

Chidambaram s/o Alagappa v Alagappa Subramanian
[2002] SGHC 208

Case Number : Suit 1391/1999, OS 600431/2001
Decision Date : 10 September 2002
Tribunal/Court : High Court
Coram : Lai Kew Chai J
Counsel Name(s) : Deborah Barker SC/Wang Tiak Kweng/Ang Keng Ling [Khattar Wong & Partners] for the plaintiff; Molly Lim Kheng Yan SC/Ng Ee San [Wong Tan & Molly Lim] for the defendant; Ramalingam Kasi [Raj Kumar & Rama] for the claimant
Parties : Chidambaram s/o Alagappa — Alagappa Subramanian

Judgment

Cur Adv

Vult

GROUND OF DECISION

Introduction

1 Four brothers from a Chettiar family pooled part of their inheritance from their father's estate and through two trustees appointed from amongst them invested the money in fixed deposit and properties. In these consolidated proceedings, one of the two trustees, is alleged to have overdrawn from the trust fund and is asked by the other trustee, the eldest brother, to repay the same together with the agreed interest to the trust fund. The trustee who is required to repay and account has substantial counterclaims against the eldest brother. Another brother, who resides in India, is claiming from the two trustees, the accounting parties, that he has been shortchanged. That brother embarked on a root and branch attack against the administration of the estate and challenged the claims of the eldest brother regarding certain matters in the administration of their father's estate, although in Malaysian proceedings, he had pitched his tent with the eldest brother. In consequence, these two sets of consolidated proceedings have been spawned. It is interesting to observe how their financial dealings, on top of and laced by the familial relationships among siblings of a Chettiar family, pan out when the facts are applied to the general law of trust.

Parties

2 The plaintiff ("Chidambaram") and the defendant ("Subramanian") are brothers in a Chettiar family of 5 sons. Both of them are resident in Singapore. Chidambaram (aged 58) is the eldest and Subramanian (aged 55) is the 3rd son. Alagappa Venkatachalam ("Venkatachalam"), who is 54 years of age, is the 2nd son. He is resident in Kuala Lumpur, Malaysia. He is not a party in these proceedings but he litigated extensively against Chidambaram in Kuala Lumpur, Malaysia. Alagappa Annamalai ("Annamalai") who is 53 year old is the 4th son. He is resident in Canada. He is not a party to these proceedings. But in these proceedings he gave evidence on behalf of his eldest brother, Chidambaram. The claimant, Alagappan Arunachalam ("Arunachalam") who is aged 51, is the 5th son. He was originally invited by Chidambaram to be his witness in Suit 1391 of 1999. A draft affidavit together with various statements of accounts were given to him. Having perused the documents, he concluded that his interest was not protected. He applied to be made a party in the suit. As the suit had progressed to an advanced stage, he was directed to file Originating Summons 600431 of 1999. Both sets of proceedings were ordered to be consolidated in March 2000.

Estate of VCT Alagappa Chettiar

3 The 5 brothers, who were all born in India, are the sons of the late VCT Alagappa Chettiar. The father passed away in Singapore on 20 November 1977 but he was domiciled in Malaysia, leaving substantial assets in Malaysia. He was survived by his wife. All five sons were appointed executors and trustees of his Will. Eventually, the executors of the estate were Chidambaram and Arunachalam. The other three siblings elected not to take up the onerous duties of the executorship, recognizing as they did that the first born should be accorded the honour and, of course, the burdens of the office. Arunachalam, who was residing in India, found it difficult to discharge his duties as a co-executor. After holding that office for 3 years he withdrew. The bulk of the estate comprised immovable properties. They comprised of some land in

the Mukim of Pantai, District of Seremban, Negri Sembilan ("the Seremban Property"), some land in the Mukim of Cheras, District of Kajang, Selangor ("the Kajang Property"), which was owned by VCT Alagappan Corporation but which was registered in the name of the deceased. The estate also held an interest in various pieces of land known as the Yap Kwan Seng Property, which was owned by A.K.A.C.T.V Firm, though it was registered in his name upon trust for the partners of that firm.

4 The Seremban Property and the Kajang Property were sold in 1980. The Yap Kwan Seng Property was subsequently sold in 1981. The agreements for sale and purchase in respect of the Yap Kwan Seng Property were conditional upon planning approvals for development and payment of the consideration was by instalments. After settling all the debts and liabilities of the estate, Chidambaram distributed the net proceeds of the estate amounting to nearly RM\$14 million among all the beneficiaries. The distribution was accomplished by 30 June 1991.

5 It is necessary to describe the how the distribution was effected as it will provide the backdrop for the disputes arising in Singapore. A small portion was paid to each of the 4 brothers, other than Ventakachalam, and payments were paid in Kuala Lumpur. Part of Arunachalam's and Annamalai's shares were remitted to their countries of residence, i.e. India and Canada respectively.

6 Part of each of the 4 brothers' shares of the estate was remitted to their respective personal bank accounts opened in Singapore. In Indian Overseas Bank ("IOB") Chidambaram held a Singapore dollar account and a US dollar account. Subramanian held a Singapore dollar account in Overseas Chinese Banking Corporation ("OCBC") and a US dollar account in IOB. Arunachalam opened and maintained in OCBC a Singapore dollar account, designated A/c No. 016484-001. Annamalai held a Singapore dollar account in IOB under A/c no. 004182-3. That account was subsequently changed to 200 386111. He also had a US dollar account in IOB. That a/c was changed to 200 3860212.

7 It should also be mentioned that Chidambaram and Subramanian had placed a part of their shares of the estate in an IOB Fixed Deposit Account and an IOB Singapore dollar account in Singapore. Both accounts were opened in their joint names.

The Trusts

8 In late 1983 Chidambaram and his 3 brothers, namely Annamalai, Arunachalam and Subramanian (hereinafter called "the 4 Brothers" collectively) agreed to enter into an arrangement pursuant to which they would pool their resources. The agreement is referred to as "the Family Arrangement". The terms of the Family Arrangement, I find on the evidence, are as follows:

- (i) Each of them would contribute funds into a joint account ("the Family Account") which would be held and administered on behalf of all the 4 brothers.
- (ii) The Family Account would be administered by Chidambaram with the assistance of Subramanian as trustees for the benefit of the 4 brothers.
- (iii) For the purpose of administering the Family Account, Chidambaram could open such account or accounts at such bank or banks as he deemed fit and obtain such credit facilities for the Family Account from such bank or banks as he deemed fit;
- (iv) Monies contributed into the Family Account would be deposited in or held in such bank account(s) as may be selected by Chidambaram in his discretion;
- (v) Each of the 4 brothers could make withdrawals from the Family Account, provided the brother making the withdrawal had made sufficient contributions to allow for the withdrawal(s) without an overdrawn;
- (vi) An overdrawn (i.e. withdrawal exceeding the amount of that brother's contribution) could be made by any brother on the Family Account subject to the consent of the other brothers;
- (vii) Investments made utilising funds in the Family Account would be shared by the 4 brothers in proportion to the amounts of their respective contributions to the Family Account; and
- (viii) For the purpose of achieving and putting into practical effect the agreement as to the proportional sharing

of accretions set out in sub-paragraph (vii), the following would apply:-

- (a) As between the 4 brothers, interest would be calculated on each contribution into the Family Account at the rate of 9% per annum compounded on a monthly basis ("the Family Interest Rate") from the date of the contribution and would be payable to the brother making the contribution;
- (b) As between the 4 brothers, interest would be calculated at the Family Rate on any over drawings on the Family Account from the date of the overdrawing and would be payable by the brother making any such overdrawing and
- (c) In determining the share of each brother in the assets or monies held under the account, the contributions would be taken into account.

9 In these proceedings, the other unhappy feature is that the terms of the trusts in respect of the 4 Brothers' accounts are also disputed by Subramanian. Being members of a chattier family, they understood and accepted the rather intricate terms; they appeared to have no difficulty whatever in working out and accepting the almost ethereal way they could work out the interests payable, for example. According to all the brothers who gave evidence before me, such mathematical permutations for the calculations of interests is daily fare and part and parcel of the way they were brought up. I should therefore able to begin at the beginning

The Genesis

10 According to Annamalai, who is a neutral party in these controversies and whose evidence before me was most impressive, he said that in August, 1981, his mother and the 5 sons met in Kuala Lumpur. They had a discussion about the father's estate.

11 In the course of the family discussions, Chidambaram, the Executor, reported that the main assets of the estate, namely the three properties referred to earlier, had all been sold. The Seremban Property and the Kajang Property had been sold earlier. He had recently sold the Yap Kwan Seng Property for MR\$12.75 million. All present agreed that Chidambaram would be paid 10% of the difference between the 3 pieces of land as declared in the Estate Affidavit filed with the authorities in Kuala Lumpur and the actual selling prices of the three pieces of land. It was obvious to me that there was a need to reward Chidambaram in this way. Contrary to the assertions of Subramanian, it is not true that the bonus payable to Chidambaram should only be 10% of one-eleventh of the Yap Kwan Seng Property. There was no allegation that there was anything wrong nor was there any allegation that there had been any misrepresentation or suppression of any material facts. All the 4 brothers accepted that this incentive should be paid to Chidambaram. It was further agreed that Chidambaram would be paid MR\$2,500.00 per month with effect from 20 November 1977 as salary for acting as the Executor of the estate. The 5 sons also agreed that they would open bank accounts in the banks in Singapore. They are as set out earlier in this judgment.

The 4 Brothers' Account

12 In late 1983 Chidambaram informed Annamalai, Arunachalam and Subramanian that he had taken options to purchase 2 properties in Singapore. They were #07-03 Liho Liho Rise, 1 Ridgewood Close, Singapore ("the Liho Property") and #10-04 Kuhio Rise, 51 Mt. Sinai Rise, Singapore ("the Kuhio Property"). The 4 sons, excluding Arunachalam, expressed interest in investing part of their inheritance in Singapore and they entered into the Family Arrangement on the terms set out above.

13 One might ask about the complexities of the arrangements, especially one who is not familiar with the practices and customs of a Chettiar family. Annamalai explained that his late father had a practice of charging interest on loans made to any of his sons at the rate of 1% per month or 12% per annum compounded on a monthly basis. This was also the practice of A.K.A.CTV Firm, in which the father, his sons and grandsons each had a one-eleventh share. The 4 brothers during the discussion felt that the rate of 12% compounded monthly was too high. They agreed to 9% per month, compounded with monthly rests.

14 Annamalai told me that he had left the management and operation of the various accounts within the 4 Brothers' Account to Chidambaram and Subramanian. He further elaborated that since the establishments of the bank accounts described by me earlier for the 4

Brothers' Account, he had made various withdrawals from and had deposited into those accounts. He produced in court a summary of monies deposited and withdrawn by him under the 4 Brothers' Account. He also produced a statement of account showing the deposits and withdrawals made by him under the IOB Singapore dollar Account between 13 June 1984 and 17 July 1998. He also produced to this court all the banking statements and accounts which established correctly that he had deposited the sum of S\$1,014,949.00 into the IOB S\$ account and the total sum of US\$106,817.14 (then equivalent to S\$186,930.00 into the IOB US dollar Account. Annamalai in evidence said that after taking into account all withdrawal made by him, a sum of S\$681,029.73 plus interest is owing to him under the 4 Brothers' Account.

15 I now turn to the Jurong Property known as #24-19 Jurong East Street 13, Singapore. According to Annamalai, Chidambaram told him at the material time that Subramanian had expressed an interest in purchasing a residential Property for himself and wished to make withdrawals from the 4 Brothers' Account for that purpose. However, Annamalai knew that Subramanian at that point in time had withdrawn monies exceeding his contributions. Chidambaram confirmed this but he asked Annamalai if he was prepared to consent to Subramanian withdrawing a further sum of money to purchase the Property. However, Chidambaram informed Annamalai that Arunachalam had said that he would only agree to this if the Jurong Property was held for the benefit of the 4 Brothers' Account. This was subject to Subramanian's right to repay the monies withdrawn from the 4 Brothers' Account for the purchase and become the sole beneficial owner of the Jurong Property upon such repayment. Annamalai confirmed to this court that he would go along and agreed to the proposed course of action subject to those explicit terms.

16 In the event, Subramanian sold the Jurong Property and made a profit, which he never accounted to the Family Account.

The Accounts: (a) Estate Accounts; and (b) the 4 Brothers' (Family) Accounts

17 I should now deal with the evidence of Chidambaram and Subramanian in relation to the allegations of Subramanian. The allegations affect both the Estate accounts and the 4 Brothers' accounts and the evidence are set out separately.

(a) The Estate Accounts

18 According to Chidambaram, up to the end of 1983 the accounts which Arunachalam and he kept for the Estate were Tamil accounts. From time to time, Venkatachalam helped out on the keeping of the accounts. Arunachalam advised on the manner in which the accounts were to be kept. He also made entries in the Estate accounts.

19 In 1984 Venkatachalam commenced proceedings in the High Court of Malaya ("the KL proceedings") seeking accounts and declarations that Chidambaram were not entitled to certain payments. Accounts were therefore prepared in English and submitted to the KL High Court on 1 August 1984. Copies of those accounts were shown to Subramanian, Arunachalam and Annamalai. In 2001 the High Court in Malaysia had ruled in Ventakachalam's favour declaring the payment of bonus, commission and salaries to be improper. Ventakachalam would be entitled to be paid the sum of MR\$750,000 deposited with the KL lawyers being Ventakachalam's one fifth share of the said payments. I was told the matter was under appeal.

20 It is of great importance to note that Subramanian, Arunachalam and Annamalai had all affirmed affidavits on behalf of Chidambaram in opposition to Arunachalam. Before they appeared in the KL High Court to give evidence on behalf of Chidambaram, they were given copies of the accounts filed in the court. No objections were raised by them; certainly there were no written objections.

21 In 1984 Chidambaram computerised the Estate accounts by using the accounting software of his computer. Arunachalam advised Chidambaram on how this was to be done. After the accounts were computerised both Arunachalam and Subramanian assisted Chidambaram with the maintenance of the Estate accounts. Subramanian keyed in the data from the relevant accounting documents such as vouchers. He produced the printouts from time to time. Arunachalam, who was resident in India, visited Chidambaram's office and he had during those visits checked the accounts, proposed amendments and made amendments with the consent of Chidambaram. He also advised on the proper format of the accounts. He also checked the 4 Brothers' accounts in the course of which he spotted that there had been overpayment both to himself and to Annamalai of monies due to them from the Estate: see pp 95, 96 and 100 of the statement of accounts served with the Statement of Claim.

22 By February 1991 the Estate's assets had been realised and substantially distributed. Chidambaram closed the accounts on 30 June

1991. He said he handed the final accounts to Subramanian in the first week of July, 1991. It turned out that Subramanian was out of Singapore. This minor discrepancy is not important; in all likelihood Chidambaram had handed him the final accounts as they were sharing the same office. In late 1991, Chidambaram visited India. Annamalai also visited India about the same time. They met in Arunachalam's home. I am satisfied on the evidence that Chidambaram handed the accounts to Arunachalam and Annamalai who, for himself, confirmed the same.

23 I should explain how the Yap Kwan Seng Property was beneficially held. According to Chidambaram, the late Mr Alagappa Chettiar was the registered proprietor since 1956 and he held it as trustee for the A.K.A. CT.V firm, in which the testator held one-eleventh share. The other ten one-eleventh shares were held as follows:

- (i) 3 by Chidambaram and his 2 sons;
- (ii) 2 by Subramanian and his son;
- (iii) 2 by Arunachalam and his son;
- (iv) 1 by Annamalai (whose son was not yet born); and
- (v) 2 by Venkatachalam and his son.

24 Venkatachalam took a different view. He maintained that since the Yap Kwan Seng Property was in their father's sole name, the proceeds of sale of the Yap Kwan Seng Property should be divided equally among the 5 sons. On legal advice, Chidambaram acceded to the views of Venkatachalam. In the KL High Court proceedings, Venkatachalam also took issue with various items in the Estate Account, including the deduction of RM\$255,000 being commission paid to Sethu in respect of the Yap Kwan Seng Property. Neither Subramanian nor Arunachalam objected at the time when they appeared as witnesses for Chidambaram.

25 Subramanian further objected to the accounts by claiming that Chidambaram should have paid himself his salaries and bonus out of the assets, instead of allowing them to remain unpaid and earning interest at the expense of the Estate. Chidambaram is here alleged, contrary to his duties as a trustee, to have preferred his own interest over those and at the expense of the Estate. Chidambaram explained that the proceeds from the Seremban and Kajang properties were required to meet the liabilities of the Estate and that the part payment for the Yap Kwan Seng Property in the sum of MR\$2.55 million had to be held intact until the sale and purchase agreement with the purchasers had become unconditional. The Estate had paid interests to Chidambaram in the sum of RM\$132,146.97 in respect of loans he had extended to the father in his lifetime, and to the father's brother VCTM and friend PLVR to whom interest payments in Rupees were remitted to them in India. They were proper disbursements and both Subramanian and Arunachalam, who had full knowledge of them in the course of the KL High Court proceedings, had by their conduct accepted them.

26 Subramanian in evidence alleged that no accounts were produced by the plaintiffs prior to this action. He alleged that recently he managed to retrieve some of the old diskettes discarded by Chidambaram containing the accounts of the Estate and the 4 Brothers' accounts. He objected to Chidambaram's payment to himself of the bonus amounting to MR\$1,079,500.00 and the Estate loan interest of RM\$856,373.82. However, he admitted that he, like Arunachalam and Annamalai, had in the KL High Court proceedings filed an affidavit confirming that there was in fact an agreement amongst the 5 brothers to pay Chidambaram bonus. But Subramanian alleges before me that he had done so on Chidambaram's promise that he would not pocket the bonus but would keep the bonus in a separate account for the benefit of the 4 brothers (counting out Venkatachalam). His version is incredible. He is not supported by Arunachalam who now alleges that he was told by Chidambaram that he had to make so 'unofficial' payments. Annamalai continues to maintain that there was in fact an agreement to pay Chidambaram the bonus to be calculated in the way the latter has claimed. I reject Subramanian's version that the 4 brothers had conspired to perjure in the KL High Court just to diddle Venkatachalam of his share.

27 On the evidence, I am persuaded that Chidambaram could not pay himself the bonus or the salaries and, as agreed, he was entitled to the interest in question.

28 I also accept Chidambaram's evidence on the other items which he claims in this action, so far as the Estates accounts are concerned.

(b) 4 Brothers' (Family) Accounts

29 As from 1986 or the following year Chidambaram kept the 4 Brothers' accounts in his computer records. The primary accounting documents such as the vouchers and ledgers were kept in the office of Alambon Tools Pte Ltd, a company belonging to Chidambaram. At all material times Subramanian shared the office. He had, on the evidence, full access to the accounting records and the computerised accounts. From 1991, Subramanian had keyed in the information on the basis of banking documents. Chidambaram checked them.

30 According to the accounts produced in court, Subramanian had overdrawn substantially from the 4 Brothers' accounts, directly from the bank accounts designated for the 4 Brothers' account or indirectly from Chidambaram vide Alambon Tools, cash less the amount he paid to Annamalai. He was also liable to pay for the rent for the Kuhio Property in respect of the period of his occupation for which he had agreed to pay rent at the rate agreed. According to Part A of the first Statement of Account, the overdrawings and other liabilities of Subramanian are as follows:

1	Nett amount received from IOB S\$ Account	\$862,732.86
2	Nett amount received from IOB US\$ Account	\$92,792.26
3		\$710,098.23
	Nett amount received from ING 4 Brothers' a/c	
4	Nett amount received via Alambon Cheque	\$159,640.95
5	Nett amount received from cash account	\$2,016.50
6	Less nett amount paid to Annamalai	(\$24,404.00)
	Subtotal:	\$1,802,876.68
	Add	
7	Rent for Kuhio Property	\$72,800.00
8	Withdrawal from IOB S\$ as/c omitted	\$19,280.00
9	Exchange adjustment under ING a/c	\$85,649.59
10	Less payment by OCBC cheque omitted	(\$95,000.00)
11	Less IOB F.D payment ASU KL remittance	(\$103,693.25)
	Total:	\$1,781,913.02

31 The total interest owing by Subramanian to the 4 Brothers' account calculated at the rate agreed amount to \$978,207.53 as at 30 September 1998: see Part J of the first statement of accounts.

32 I now refer to Subramanian's purchase of the Jurong Property. On the evidence, I do not accept, as Chidambaram contends, that it was purchased and was to be held upon trust for the benefit of all 4 brothers. Subramanian had no home of his own and he bought it by drawing on the 4 Brother's account. His account was debited at the material time. He sold it later, at a profit. That was his good fortune. In Originating Summons 539 of 1999 Subramanian's right to the Jurong Property was finally determined, there being no appeal. Chidambaram was ordered to remove his caveat as he could not show any caveatable interest in the Jurong Property. Chidambaram had acknowledged the ownership of Subramanian to, for instance, the ING Bank.

Arunachalam's claim

33 By Originating Summons No. 600431 of 2001 Arunachalam is claiming against Chidambaram individually and against both Chidambaram and Subramanian in relation to the administration of the 4 Brothers' account. The disputes relate to the Estate and to his OCBC Singapore dollar account for which his claims are directed against Chidambaram. His claims in respect of the 4 Brothers' account are made against both Chidambaram and Subramanian.

34 In respect of the Estate, like Subramanian, Arunachalam claims that he has not received his rightful share because of the unauthorised deductions made by Chidambaram by way of (a) bonus, (b) the commission of RM\$255,000 paid to Sethu, an ex-employee of the late father's firm, (c) interest which Chidambaram charged for delays in the payment of his salaries and bonus, (d) interest of RM\$132,146.97 which Chidambaram charged the father for his loan to the father since 1983 and (e) interest paid to V.C.T.M, the uncle of the parties, and PL.VR, a family friend who were owed MR\$92,792.28.

35 In cross examination before me, Arunachalam admitted that entries in Tamil in the ledger relating to the Estate were in his handwriting. The ledger books he confirmed related to accounts of the Estate from 14 April 1978 to 13 April 1981 and they also related to the accounts of both VCT Alagappa Corporation and A.K.A.C.T.V Firm where the account entries started from 21 November 1977 to 13 April 1981. He lamely admitted: 'I suppose I did this (i.e. made the entries) as an accounting clerk.'

36 As I stated earlier, Arunachalam affirmed an affidavit in the KL proceedings on 19 July 1984 and gave evidence on behalf of Chidambaram on 7 April 1988 and 13 February 1990. He was aware of all the deductions made by Chidambaram from the Estate. In these proceedings, he attempts to reverse his testimony. Arunachalam is, in my opinion, is not a reliable witness in relation to those items in issue.

37 I would now address the issue whether Chidambaram was entitled to reverse the overpayment of S\$455,000.00 made to Arunachalam under the Estate account. The latter's share of the Estate was paid between 31 December 1983 and 18 December 1991. The total sum paid out from the account maintained by Chidambaram with United Asian Bank ("UAB Account") for the Estate to Arunachalam was RM\$3,451,647.35 or S\$2,711,474.59. Out of this sum, the amount remitted to Arunachalam's personal OCBC Singapore dollar account was RM\$3,315,934.10 or S\$2,596,508.41. The amount due to Arunachalam as his share of the Estate as shown by the Estate Accounts is RM\$2,789,647.35.

38 Chidambaram's evidence is that he came to know about the overpayment after Arunachalam and he checked the accounts in February 1991 in Singapore. The latter assisted him by making the adjustments in the 4 Brothers' accounts. Chidambaram gave a full explanation of how the adjustments were effected. Arunachalam himself signed an acknowledgment in respect of the Estate accounts as at 19 April 1988, confirming that he had "verified and certified our A.K.A.C.T.V Firm and V.C.T. Alagappan Corporation Firm A/c of V.C.T. Alagappa Chettiar Estate Deceased Account as on 31.3.1988". He acknowledged that he had received "so far the net sum of M\$2,182,991.44" from Chidambaram on various occasions till 31 March 1988. Accordingly, the adjustments made by both of them were justified.

39 Arunachalam denies that there was any agreement that interest would be charged at 9% per annum. Unlike Ventakachalam, who accepted that there was the family practice of charging interest, Arunachalam took the solitary position and denied any knowledge of this practice. Subramanian at first accepted that there was such a practice but later it was not clear. He cannot possibly deny this; he had written on various cheque stubs words to this effect: "to 4 Brothers' Account for 1 week" and on another "given interest to 4Br". I am left with no doubt that there was indeed the agreement that interest at 9% per annum compounded monthly would be chargeable in respect of the 4 Brothers accounts.

40 Arunachalam also alleges that he has been wrongly debited with the sum of S\$399,578.50 in the 4 Brothers' account. Of that sum, he denies receipt of the remittances totalling S\$199,057.00. The details are all documented in Chidambaram's 3rd supplementary affidavit evidence in chief. He also denies receipt of cash payments amounting to S\$123,879.15 as particularised under Section F of the statement of accounts in exhibit CA48 of Chidambaram. Of the documents produced by Chidambaram in support of these debits against the accounts of Arunachalam, a large number of them are cheque stubs which were filled in and written by Subramanian. Copies of the cheque stubs were produced. Some of them recorded by Subramanian noted that they were for cash or for exchange to Rupees. As Subramanian confirmed in cross examination, he had authority to draw and sign cheques for small amounts and that his practice was to make the appropriate notations on the cheque stubs. Arunachalam, who resided in India, denied that he was ever involved in forwarding Rupee payments to India by unofficial means. I did not believe him. I am satisfied that those remittances were made and he had received the cash payments from time to time. The debits were properly raised against him.

41 I now come to a serious allegation of Arunachalam against Chidambaram. He says that his personal OCBC account under the complete control of Chidambaram and that Chidambaram had wrongfully debited his OCBC account with various sums for which he was not responsible. In plain terms, he accuses Chidambaram of cheating him. He complains that the following sums were debited from his OCBC account:

Date	Amount
20/6/86	S\$200,000.00 (1CB106)
22/8/87	S\$252,057.00 (1CB107)
01/7/87	S\$ 29,375.00 (1CB107)
01/1/88	S\$ 28,000.00 (1CB119)
07/1/88	S\$ 32,000.00 (1CB121)
28/6/88	S\$ 27,450.00 (1CB125)
06/3/90	S\$ 72,500.00 (1CB134)

42 It was brought to my attention that the cheques as shown on the copies at exhibits 1CB106 and 1119 were written out by Subramanian. Chidambaram tells me that all these cheques were voluntarily signed by Arunachalam in repayment of monies which Chidambaram had made available to him. Arunachalam had requested him to remit in Rupees a sum equivalent to S\$504,153.00. Chidambaram then requested Mr Mohamed Mahamood Abdul Cader ("Mahamood"), whose name appears at exhibit DB2510, who specialised in such remittances. Mahamood was a director of Serval Castings Pte Ltd, in which Chidambaram had an interest. In part payment for the remittances in Rupees, Arunachalam issued to Chidambaram two cheques of S\$200,000.00 and S\$252,257.00 dated 20 June 1986 and 22 August 1986 respectively. Arunachalam denied that he was a party to any unofficial remittances in Rupees to India and his evidence became 'curiouser and curiouser' when he even denied that there were strict exchange controls in India. There was evidence that he requested Chidambaram to state that certain remittances to him through the banks were 'gifts'! On 26 August 1986 Chidambaram made a payment in cash out of his personal account to reimburse Mahamood. Copies of the relevant cheque stub appears at page 52 exhibit CA42 of his 2nd supplementary affidavit evidence in chief. On 15 June 1987, at Arunachalam's request, Chidambaram caused a remittance in Rupees to be sent to him equivalent to S\$117,500.00. The many transactions between them included Arunachalam's purchases of diamonds and jewellery through Chidambaram.

43 In terms of accounting, I should highlight the fact that Arunachalam had signed several acknowledgements dated 18 November 1987: see Chidambaram's 2nd supplementary affidavit evidence in chief at pp. 67-68 and exhibit 2PB33 and 34. As at 30 September 1997, the amounts withdrawn by Arunachalam from the 4 Brothers' account amounted to S\$4799,908.08 only. Nevertheless, Arunachalam acknowledged that he had received S\$1,009,415.42. Chidambaram says that the sum of S\$529,507.34 (the difference) was the total of monies he had advanced to and was owing by Arunachalam personally to him. Arunachalam had also acknowledged receipt of the sum of S\$1,130,892.17 as at 31 March 1988. Out of this sum, only S\$528,451.28 had been paid to Arunachalam from the 4 Brothers account, and the balance of S\$602,440.89 was in fact owing in respect of monies advanced to him by Chidambaram personally. Arunachalam visited Singapore frequently between 1984 and 1991. He spent a lot of time at the office of Alambon Tools. He verified the OCBC accounts which were kept in that office. That was the evidence of Subramanian, not a likely source of helpful evidence for Chidambaram. I reject Arunachalam's evidence that he had signed 25 cheques in the first cheque book in blank and the cheques in another cheque book later. He had, in fact, wrote out in his own handwriting one cheque and made it payable to "A. Subramanian". This documentary evidence undermines his version. Accordingly, I accept Chidambaram's evidence on this aspect of the case.

44 Finally, I address Chidambaram's obligations to render accounts to the 2 brothers. He has verified his original accounts marked as exhibit "5PWB". He has verified all accounts and has taken in all the inadvertent but minor 'errors and omissions' and has produced to the court a revised exhibit, the "new 5PWB". They reflect all monies available in the 4 Brothers Accounts for investment over the years and all income received on the investments just before the conclusion of the hearing. In my judgment, he has fulfilled his obligations to account to Arunachalam.

Decisions

45 Accordingly, I order Subramanian to pay to Chidambaram as administrator of the 4 Brothers' Accounts the sum of S\$1,781,913.02 and accrued interest amounting to S\$872,084.07 (both as at 30 September 1998) and further interest on the sum of S\$1,781,913.02 from 30 September 1998 up to the date of full payment accruing on a monthly compounded basis at the rate of 9% per annum. I also made the orders and declarations as set out in paragraphs 26(ii)(a) to (d) and 26(iii) to (viii) of Chidambaram's Closing Submissions. Sub-paras 26 (viii) to (x) thereof are reserved for my determination when the draft orders, as directed below, are finalised and presented to me for my approval. Subramanian is ordered to pay the costs of Chidambaram. The counterclaims of Subramanian are dismissed with costs. Arunachalam claims in the Originating Summons against both Chidambaram and Subramanian are also dismissed with costs. Counsel for Chidambaram is directed to draft the orders in accordance with this judgment and send it to counsel for the other two parties for their comments and approval, if possible. Thereafter, parties are to appear before me to finalise the orders including the consideration of the above-mentioned sub-paras 26(viii) to (x).

Sgd:

Lai Kew Chai

Judge

Singapore

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