership in the Property.

3 The issue in question concerns the parties' respective beneficial interests in the Property. The claimant contends that she and the defendant hold the Property legally and beneficially in equal shares, whereas the defendant argues that their beneficial interests in the Property correspond to their respective financial contributions towards the acquisition of the Property. It is undisputed that the parties purchased the Property for \$1.65m in December 2011 as joint tenants. To finance this purchase, the parties took a joint mortgage loan of \$1.32m from the bank in both names. The claimant was working at a research centre at that time, though she says she was earning much less than the defendant. The defendant paid almost all the upfront costs, which included 5% of the purchase price, part payment of the purchase price, conveyancing fees and stamp duties. From May 2012 to mid-2018, the parties contributed equally to the monthly mortgage repayments. The claimant stopped contributing to the mortgage repayments sometime in mid-2018 as she was retrenched. Thereafter, the defendant paid for the mortgage repayments solely.

4 Where there is sufficient evidence of the parties' common intention, that intention proves the beneficial ownership and precludes the operation of any presumption: see *Lau Siew Kim v Yeo Guan Chye Terence and another* [2008] 2 SLR(R) 108 ("*Lau Siew Kim*") at [59]. *Chan Yuen Lan v See Fong Mun* [2014] 3 SLR 1048 ("*Chan Yuen Lan*") at [160], referred to by counsel for both parties, starts its analysis with a presumption of resulting trust based on the parties' respective financial contributions to the purchase price. However, the

second and sixth steps clarify that the foremost consideration is the parties' common intention. For this reason, the circumstances surrounding the parties' purchase of the Property in December 2011 is where we should begin the search for clues as to the parties' intention.

5 The claimant claims that it was always their intention for the Property to be held equally. She says that the defendant clearly acknowledged this agreement in an affidavit filed in 2019 for their family proceedings in the District Court of Paris (the "Paris Proceedings"). The defendant wrote in his affidavit that the parties "have the undivided ownership in an equal manner" of their "family home". Further, she says that if the parties had intended to hold the Property in a manner proportionate to their financial contributions, the defendant would not have agreed to register the Property in joint tenancy. She also claims that the defendant had executed a will around June 2016. The terms of the alleged will provided for all the defendant's assets, including the Property, to be bequeathed to her upon his death. She did not adduce the signed copy of the will as she was unable to have access to it, but she exhibited an unsigned draft of it.

6 The claimant argues that the parties' agreement to share mortgage repayments equally was a direct consequence of their agreement to hold their beneficial interests in the Property equally. According to her, she made equal contributions towards the mortgage repayment from March 2012 to June 2018 and only stopped because she lost her job. Moreover, she contends that the parties' relationship was "akin to that of husband and wife" and the defendant himself had admitted that the Property was purchased to serve as their home. They cohabited for many years, had two children together and functioned as a familial unit. In their respective applications for permanent residence in Singapore, they also indicated that they were "married" under common law. Her

position is that the acquisition of the Property within the context of their long-term relationship, is sufficient evidence of their intention to share ownership equally rather than in proportions dictated by fluctuating financial contributions.

7 The defendant maintains that the parties never had an agreement for an “unconditional equal ownership”. First, he says that the Property being their “family home” is mere nomenclature, a factual description. He denies ever admitting that the Property is equally held by both parties in his affidavit in the Paris Proceedings. The defendant clarifies that the entire section in his affidavit was in respect of their sharing of family expenses. The full sentence quoted by the claimant was:

[The defendant] therefore requests that *each of the parents contribute €2,370 to the family home maintenance* of which they have the undivided ownership in an *equal manner*.

[emphasis in original]

The defendant says that the phrase “equal manner”, viewed in context, meant that he had asked the claimant to contribute equally to their family expenses.

8 Second, the defendant says that the parties’ relationship was one of cohabitation and mutual cooperation, whereby each party retained their individual freedom and their own assets. They made a deliberate decision to have children but not get married and the declarations in their permanent residence applications were only for the purpose of “strengthening” their applications. Therefore, their relationship was not “akin to husband and wife” but mere co-parents. Third, the defendant claims that if the parties had intended to hold the Property equally, they would have been tenants-in-common with equal shares. Once the Property was in joint names, the mortgage naturally had to be joint. He says that the focus of the inquiry should be on whether there was any agreement, at the time the loan was taken, as to the ultimate source of the

funds that would be used to repay the loan: citing *Tan Yok Koon v Tan Choo Suan and another and other appeals* [2017] 1 SLR 654 at [142]. In this case, the source of payment came from his sole bank account.

9 Fourth, the defendant emphasises that although the parties contributed equally to the mortgage repayments for the first six years, he paid the bulk of the upfront costs. He says that since both parties were working at that time, it would have been “natural and logical” for them to agree to share the mortgage repayments equally. This agreement is consistent with the fact that each party would be “adequately compensated” by receiving a share “equivalent to the amount contributed”. Lastly, he says that the claimant’s allegation regarding his will is a “bare assertion” unsupported by documentary or objective evidence. The draft will was never signed nor executed, and even if it had been, this is irrelevant as wills concern matters post-death.

10 These are the matters that I shall have to consider. By holding the Property as joint tenants, the parties obviously intended to enjoy the right of survivorship upon the death of one of them. But this does not necessarily mean that the parties intended the beneficial interest to be held in equal shares when they are alive: see *Ng So Hang v Wong Sang Woo* [2018] SGHC 162 at [46]. Similarly, as the joint mortgage flowed as a natural consequence of the parties’ joint ownership, the fact that both parties were jointly liable to pay the mortgage is not in itself conclusive evidence of the parties’ intention. This is not to say that the right of survivorship is incompatible with an intention for joint tenants to hold the beneficial interests of a property equally in their lifetime. It only means that more evidence is required to prove a common intention for the parties to hold the Property equally.

11 This brings me to my next point that the subsequent conduct of parties is relevant insofar as it may indicate what the parties' agreement was when the loan was taken: see *Su Emmanuel v Emmanuel Priya Ethel Anne and another* [2016] 3 SLR 1222 ("*Su Emmanuel*") at [90]. The intention to acquire and on what basis, must not be confused with how the parties subsequently go about to pay for it. The latter may change when the parties' circumstances change, as it appears so in this case. The fact that the claimant had paid equally for the mortgage for the first six years and only stopped when she was retrenched is a strong indication that the parties intended at the point of acquisition to hold the Property in equal shares. It is immaterial that the funds came from the defendant's sole bank account. The defendant does not dispute that the claimant transferred money to him monthly for the repayment of the mortgage from 2012 to 2018. The defendant relies on the fact that he paid the bulk of the upfront costs to dispute their co-payments of the mortgage being evidence of their common intention. However, this must be viewed in context. The claimant was earning a fraction of the defendant's income. It would have been entirely conceivable for the defendant, being in a long-term relationship with the claimant, to agree to pay the main share of the upfront costs for their family home.

12 Contrary to the defendant's contention, there is no evidence of any oral agreement for a proportionate ownership based on each party's respective financial contributions. Their relationship was nothing like a business investment, neither was the Property a co-investment between business partners. They were romantic partners who cooperated in running a household together. All these factors, taken together, suggests to me that the parties intended to hold the Property in equal shares at the time of the acquisition. In coming to this conclusion, I find that there is insufficient evidence of a valid

will, and therefore, I am of the view that the assertion of that will is of little assistance to the claim.

13 The next question is whether the claimant relied on the parties' common intention that the Property would be held in equal shares to her detriment. She says that there was detrimental reliance, as evidenced by the fact that she contributed equally to the renovation expenses and purchase of furniture and fittings for the Property. She also claims to have borne a significant portion of the family's living expenses and contributed substantially towards the Property's maintenance even after she was retrenched. She says that between April 2019 and May 2022, she contributed approximately \$5,000 monthly towards the family's expenses. She also asserts that the defendant owes her \$18,000 for taxi expenses related to the children which she believes has been used towards mortgage repayments. Lastly, she claims that she transferred a total of \$62,800 to the defendant over several years for an investment policy they agreed to invest in together. The defendant returned her a total of \$45,000 after they separated, and she believes that the remaining amount withheld by him went towards covering the Property's mortgage and its associated costs.

14 To support her assertions, the claimant relies on a WhatsApp message from the defendant dated 28 February 2019 in which the defendant wrote that he was keeping \$30,000 of her money to cover her expenses including loan repayments. She explains that the \$30,000 (which was part of the \$62,800) was eventually returned to her, but some money remains with him. However, there is no evidence that any of the money withheld by the defendant had been used to pay the mortgage. There is also no evidence of the alleged \$42,776 she paid for the Property's renovation and fittings, nor the \$18,000 for taxi expenses. Nonetheless, I accept that people in love sometimes keep an account of what each spends, but among married couples and those who live as such (like the

parties here), they often regard their relationship as a romantic or domestic partnership, not a commercial one that has one or both acting as bookkeeper. The parties here, though not married, were living as a family with two young children and undertook joint familial obligations based on their respective financial capabilities. The Property was purchased in 2011 and the parties separated in 2018. I accept that the claimant (nor the defendant) may not have a full record of every expense incurred. Based on the receipts adduced by the claimant, she continued to pay for the maintenance and repair of the Property (eg, air-conditioner servicing, utilities, kitchen sink repairs) between April 2019 and May 2022, when she was still staying in the Property with the two children. By this point, the parties' relationship had broken down and the payments made by the claimant were likely not motivated by a sense of familial obligation towards her partner. Although such payments cannot be considered direct contributions towards the purchase price, I accept that they are proof of the claimant's detrimental reliance on the parties' common intention to hold the Property in equal shares. Therefore, I am of the opinion that the Property is subject to a common intention constructive trust where the beneficial owners are the claimant and the defendant in equal shares.

15 There is no basis to find a subsequent common intention to vary the beneficial interests in the Property from the equal proportions agreed upon at the time of the purchase. Even if the defendant believed all along that his beneficial interests in the Property would increase by virtue of his sole mortgage repayments from 2018 onwards, it was not an intention common to both parties. The claimant never intended to reduce her half stake in the Property.

16 Given my finding of a common intention constructive trust, it is not relevant to discuss the principles of presumptions. Nonetheless, in the interests of clarity, I shall briefly address the defendant's argument that under the first

point in *Chan Yuen Lan* at [160(a)], a presumption of resulting trust arises in proportion to their respective financial contributions to the purchase price of the Property. This presumption is not rebutted, he says, because there was no common intention between parties to hold it equally nor any intention by him to benefit the claimant with his excess mortgage repayments. The crux of the defendant's contention is that he paid for most of the upfront costs and all the mortgage instalments after the claimant was retrenched in mid-2018.

17 To that end, the Court of Appeal in *Lau Siew Kim* at [115]–[117] has held that the payment of mortgage instalments, in and of itself, should not be regarded as a direct contribution to the purchase price of the property. The extent of the parties' beneficial interests under a resulting trust must be determined at the time the property is purchased because that was when the trust crystallised. In other words, the critical question is whether the parties were in agreement, at the time of the acquisition of the property, as to what liability each party would undertake in respect of the mortgage: see *Su Emmanuel* at [87]. It would be wrong in principle to calculate subsequent payments as part of the parties' contributions to the purchase price as that would mean that the parties' interests under the resulting trust are in a state of flux, increasing or decreasing as the case may be when one party makes repayment of the mortgage: see *Su Emmanuel* at [92].

18 As discussed earlier, the parties' equal repayment of the housing loan for the first six years indicates that their agreement at the time of purchase was for both parties to be equally liable for the repayment of the mortgage (see above at [11]). On this finding, a rebuttable presumption of a resulting trust could arise only to the extent of their agreement to contribute equally to the Property. However, as I hold above, no presumption of resulting trust arises as there is sufficient evidence of the parties' common intention.

19 This does not mean that the defendant has no remedy in respect of his excess repayments of the mortgage. The extent to which each party is expected to contribute to mortgage repayments largely depends on the common understanding between the parties at the time the mortgage is taken out. If, however, there is a material departure from the parties' common understanding and one party repays more of the mortgage than was initially envisaged, then such payments are subject to an equitable accounting, unless it is shown that at the time the mortgage repayments were made, the payor had the intention to benefit the other co-owner: see *Su Emmanuel* at [105].

20 It is, therefore, necessary to examine the defendant's intention at the time he began to pay off the loan solely. The claimant says that she stopped paying for the mortgage from July 2018, whereas the defendant claims that she stopped contributing since May 2018. Although there is no evidence of the bank transfers from the claimant to the defendant, the defendant has produced a table showing equal repayment by each party from May 2012 until May 2018, after which he continued to pay for the mortgage solely. The defendant also adduced bank statements to show the monthly repayments since it began in May 2012. Given that the defendant has produced detailed documentary evidence of repayments, I accept his account that the claimant's mortgage repayments ceased in May 2018.

21 According to the defendant, the parties broke up because the claimant met someone else sometime in June 2018 and began a relationship with the third party in September 2018. The claimant, on the other hand, says that their relationship broke down in December 2018 because of their disputes over money, and for nearly four years before December 2018, they had already been spending less time together and sleeping in separate rooms. She attributes this to a change in their relationship dynamics after they had two children. In any

case, it is clear that by December 2018, the claimant and the defendant were no longer in a romantic relationship. The defendant moved out of the Property in April 2019 and the claimant continued residing in the Property for the next three years. She relocated to France in May 2022 and the defendant moved back into the Property sometime later. The defendant did not make submissions on the remedy of equitable accounting, but the claimant contends that the remedy should not apply because the defendant agreed to take on the entire mortgage loan after the claimant lost her job “without expecting repayment in return”.

22 I accept the claimant’s contention that for six months after her retrenchment in mid-2018, the defendant had agreed to take on the mortgage loan without expecting reimbursement because the parties were still in a long-term, familial relationship. However, I do not believe that the defendant would have wanted to continue benefiting the claimant even after their breakup in December 2018. To the contrary, the defendant had made clear *via* an email dated 1 August 2019 that he was not making the mortgage repayments on the claimant’s behalf as gifts and that he intended to claim them back as his share of the Property. The understanding at the time of the purchase was for the parties to share the mortgage repayment equally. In my view, it would be inequitable for her to enjoy the benefits of her half-share in the Property without reimbursing the defendant the payments he made in excess of his own agreed share of the obligations since January 2019.

23 Between 2 January 2019 and 1 October 2024, the defendant paid a total of \$283,813 for the mortgage instalments. In the circumstances, the claimant ought to reimburse the defendant a sum of \$141,906.50 (being 50% of \$283,813) from the net sale proceeds of the Property. The claimant should also reimburse the defendant for the mortgage repayments he made on her behalf between November 2024 and the time of this judgment.

24 Given that the defendant has been handling the mortgage repayments and the claimant has relocated to France (whereas the defendant is still staying in Singapore), the defendant shall be given sole conduct of the sale of the Property. The defendant shall have the first option to purchase the claimant's interest in the Property. All costs and expenses incidental to the sale of the Property are to be shared equally between the claimant and the defendant. If the Property is sold in the open market, the net sale proceeds will be split equally between the claimant and the defendant, and the claimant shall reimburse the defendant for the excess mortgage repayments as calculated above at [23]. The sale ought to be completed within three months from the date of this order. There will be liberty to apply.

25 Each party is to bear its own costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Mohamed Baiross, Phipps Jonathan and Wong Ying Joleen
(I.R.B Law LLP) for the claimant;
See Chern Yang, Tan Ei Leen and Lee Ling Xuan (Drew &
Napier LLC) for the defendant.
