

Ong Jane Rebecca v PricewaterhouseCoopers and others
[2011] SGHC 203

Case Number : Suit No 156 of 2006, Summons No 3655 of 2011, Registrar's Appeal Nos 255, 256 and 257 of 2011; 261, 262 and 263 of 2011

Decision Date : 14 September 2011

Tribunal/Court : High Court

Coram : Woo Bih Li J

Counsel Name(s) : Engelin Teh SC, Anthony Soh and Andrew Ho (Engelin Teh Practice LLC) for the plaintiff; Ang Cheng Hock SC, Ramesh Selvaraj and Sylvia Tee (Allen & Gledhill LLP) for the first and second defendants; Chandra Mohan and Gillian Hauw (Rajah & Tann LLP) for the third defendant.

Parties : Ong Jane Rebecca — PricewaterhouseCoopers and others

Civil Procedure

14 September 2011

Woo Bih Li J:

Introduction

1 There were various matters before me on 1 and 2 September 2011. The main matter was the application by the plaintiff, Jane Rebecca Ong ("JRO") by way of Summons No 3655 of 2011 ("the Present Summons"). This was an application to vacate trial dates fixed for Suit No 156 of 2006 ("the Present Action" or "Suit 156") between 26 September to 21 October 2011 and for consequential directions including the extensions of time in respect of various timelines fixed at a pre-trial conference ("PTC") on 1 April 2011. After hearing arguments, I vacated only the first week of trial dates from 26 September to 30 September 2011 and gave various directions for parties to meet in order for the trial to commence on 3 October 2011. I also directed that if JRO failed to comply with my directions, her claim was to be struck out. I granted JRO leave to appeal. I also directed her to seek urgent directions for an expedited appeal.

Background

2 In the Present Action, JRO is making a claim against three defendants for professional negligence.

3 JRO had appointed the first and second defendants ("D1" and "D2" respectively) as her forensic accounting experts and the third defendant ("D3") as her solicitors in Originating Summons No 939 of 1991 ("OS 939"). In OS 939, she made a claim against, *inter alia*, her mother-in-law Lim Lie Hoa (also known as ("aka") Lim Le Hoa aka Lily Arief Husni) ("LLH") as trustee of the estate of JRO's father-in-law Ong Seng King (aka Ong King Seng aka Arief Husni), deceased.

4 On or about 16 July 1996, the High Court in OS 939 directed that an inquiry be held to determine, *inter alia*, the quantum of JRO's share in the father-in-law's estate.

5 JRO's claim against the defendants in the Present Action is apparently in respect of that

inquiry.

6 JRO claimed that she was of the view that the defendants had acted negligently although it was not entirely clear when exactly she came to that view. Nevertheless, it was her position that she had to file a protective writ of summons in early 2006 to avoid any issue of limitation of time for her claim against the defendants. She filed the writ on 20 March 2006 with the aid of the law firm Heng, Leong & Srinivasan but did not have sufficient funds to take further steps.

7 For the time being, I will move forward to 1 April 2011. At a PTC on that date, the following directions were given:

- (a) Parties were to file and serve their Supplementary List of Documents, if any, by 9 May 2011.
- (b) Inspection of the documents set out in the Supplementary List of Documents, if any, was to be completed by 16 May 2011.
- (c) The Order of Court in respect of the directions was to be extracted by 6 June 2011, stating the names of all the respective parties' witnesses.
- (d) Affidavits of Evidence-in-Chief ("AEICs") of witnesses of fact were to be filed and exchanged by 5 August 2011.
- (e) Objections to AEICs of witnesses of fact, if any, were to be made by 19 August 2011.
- (f) AEICs of expert witnesses were to be filed and exchanged by 2 September 2011.
- (g) Objections to AEICs of expert witnesses, if any, were to be made by 9 September 2011.
- (h) Suit 156 was to be set down for trial by 12 September 2011.
- (i) The trial of Suit 156 was fixed for four weeks from 26 September 2011 to 21 October 2011.

8 D3 was also directed that day to file any application by 15 April 2011 to strike out of part of JRO's Statement of Claim (Amendment No 1).

9 I will refer to the PTC on 1 April 2011 as "the 1 April PTC" and the directions given in respect of the extraction of the order and the filing of the AEICs as "the Present Directions". I will refer to the trial dates given then as "the Present Trial Dates".

10 JRO did not comply with the direction to extract the 1 April 2011 order by 6 June 2011 or at all. Neither was she ready to exchange the AEICs of her factual witnesses by 5 August 2011.

11 Instead, on 3 August 2011, *ie*, two days before the deadline for parties to exchange the factual AEICs, she telephoned Allen & Gledhill ("A&G"), the solicitors for D1 and D2, to say that she would not be able to comply with the Present Directions and that she would be filing an urgent application "within 24 hours" to extend all the timelines given under the Present Directions. Her application would include the vacating of the Present Trial Dates.

12 On 4 August 2011, JRO filed and served a Notice of Appointment of Solicitors on the defendants. The notice was really to re-appoint her previous solicitors Engelin Teh Practice LLC ("ETP"), who had been appointed between 24 June 2009 to 9 May 2011, as her solicitors. ETP had

apparently been discharged in May 2011 as I shall elaborate below.

13 On 5 August 2011, ETP wrote to the Registrar of the Supreme Court to request a PTC to deal with nine items including fresh timelines in respect of the Present Directions and to vacate the Present Trial Dates.

14 According to the defendants, their solicitors wrote on the same day to JRO to state that they were ready to exchange factual AEICs.

15 On 8 August 2011, D1 and D2 filed Summons Nos 3491 and 3492 of 2011. Each sought an order that JRO file and serve her factual witnesses' AEICs within three days of the order to be made. They also sought an "unless" order, *ie*, if JRO failed to do so, her claim was to be struck out and in respect of the application by D1, judgment was to be entered for D1's counterclaim.

16 On 11 August 2011, D3 filed Summons No 3542 of 2011 for reliefs which were similar to those sought by D1.

17 These three applications came up for hearing on 15 August 2011. According to counsel for D1 and D2, a PTC was also fixed for that day. Assistant Registrar ("AR") Lionel Leo made the following orders on that day:

(1) JRO was to file and serve on all the defendants the AEICs of all her factual witnesses by 19 August 2011.

(2) JRO was to file and serve on all the defendants by 18 August 2011 her application to vacate the trial dates for Suit 156.

(3) JRO was to file and serve on all the defendants her affidavit in reply to the "unless" order applications by 19 August 2011.

(4) The hearing of the "unless" order applications was adjourned to 22 August 2011 for the Court to determine whether or not to grant the "unless" orders against JRO.

18 In other words, although AR Leo directed JRO to file and serve the factual AEICs by 19 August 2011 (*ie*, four days after the hearing on 15 August 2011), he deferred making a decision on the "unless" orders sought by the defendants until 22 August 2011. In the meantime, JRO was to file and serve her application by 18 August 2011 to vacate the Present Trial Dates and to file and serve her reply affidavit on the application for "unless" orders by 19 August 2011.

19 On 18 August 2011, ETP filed and served the Present Summons to vacate the Present Trial Dates and for consequential directions.

20 On 19 August 2011, one of JRO's solicitors Mr Anthony Soh, filed and served his affidavit which contained a draft affidavit of JRO as an exhibit. He said that JRO's draft affidavit was made in reply to the "unless" order applications and that the engrossed copy of JRO's affidavit would be signed the next day. In reality, JRO's draft affidavit had a dual purpose. First, it was to support the Present Summons. Second, it was to resist the defendants' applications for the "unless" orders. The engrossed and signed affidavit of JRO was filed on 22 August 2011 ("the Main Affidavit").

21 In the meantime, ETP filed three notices of appeal on 19 August 2011 in respect of AR Leo's decision on 15 August 2011 directing JRO to file and serve the factual AEICs by 19 August 2011.

These were Registrar's Appeal Nos 255, 256 and 257 of 2011 ("RAs 255, 256 and 257").

22 On 22 August 2011, AR Leo dismissed that part of the defendants' applications seeking the "unless" orders although he was of the view that JRO had disregarded timelines imposed by the court on multiple occasions. According to the relevant minutes, AR Leo thought that the making of such orders would be futile if JRO's appeals to a judge in chambers (in RAs 255, 256 and 257) were successful and the reason for making such orders would be less compelling if a judge were to allow JRO's application in the Present Summons to vacate the Present Trial Dates.

23 On 23 and 24 August 2011, the defendants filed three notices of appeal (Registrar's Appeal Nos 261, 262 and 263 of 2011 ("RAs 261, 262 and 263")) against AR Leo's dismissal of their applications for the "unless" orders.

24 The Present Summons and the three appeals by JRO against AR Leo's decision made on 15 August 2011 and the three appeals by the defendants against AR Leo's decision made on 22 August 2011 were all fixed for hearing before me on 26 August 2011. I asked if there was any objection to my hearing the matters in view of certain reasons which I need not elaborate here. JRO's counsel had to take instructions while counsel for the defendants said they had none. The matters were then adjourned to a date to be fixed.

25 Shortly thereafter, ETP wrote to say that JRO had no objection to my hearing the matters. They were fixed for hearing before me in the afternoon of Thursday, 1 September 2011, and the morning of Friday, 2 September 2011. The later date was the date when the AEICs of expert witnesses were to be exchanged, but by then it was clear that JRO was not complying with the earlier timelines.

26 After hearing submissions, I made the following orders on 2 September 2011 in respect of the Present Summons as follows:

- "(1) Plaintiff is to provide defendants a draft of today's order stating the names of all her witnesses by 5pm of 7 September 2011 and defendants to respond by 5pm of 8 September 2011.
- (2) Plaintiff to extract the order by 5pm of 12 September 2011 and serve it by 5pm of 13 September 2011.
- (3) Parties are to file and exchange AEICs of all witnesses by 4pm of Friday, 23 September 2011.
- (4) Objections, if any, to any AEICs are to be filed and served by 5pm of 29 September 2011.
- (5) Trial dates of 26 September to 30 September 2011 are vacated. Other trial dates given on 1 April 2011 are to remain.
- (6) Parties to consider writing in for PTC for additional trial dates.
- (7) If plaintiff fails to comply with any of the above directions, her claim against each and every defendant is struck out.
- (8) If plaintiff is of the view that it is pointless for her to attempt to meet any of the above directions, she or her solicitors are to notify the defendants' solicitors immediately in writing whereupon her claim against each and every defendant is struck out.

(9) If the plaintiff's claim is struck out pursuant to para 7 or 8 above, the defendants are nevertheless to continue with their counterclaim.

(10) Liberty to apply."

27 JRO's counsel orally applied for leave to appeal to the Court of Appeal and I granted such leave with a direction that she was to seek urgent directions to expedite the hearing of her appeal.

28 I would add that although I made costs orders in respect of the Present Summons, I had inadvertently omitted to make costs orders if JRO's claim was struck out. Accordingly, I informed the Registrar of the Supreme Court on 5 September 2011 to inform the various solicitors that such orders should be included. In view of the orders I made in respect of the Present Summons, I made no order in respect of the six appeals.

Legal principles

29 There must be strong compelling reasons before a court will consider the exercise of its discretion to vacate trial dates – *Su Sh-Hsyu v Wee Yue Chew* [2007] 3 SLR(R) 673 at [39].

30 As regards the granting of "unless" orders, they may be granted if there is a history of failure to comply with other orders – *Hytec Information Systems Ltd v Coventry City Council* [1997] 1 WLR 1666 at 1677 G-H, cited with approval by the Court of Appeal in *Syed Mohamed Abdul Muthaliff and another v Arjan Bhisham Chotrani* [1999] 1 SLR(R) 361 at [14].

Whether JRO needed legal advice to comply with the Present Directions

31 The main matter before me was the Present Summons. The arguments in respect of that application would cover the matters raised in the six appeals. My decision on the Present Summons might also affect the outcome of the six appeals.

32 The Present Summons was supported by the Main Affidavit and another affidavit by JRO to be filed later (the draft of which was item 19 in JRO's bundle of documents) ("the Draft Affidavit"). The crux of the basis for the Present Summons was that:

(a) JRO was unable to determine who her witnesses should be or prepare AEICs for her witnesses or determine related trial issues without the help of solicitors (see paras 13(m), 16 and 28 of the Main Affidavit).

(b) In order to instruct solicitors, JRO needed funds. She was in financial difficulties. Indeed, she had entered into an Individual Voluntary Arrangement ("IVA") in the United Kingdom (she holds a United Kingdom passport and apparently resides there).

(c) Before 24 June 2009, JRO had received funding to pursue Suit 156. That was the date she first appointed ETP to act for her. However, her funding had to be reassessed as a result of various steps taken and applications made and also because she had to provide the defendants with security for their costs (see para 13(f) to (i) of the Main Affidavit). As a result of the reassessment of her funding, there was a freeze on her legal expenses. Thus, she told ETP on 3 March 2011 to stop doing any substantive work although they continued to act for her and represented her at the 1 April PTC. On 11 May 2011 (actually filed on 10 May 2011), JRO formally filed a Notice of Intention to Act in Person. Since March 2011, JRO has been without funding and without substantive assistance from solicitors.

(d) The reassessment was delayed for various reasons. On 3 August 2011, JRO informed A&G that she would have to apply to extend all timelines and to vacate the Present Trial Dates (see para 12 of the Draft Affidavit and para 13(m) and (n) of the Main Affidavit).

(e) The funding arrangements were finalised only on 4 August 2011. She was then able to immediately reappoint ETP to act for her (see para 13(n) of the Main Affidavit). However, ETP needed time to be reacquainted with the matter and to get up to speed and five weeks was not enough (see paras 36 and 39 of the Main Affidavit).

33 JRO also had three other reasons for the Present Summons:

(a) D1 had not disclosed documents which they had received from the execution of an Anton Piller Order ("APO") against LLH in OS 939. JRO's own set of such documents was incomplete and some were scanned copies which were of poor quality.

(b) All the defendants had not made full discovery of relevant documents in that they had not listed any notes of meetings, time sheets and working papers.

(c) JRO might also wish to amend her pleadings again. Although she said (in para 41 of the Main Affidavit) that this issue could be left aside as it could be the subject of a separate application, she nevertheless saw fit to mention it in the Main Affidavit, thereby suggesting this as yet another reason to vacate the Present Trial Dates. Indeed, the first letter which ETP sent to the Registrar dated 5 August 2011 after ETP was re-appointed mentioned the amendment to pleadings as the first out of nine items to be considered at a PTC which ETP was asking for. The ninth item was the vacating of the Present Trial Dates.

34 D1 and D2 resisted the Present Summons on the basis that JRO "had a clear history of flagrantly defaulting on the directions given by the Court, and of causing repeated delays to the trial of the Suit" (see para 6 of Chan Kheng Tek's ("Chan") affidavit of 10 August 2011). They also alleged that any further delay in the trial of the present Action, which was commenced in 2006, would be prejudicial to them. In arguments, D3 adopted a similar approach.

35 I attach hereto Annex A which is a chronology of the events referred to by the parties for the Present Summons. This will facilitate understanding of the allegations and counter-allegations.

36 The first and foremost of JRO's allegations was that she was unable to comply with the Present Directions and determine related trial issues without the help of solicitors. This is different from saying that it was preferable for her to have had such help. I did not accept JRO's allegation. My reasons were as follows (not in order of importance):

(a) JRO is an intelligent person.

(b) She has no difficulty with the English language.

(c) At the main hearing of OS 939, she faced off with two senior and experienced counsel acting for different parties.

(d) She is familiar with the Rules of Court. Counsel for D1 and D2 pointed to an instance in Suit 156 when it was she who cited a provision from the Rules.

(e) The initial Statement of Claim comprising 93 pages was "essentially done" by JRO with help

from a lawyer friend (see para 10 of the Main Affidavit) although she also alleged that it became "clear to me that I could not run this case by myself and that I needed legal representation" (see para 28 of the Main Affidavit).

(f) On 27 May 2009, she filed further and better particulars comprising 176 pages (although part of it was subsequently struck out as they were not in the nature of further and better particulars).

(g) At the first hearing of Summons No 3051 of 2009 (filed by D1 and D2 to strike out part of JRO's further and better particulars) on 12 June 2009, she said that she was happy to file her AEICs that day. This was still before she appointed ETP on 24 June 2009.

(h) At the 1 April PTC, she did not disclose to the court or the solicitors for the defendants that she would not be able to comply with the Present Directions without help from solicitors which in turn depended on the reassessment of her funding to be finalised.

(h) JRO did not mention in the Main Affidavit that she had asked ETP to set aside time to act for her to comply with the Present Directions in the event she obtained the funding which she herself suggested she was expecting. Indeed, her lead counsel Ms Engeline Teh, SC ("Ms Teh") had made her own travel plans to be away from Singapore between 8 to 30 September 2011 which is a critical time just before and during the Present Trial Dates (commencing 26 September 2011) even though all the AEICs would have been exchanged by 2 September 2011 if timelines were met. Ms Teh later clarified that she would be back in the office on 27 September 2011 but my point remains the same.

37 The matters set out above suggested that JRO was able to go it alone if need be, but that she was not intending to meet the timelines under the Present Directions. She had decided to prolong the Present Action by applying later rather than earlier to vacate the Present Trial Dates. If a late application was successful, then new trial dates would probably be after 2011. JRO was of course entitled to reappoint ETP, but she was not entitled to use it as an excuse for not complying with the Present Directions and to seek to vacate the Present Trial Dates. I accept that it would be preferable for JRO to have the help of solicitors but, as mentioned above, that is different from saying that she was unable to comply without such help.

Whether absence of legal advice is relevant

38 Counsel for D1 and D2, Mr Ang Cheng Hock, SC ("Mr Ang") submitted that poverty and the absence of legal advice was no excuse for a lay litigant to fail to comply with court orders or rules of court. He relied on a High Court decision and two District Court decisions: *Singapura Building Society Limited v Djie Sui Tjhiang and others* [1996] SGHC 211, *Chong Fook Choy v Alvin Liao* [2001] SGDC 187 and *DK v DL* [2004] SGDC 199. I hesitate to say that the absence of legal advice is always irrelevant. It seems to me that it is one factor in the assessment of the overall circumstances behind a person's failure to comply with court orders or rules of court. I need say no more for the time being in the light of the circumstances leading to the Present Summons.

Why JRO did not inform A&G that she was applying for extensions of time in respect of the Present Directions and Present Trial Dates until 3 August 2011

39 I now come to JRO's allegations about the reasons for the delay in the reassessment of funding and for not making her application earlier for an extension of time to comply with the Present Directions or to vacate the Present Trial Dates. I did not accept JRO's allegations. She sought to

explain the delay in her funding but made general allegations without specific details or corroborating evidence. Indeed, some of her explanations were contradicted by other evidence which I will elaborate on below.

40 According to JRO, she already knew that her funding was being reassessed before 1 April 2011 and that she would not be able to comply with the Present Directions without help from solicitors. She alleged that she was not even able to determine who her witnesses would be without such help. She implied that ETP was aware of this since she had already told them on 3 March 2011 to stop substantive work. If all these were true, then JRO had three options for the 1 April PTC which ETP attended:

(a) to disclose to the court and the defendants that it was uncertain when the reassessment of her funding would be finalised and that since that would in turn affect JRO's access to solicitors and the meeting of the timelines to be given, it would be preferable to defer directions on the timelines till the reassessment was finalised;

(b) to disclose the above and receive the timelines first but with the qualification that if the reassessment was not finalised by a certain deadline, then new timelines would have to be sought; or

(c) to remain silent about the reassessment but to bear in mind internally some sort of deadline for the reassessment to be finalised failing which she would have to inform the court and other parties of her situation and make the necessary application for extension of time and for vacating of the Present Trial Dates.

41 Ms Teh had two points. First, she suggested that JRO was afraid for ETP to raise the question about the reassessment of her funding at the 1 April PTC as JRO did not know whether it would be well-received. Secondly, she also said that all parties knew at all material times that JRO needed funding to progress with her case.

42 I will deal with the second point first. It was one thing to say that the defendants knew that JRO needed funding to progress with her case. It was another to suggest that they knew that (a) her funding was being reassessed and (b) without such funding she could not progress with her case at all. It was not clear to me whether and when the defendants knew about (a) and, in any event, Ms Teh did not suggest (b) at all.

43 As regards the first point, ETP was still acting for JRO as at 1 April 2011 although they were not supposed to do substantive work for her in the meantime. It would have been a simple matter for them to advise her that she had nothing to lose by being candid and taking either of the first two options. After all, it was not a secret that JRO needed funding if she wanted to engage solicitors. If the court was not sympathetic, JRO would at least have been candid with the court and the defendants. Furthermore, Ms Teh's first point was not mentioned by JRO herself in the Main Affidavit. JRO gave no explanation as to why she did not take the first or the second option.

44 Whatever the reason, JRO opted for the third option.

45 Even then, if the help of ETP was truly critical, then JRO and ETP would have discussed internally as to the deadline when the reassessment would have to be finalised in order for her to continue using ETP's services given that ETP would themselves need time to help her to meet the Present Directions. Once that deadline was passed, then JRO would have to immediately go back to court to seek an extension of time and probably a vacation of the Present Trial Dates. Yet, there was

apparently no such discussion and no internal deadline to look out for. That was why JRO never went back to court until after she spoke to A&G on 3 August 2011.

46 JRO's position appeared to be that she had good reason for expecting that the reassessment would be finalised in good time for ETP to help her but that the reassessment was delayed because of certain developments which I will come to later. However, even if the allegations about delay were true, there would still have been some internal deadline by which she would evaluate the need to seek an extension of time for the Present Directions and the vacating of the Present Trial Dates. Yet, she did not mention any internal deadline after which she had to make the necessary applications.

47 For all of JRO's allegations about her expectations and the purported delays in the reassessment, her allegations remained vague and general without specific details. When was the initial date that she expected the reassessment to be finalised and the reason for that date? If there were really reasons that delayed the reassessment, what was the second estimated date of finalisation and if there was further delay, what was the third estimated date of finalisation and so forth? Such details were not given.

48 I come back to JRO's allegation that the reassessment of the funding was delayed. She gave two reasons which she alleged were caused by the defendants.

49 First, on or about 30 April 2011, D1 applied to bifurcate the trial so that only liability would be dealt with first. If liability was established then the second tranche would deal with the quantum of JRO's damages. She alleged that because there might be two tranches, the funders had to address the further concern of a yet further increase in the budget. This further delayed the reassessment exercise. When the application was heard on 15 June 2011, she had ceased engaging ETP (because of lack of funding) and, as she was not sure what the proper considerations were with regards to a bifurcation, she merely agreed to the application. There was no corroboration by the funders about this reason for delay.

50 I did not accept that the funders were further concerned with a bifurcation. In my view, they would have welcomed the bifurcation instead if they had truly been informed about it by JRO. A bifurcation would allow them to see if JRO would first be successful in establishing liability against the defendants. If she was, then they would be encouraged to fund her for the next tranche. If she failed at the first tranche, she would have incurred less costs.

51 Secondly, it was not true that JRO was not sure as to what the proper considerations were with regard to a bifurcation. The minutes of a hearing on 11 May 2011 for the application for bifurcation recorded JRO as saying that when she was acting in person, the trial was already bifurcated but it was D1 who asked for it not to be bifurcated. While counsel for D1 disputed JRO's allegation that it was D1 who had asked for it not to be bifurcated, the point is that JRO already knew what the consequences of a bifurcation was about.

52 More importantly, the same minutes record that JRO had said that the funding had been approved "already". She was then seeking an adjournment of three weeks for the funds to come in and her solicitors would then be reappointed. In my view, she had either lied about D1's application causing a delay in the reassessment or about the funding having been approved or both.

53 I also refer to a letter which JRO had procured recently to show that her funding was in place and that there would be no risk of the lack of further funding in the future.

54 This was a letter dated 16 August 2011 sent on behalf of Bob Gordon, managing director of 1st

Class Legal (IS) Limited ("1st Class Legal") which represented "the Fund and the After the Event Insurance providers" involved in funding JRO. It was not signed by him as he was out of the United Kingdom and the name and designation of the actual signatory were not disclosed.

55 In any event, the second and third paras of the letter also suggested that JRO's allegation that D1's application had delayed the reassessment was untrue. These paras state:

We wish to inform this Honourable Court that due to some funding issues that had arisen sometime in the first quarter of this year there was a suspension of funding for Ms Ong for a period of time. This had led unfortunately to a suspension of legal representation for Ms Ong in this matter.

However, we confirm that Ms Ong's new funding arrangements in this suit have now been finalised and confirmed. Ms Ong has signed a fee agreement with her lawyers, Engelin Teh Practice LLC such that there will not be any further issue of legal representation for Ms Ong being suspended before the conclusion of the trial for reasons of lack of funding.

56 As can be seen, the funding issues which caused a suspension of funding arose in the first quarter of the year. There was no mention that there were further issues thereafter that delayed the reassessment.

57 I come now to JRO's second reason which caused the delay in the reassessment. She said that even as the funding was being reassessed, D3 had applied on or about 11 May 2011 to strike out substantial portions of her Statement of Claim (Amendment No 1). This caused the funders even greater concern because if D3 was successful, the whole funding might have to be aborted. As a result, the reassessment process was kept at a standstill pending the resolution of this application (which was eventually unsuccessful).

58 Yet, as I mentioned above, the letter dated 16 August 2011 did not mention that there were issues after the first quarter of the year that delayed the reassessment.

59 More importantly, I refer again to the minutes of the hearing on 11 May 2011. I reiterate that she had then said that the funding had been approved "already". If the suggestion is that the funding had been approved before D3's application was filed and served (and on this there was no elaboration by JRO), why then did she not immediately tell the court and the defendants thereafter that D3's application had subsequently derailed the approval? Having said that the approval had been given, it was incumbent on her to immediately correct the information if and when it was no longer true. That she did not do so suggested that her allegation about this reason for delay was also untrue. No specific details were given by her as to what and when she told the funders about developments in the case and what and when were their responses.

60 I add that in fact D3's application was not the surprise that JRO was implying. At the 1 April PTC, D3's counsel had already orally mentioned that D3 would be applying to strike out parts of the Statement of Claim (Amendment No 1). That is why the court gave D3 a deadline to file his application, as I mentioned above at [\[8\]](#). This information would presumably have been conveyed by ETP to JRO who would in turn have conveyed it to the funders if she was being entirely candid with them. Yet she said on 11 May 2011 that the funding had been approved "already".

61 In my view, JRO had not established that either of the two reasons had delayed the reassessment.

Why was JRO unable to extract the order of 1 April 2011 by 6 June 2011 with the names of

..., has she failed to extract the Order of Court setting out the names of witnesses?

62 I come now to JRO's failure to extract the order of 1 April 2011 by 6 June 2011 which was supposed to contain the names of the witnesses for all the parties. This failure in itself did not jeopardise the Present Trial Dates but JRO's failure to meet various extensions of time to do so and her untrue reasons to explain herself demonstrated her contumelious conduct.

63 Paras 13 to 19 of the affidavit of Chan of 10 August 2011 set out the sequence of events on this point from the 1 April PTC up to 3 August 2011 when JRO contacted A&G. These paras stated:

13 In light of the aforesaid Court's directions, A&G wrote to the Plaintiff on 31 May 2011 on behalf of the 1st and 2nd Defendants to request for a copy of her draft Order of Court setting out the names and capacities of the witnesses that she intends to call at the trial of the Suit, so that they could then endorse on the draft Order of Court the names and capacities of the 1st and 2nd Defendants' intended witnesses, in time for the Order of Court setting out the names and capacities of the parties' witnesses to be extracted by 6 June 2011.

14 The Plaintiff did not respond to A&G's letter. By 6 June 2011, the Plaintiff had yet to extract the Order of Court setting out the names and capacities of the parties' witnesses. Instead, at the hearing of an unrelated summons in the Suit on 16 June 2011, the Plaintiff sought and obtained an extension of time until 30 June 2011 for the Order of Court setting out the names and capacities of the witnesses to be extracted.

15 Again, the Plaintiff failed to comply with the Court's directions to extract the Order of Court setting out the names and capacities of the witnesses by 30 June 2011. This was despite the fact that A&G had written to the Plaintiff to remind her of the said deadline on 29 June 2011.

16 On or around 4 July 2011, the Plaintiff contacted A&G, requesting for a further extension of time for the Order of Court setting out the names and capacities of the witnesses to be extracted, to 7 July 2011. However, the Plaintiff again failed to extract the Order of Court setting out the names and capacities of the witnesses by that date.

17 On 15 July 2011, A&G wrote to the Plaintiff by way of email, requesting for the Plaintiff's draft Order of Court setting out the names and capacities of the Plaintiff's intended witnesses by 18 July 2011.

18 By 18 July 2011, the Plaintiff had not provided the Defendants with her draft Order of Court setting out the names and capacities of her intended witnesses. Neither did she even respond to the email from A&G.

19 On 3 August 2011, I understand that A&G received a telephone call from the Plaintiff in the late afternoon. During this call, the Plaintiff informed A&G that she was in no position to prepare and finalise the AEICs of her factual witnesses and indicated that she would be filing an urgent application within "24 hours" to extend all timelines in the Suit, including a vacation of the trial dates in the Suit. I must stress that this was the first time that the Plaintiff had indicated that she would not be able to comply with the existing timelines in the Suit.

64 JRO did not dispute the above version of events. Her reasons for not complying were the same, *ie*, that she could not determine who should be called as her witnesses without the benefit of solicitors' advice and she needed funding to obtain such advice. She had sought various extensions of time as she was hopeful that on each occasion the reassessment would be finalised and she would be

able to get such advice in time (see paras 31 to 33 of the Main Affidavit).

65 As can be seen from Chan's affidavit, the following extensions of time came into play after JRO missed the first deadline of 6 June 2011:

(a) 30 June 2011, being an extension granted by the court at JRO's request;

(b) 7 July 2011, being a date JRO herself had suggested; and

(c) 18 July 2011, being an extension which A&G was giving to JRO but which she failed again to meet.

66 Again, the Main Affidavit was bereft of specific details and corroborating evidence to support JRO's allegations. For example, on what basis did she believe that the reassessment of her funding would be completed and advice from solicitors obtained to meet her first suggested extension of 30 June 2011 or even her own second suggested extension of 7 July 2011? Furthermore, at that time, she did not disclose to the court or the defendants any particular reason which hindered or precluded her from complying.

67 More importantly, her general allegation that she could not determine who should be called as her witnesses without the benefit of solicitors' advice gave the wrong impression.

68 As Ms Teh accepted in submissions before me, Ms Teh's colleague, Mr Anthony Soh, had already said at the 1 April PTC that JRO had five witnesses of fact. ETP knew that the major ones were JRO and another person who was present at the relevant meetings. As for expert witnesses, there were three – one for accounting, one for valuation of property and one on the IVA (see [32(b)] above).

69 Ms Teh sought to give the following elaboration from the bar. She said that the second main factual witness was one David Chin ("Mr Chin"). However, Mr Chin had not been interviewed yet and so it was unclear whether he would cooperate. The interview was to be done by JRO's solicitors after the reassessment of her funding had been finalised. I found this explanation to be remarkable, *ie*, that over the time before ETP was appointed and even after the time they were appointed from 24 June 2009 to 3 March 2011 including the time when ETP assisted JRO to prepare, file and serve a 270-page Statement of Claim (Amendment No 1), they had no idea whether Mr Chin was going to co-operate. They were apparently content to leave this dangling in the air until her funding had been finalised and also without disclosing the "truth" to explain JRO's delay in meeting with the original deadline and the various extensions of time.

70 In any event, the name of Mr Chin could have been provided first and likewise, for the other three witnesses of fact. If any declined to co-operate, he/she could be dropped.

71 Secondly, Ms Teh said that while JRO did initially have a report from her accounting expert, JRO was no longer calling that expert. JRO did have a new expert in mind when Ms Teh's colleague referred to an accounting expert on 1 April 2011 but that expert still had not been briefed. As for the other two experts, they had not been briefed yet.

72 I found the explanation of Ms Teh about the accounting expert even more remarkable. From what I understood from her, this new accounting expert was someone from a different firm altogether. If that was correct, how could JRO proceed to obtain trial dates without even knowing what the new expert was going to say? His opinion might not support her pleaded case or might cause her to amend her pleadings. Surely JRO had to obtain this new opinion first unless the opinion was immaterial to most of the issues or she already knew who he was and what he was going to say, in which case, she had no reason to say she was unable to provide his name.

73 As for the other two experts, JRO could also have provided their names first.

74 Ms Teh's explanations raised even more questions.

75 Furthermore, I make the same point again. If the lack of funding and the absence of solicitors' advice was as critical as JRO was saying, she would have had her own internal deadline as to when the reassessment of funding had to be finalised, failing which she would have had to seek an extension of time for the Present Directions and perhaps the vacating of the Present Trial Dates. Also, there would have been no need for any funding for ETP to inform JRO about simple points such as the time needed by ETP to assist JRO in complying with each and every one of the Present Directions.

76 In addition, Ms Teh's explanations for JRO's failure to extract the order were not found in the Main Affidavit. Indeed, para 31 of the Main Affidavit gave a different explanation. JRO said that without the benefit of advice of solicitors, she could not determine who should be called as witnesses for her, "especially given the amendments that have taken place to the Statement of Claim as filed on 27 January 2010". That was an absurd explanation. Those amendments had been completed about 14 months before the 1 April PTC and I reiterate that on 1 April 2011, one of her solicitors had already mentioned the number of her witnesses and Ms Teh accepted that ETP knew who they were.

77 I would like to mention at this juncture one other point. JRO gave the impression that she lacked access to legal advice from 3 March 2011 until 4 August 2011 because of lack of funds. However, a litigation search conducted by A&G disclosed that, in fact, the very same legal firm (*ie*, ETP) had been doing substantive work for JRO in another action, *ie*, Originating Summons No 1022 of 2010 ("OS 1022") between at least May and July 2011.

78 OS 1022 was an action in which JRO was applying to appoint an accountant, Chee Yoh Chuang as trustee of the estate of JRO's father-in-law, the same estate which was the subject of OS 939, in place of LLH and another person. When this information was revealed, JRO's explanation was that that action was funded from a different source. Even if this were true, it illustrated resourcefulness on her part and also suggested a lack of full candour by her. She must have been in contact with ETP during the relevant period and could have easily obtained their guidance as to the estimated time they needed if they were truly needed to assist her in relation to the Present Directions and the Present Trial Dates.

79 Indeed, para 13(j) of the Main Affidavit stated that "ETP had repeatedly cautioned me since 3 March 2011 that ETP would not be able to conduct the trial of this Action should they be reappointed too close to the trial dates and should the matters directed to be done during the 1 April 2011 PTC remain outstanding". Yet no explanation was forthcoming from JRO as to why she left it so late to start asking for extensions of time and the vacating of the Present Trial Dates. It was not sufficient to say that the reassessment of her funding had been delayed. Based on her own version of the facts, she must have known that it was not forthcoming yet, whatever the reasons. She knew ETP needed time to help her but did not bother to establish just how much time they needed. She did not act until 3 August 2011 when she telephoned A&G.

Past delays or defaults by JRO

80 I come now to the past delays or defaults of JRO as well as the vacation of the first set of trial dates from 6 July 2009 to 31 July 2009 which the defendants say was caused by her. The defendants relied on these events to demonstrate JRO's contumelious conduct. Paras 8 to 10 of Chan's affidavit of 10 August 2011 stated:

8. The Court first fixed timelines for the filing and exchange of the parties' AEICs on 19 December 2008, at a PTC in the Suit. At that time, the Court had directed parties to file and exchange their respective AEICs on 17 April 2009. The trial of the Suit was also fixed to be heard from 6 July 2009 to 31 July 2009.

9. However, as a result of the Plaintiff's repeated failure to comply with the Court's directions, the deadline for the filing and exchange of AEICs came to be extended twice and the trial dates thereafter came to be vacated.

10. The sequence of events leading up to the vacation of the trial dates fixed in July 2009 is as follows:

i. On 20 February 2009, at the hearing of a PTC in the action, the 1st and 2nd Defendants' solicitors, Allen & Gledhill LLP ("A&G"), informed the Court about certain documents or pages in the documents furnished to them from the Plaintiff's List of Documents ("PLOD") which were extremely illegible and/or missing. The Plaintiff, who was present at the PTC, informed the Court that she would attend to their request for the documents.

ii. On 4 March 2009, A&G wrote to the Plaintiff enclosing a list of the illegible and/or missing documents and requesting for copies of the documents itemised in the said list by 13 March 2009. The Plaintiff wrote to A&G on 5 March 2009, confirming that she would arrange for copies of the requested documents to be provided to A&G by the close of business on 13 March 2009.

iii. The Plaintiff did not provide copies of the requested documents to A&G by the close of business on 13 March 2009, as initially agreed. Instead, on 17 March 2009, the Plaintiff wrote to A&G again, indicating that she hoped to respond to A&G's request with copies of certain of the documents by 20 March 2009.

iv. In view of the large number of illegible and/or missing documents which the Plaintiff had yet to provide to the 1st and 2nd Defendants, the 1st and 2nd Defendants were of the view that it would be extremely difficult for them to meet the deadline of 17 April 2009 to file and exchange the AEICs. Accordingly, on 18 March 2009, the 1st and 2nd Defendants filed an application by way of Summons No. 1245 of 2009/Q, for an extension of time for the date for the filing and exchange of parties' AEICs, on the basis that the extension of time was necessary to afford the Plaintiff further time to furnish A&G with the requested documents and for A&G to review, consider and take the 1st and 2nd Defendants' instructions on such documents for the purposes of the AEICs.

v. Summons No. 1245 of 2009/Q was heard by the Court on 25 March 2009. At that time, the Plaintiff had yet to furnish A&G with any of the requested documents, notwithstanding that she had promised to do so by 20 March 2009. The Court granted the 1st and 2nd Defendants' application, extending the time for the filing and exchange of parties' AEICs to

29 May 2009, upon the assurance of all the parties, including the Plaintiff, that the said extension of time for the filing and exchange of parties' AEICs would not affect the trial of the Suit, which was then scheduled for hearing between 6 July and 31 July 2009.

vi. On 26 March 2009 an affidavit sworn by the Plaintiff was filed and served on the 1st and 2nd Defendants. The Plaintiff stated in her affidavit that she was objecting to A&G's request for copies of certain documents and that she would be arranging for copies of the remaining documents to be made and for these to be provided to A&G by 27 March 2009.

vii. Yet, on 27 March 2009, the Plaintiff failed to furnish A&G with any of the requested documents, even those she did not object to.

viii. On 31 March 2009, the Plaintiff finally furnished A&G with copies of some of the requested documents, but omitted a large portion of them.

ix. The 1st and 2nd Defendant thus had no choice [but] to file an application on 9 April 2009, by way of Summons No. 1667 of 2009/L for an order that the Plaintiff furnish the 1st and 2nd Defendants with copies of the omitted documents. Summons No. 1667 of 2009/L was fixed to be heard on 22 April 2009.

x. On 20 April 2009, the Plaintiff informed A&G by way of a telephone call that she was agreeable to the orders prayed for in Summons No. 1667 of 2009/L. Thus, at the hearing of Summons No. 1667 of 2009/L on 22 April 2009, an order-in-terms of the Summons was granted. The Plaintiff was required to furnish the 1st and 2nd Defendants with copies of the documents in question within ten (10) days of 22 April 2009, ie., by 2 May 2009. As 2 May 2009 was a Saturday, A&G informed the Plaintiff via email that they would be prepared to receive the documents by the close of business the Monday the following week, ie., 4 May 2009.

xi. However, for the fourth time, and in utter defiance of the Order of Court, the Plaintiff failed to furnish A&G with any of the documents in question by 4 May 2009.

xii. The 1st and 2nd Defendants thus had no choice but to make yet another application for the deadline for the filing and exchange of the parties' AEICs to be further extended. On 5 May 2009, the 1st and 2nd Defendants filed an application in this regard by way of Summons No. 2085 of 2009/G. In the same Summons, the 1st and 2nd Defendants also applied for an "unless" order that the Plaintiff be required to furnish the 1st and 2nd Defendants with copies of the documents in question within 3 days of the order to be made therein, failing which her claim be struck out as against the 1st and 2nd Defendants. It was only on that date that A&G received copies of the documents in question from the Plaintiff.

xiii. In view of the tight deadline, however, the Court extended the date for filing and exchange of the parties' respective AEICs to 12 June 2009, but with no change to the trial dates scheduled in July 2009.

xiv. On 15 May 2009, the 1st Defendant served on the Plaintiff a request for Further and Better Particulars. The request related to only 9 sub-paragraphs in the Plaintiff's Statement of Claim and/or Reply, and was 6 pages in length.

xv. However, on 27 May 2009, the Plaintiff filed and served a set of Further and Better Particulars on the 1st Defendant which amounted to 176 pages. The said Further and Better Particulars included, besides those requested by the 1st Defendant, voluminous "voluntary particulars" filed by the Plaintiff.

xvi. The bulk of the Plaintiff's Further and Better Particulars were, in fact, not particulars but additions and/or amendments to the Plaintiff's claims. Thus, upon the application of the 1st Defendant filed by way of Summons No. 3051 of 2009 on 8 June 2009, the bulk of the Plaintiff's Further and Better Particulars were struck out by the Court on 17 June 2009.

xvii. Pending the Court's orders on 17 June 2009, the deadline for the filing and exchange of AEICs had been held in abeyance. Thus, a PTC in the action was convened on 19 June 2009 for parties to take fresh deadlines for the filing and exchange of AEICs. Given that the trial was scheduled to commence on 6 July 2009, the 1st Defendant was aware that the deadlines for the filing and exchange of AEICs would be tight, but was nevertheless prepared to proceed on that basis. However, the Plaintiff informed the Court at the PTC that she would be applying to amend her Statement of Claim in the action substantially. This led the Court to then vacate the trial dates in the action.

81 Although the above sequence of events set out by Chan was not disputed, Ms Teh sought to turn the table against the defendants with the following arguments.

82 First, Ms Teh submitted that JRO's list of documents had been filed as early as 18 March 2008. It was only about a year later on 20 February 2009 that A&G chose to raise issues with regard to documents disclosed by JRO. On the other hand, Mr Ang Cheng Hock, counsel for D1 and D2 informed me that there was a stay of the proceedings for part of that intervening period pending the provision of security for costs by JRO to all the defendants.

83 It seemed to me that even if, for the sake of argument, A&G had raised objections late, the point was whether the objections were valid and would in themselves have affected the trial dates between 6 to 31 July 2009 ("the First Trial Dates").

84 JRO said she wanted to and did initially want to object to a large part of A&G's request for the documents but the fact of the matter is that she did agree to their requests and then failed to comply with the requests by the timelines which she herself had agreed to.

85 Nevertheless, Ms Teh submitted that the documents which A&G were asking for were actually from documents seized from others by D1 in OS 939 pursuant to an APO and subsequently retained by D1. The documents (or copies) were then provided to JRO by D1. JRO's set of documents were scanned from the set that D1 had. If there were illegible or missing documents, D1 would nevertheless have their own set of the documents.

86 Ms Teh submitted that the conduct of D1 and D2, through A&G, in pressing for documents which D1 already had was "reprehensible and disingenuous" and "reprehensible and indefensible". She submitted that these defendants had "bombarded" JRO with their requests and this was a "concerted attack" to prevent JRO from preparing her AEICs and proceeding with the First Trial Dates (see paras 41 to 51 of Ms Teh's written submissions). In short, Ms Teh was submitting that JRO, who was not then represented by solicitors, was at a disadvantage against unfair tactics by these defendants and it was these tactics that caused both sides to be unable to exchange their AEICs by the relevant dates. She even went so far as to submit that the vacation of the First Trial Dates was effectively

caused by such conduct and not by JRO.

87 Yet, significantly, Ms Teh did not suggest that JRO need not have disclosed documents in her possession which were relevant to her claims just because such documents were also in the possession of D1. Once it was accepted that JRO was obliged to disclose documents in her possession (which she thought were relevant to her claims) then it followed that she was also obliged to give copies of the same to D1 and D2. Indeed, this was also not disputed.

88 The copies which JRO forwarded to A&G should be as legible as possible. If JRO had forwarded the best copies she could reasonably have done in the circumstances, then she should have told A&G accordingly and left it to them to make their own copies if they disagreed. She did not take that stand. Instead, she agreed to provide better copies and asked for extensions of time based on dates she herself had suggested or agreed to. Furthermore, A&G's complaint was not only about illegible copies but about missing copies too.

89 It seemed to me that the various delays in this regard have to be attributed to JRO and not D1 and D2.

90 As for JRO's attempt to include material in further and better particulars which were in fact additions or amendments to her claims, JRO suggested that she did not know better. She thought it was better to give more than less information (see para 26 of the Main Affidavit).

91 Assuming that she was to be believed, the point was that A&G was entitled to take steps to oppose any attempt by her to raise new claims.

92 Ultimately, the point was still what caused the vacation of the First Trial Dates. Ms Teh submitted that it was the tactics of D1 and D2. That was the reason why parties like D1 and D2 and JRO were unable to meet the then timelines to exchange AEICs. She also submitted that D1 and D2 would not have been able to be ready for trial by the First Trial Dates, a point which Chan did not agree with.

93 It seemed to me that while various parties had missed earlier timelines to exchange AEICs for the First Trial Dates, the real reason why the court vacated such dates was JRO's intention to amend her Statement of Claim. That was the reason given by JRO in the Main Affidavit for vacating such dates. That was the reason the court acted on.

94 This is reinforced by two facts. If JRO had not mentioned at the PTC on 19 June 2009 her intention to amend the Statement of Claim, the court could have given new timelines at that PTC to exchange AEICs to meet the First Trial Dates commencing 6 July 2009. If necessary, the court could also immediately have given new trial dates to replace the First Trial Dates. The court did neither of these steps because JRO's intended application to amend had not even been filed at that time.

95 Secondly, JRO was ordered to pay costs to all the defendants for the vacation of the First Trial Dates. I rejected Ms Teh's submission that because the quantum of costs which JRO was to pay was much lower than that sought by the defendants, this suggested that JRO was not to blame. The fact that JRO was ordered to pay costs in principle (whatever the quantum) supported the argument that she was responsible for the vacation. Besides, the defendants had appealed against the quantum she was ordered to pay and that issue was, on appeal, reserved to the trial judge (in Registrar's Appeal Nos 451 and 452 of 2009).

96 I concluded that Ms Teh's attempts to shift the blame for the vacation of the First Trial Dates

onto D1 and D2 were themselves disingenuous. In addition, I was of the view that the defendants were entitled to rely on the past delays and defaults by JRO to support their contention that her present conduct in 2011 was contumelious.

Overview of the Present Action

97 JRO filed the writ in the Present Action on 20 March 2006 to avoid any issue of limitation. After that she apparently did nothing to proceed with her action until about a year later on 5 March 2007 when she was directed to serve the writ by 7 May 2007 (not 5 May 2007 as alleged by JRO). The writ was served on 2 May 2007. At the next PTC on 14 May 2007 (not 7 May 2007 as alleged by JRO), she was directed to apply formally for an extension of time to serve a Statement of Claim. She did so and her application was heard on 18 June 2007. It was then that she was ordered to file and serve her Statement of Claim by 4pm of 22 June 2007. She managed to prepare and file a 93-page Statement of Claim within that short time frame. The inference is that she would have been content not to pursue her action then until she was directed to do so by taking the steps mentioned above.

98 JRO explained the long delay from the time she filed the writ on 20 March 2006 to 5 March 2007 by saying she could not afford to pay solicitors to draft the Statement of Claim. Furthermore, she had at that time been evicted from her home and the voluminous documents from OS 939 which were required to draft it were warehoused. These were two general allegations. She did not elaborate as to how exactly these reasons caused the long delay. As for her not being able to afford to pay solicitors to draft the Statement of Claim, it transpired that when she was pushed by the court to file and serve a Statement of Claim, she managed to come up with a lengthy one at that time with some help from a lawyer friend.

99 Moving forward to events after the PTC on 1 April 2011, I have already said above that I did not accept that she needed the help of solicitors to comply with the Present Directions.

100 It was common ground that JRO spoke to A&G on 3 August 2011 to say that she would be filing an urgent application to extend all timelines given previously as well as to apply to vacate the Present Trial Dates.

101 No elaboration was given by JRO as to when exactly she concluded and how she came to conclude that the Present Trial Dates had to be vacated. It is one thing to say that the current timelines had to be extended and another to say that the Present Trial Dates had to be vacated. An extension of current timelines could have been sought without jeopardizing the Present Trial Dates. It appeared that she had already concluded that such vacation was necessary before she reappointed ETP the next day on 4 August 2011.

102 JRO and ETP had slightly over seven weeks from 4 August 2011 to 23 September 2011 before the trial would have started on 26 September 2011. True, they might well have needed extensions of time to comply with the timelines given but in my view, they could and ought to have used the seven weeks to work within the start date of 26 September 2011 so as not to seek to vacate the Present Trial Dates. In other words, they only needed to apply for extensions of the timelines under the Present Directions but not to vacate the Present Trial Dates. Instead, ETP's attention was focused on seeking such a vacation as well as opposing the subsequent applications of the defendants to compel JRO to exchange AEICs without more delay and for "unless" orders.

103 I have elaborated above that if JRO really needed the help of ETP, she would have learned from them beforehand as to how much time they needed to prepare and not wait until 4 August 2011 to speak to them and try and apply for a vacation of the Present Trial Dates.

104 Furthermore, when I asked Ms Teh on 1 September 2011 as to how much time ETP would need to file the AEICs for JRO's witnesses (assuming there were no fresh interlocutory applications for discovery or amendments), she herself said that perhaps they needed three weeks although she did say that they needed even more time to take JRO all the way to trial.

105 Then at the next hearing on 2 September 2011, Ms Teh gave me a much longer time-table which went beyond 26 September 2011, just to file the AEICs.

106 I found such developments revealing just as I did regarding the fact that Ms Teh would herself be out of Singapore in the few weeks before 26 September 2011 (see [36(h)] above). Although Ms Teh assured me that her absence had nothing to do with JRO's application to vacate the trial dates, I was of the view that it was not as irrelevant as she said. Also, I reiterate that Ms Teh's travel plans must have been made on the basis that JRO had not requested her and ETP to set time aside to help JRO to file the AEICs and prepare for the trial based on the Present Directions and the Present Trial Dates.

107 So for all the protestations by JRO that as the plaintiff she wanted to pursue her claims expeditiously, her conduct demonstrated otherwise.

Prejudice

108 The Present Action has dragged on for more than five years. One of the key witnesses for D1 and D2 would have been Chan Ket Teck (not to be confused with Chan Kheng Tek). He passed away in late 2008.

109 With a longer delay, the risk of some other witness passing away increases. A longer delay would also mean a higher risk of memories fading.

110 JRO's serious allegations have been hanging over the heads of the defendants, who are professionals, for a long time.

111 I was of the view that there was prejudice to the defendants if there was further delay to the trial but I did not rest my decision on this ground alone. This was but one of the factors I took into account.

Possible application for discovery and amendment

112 As mentioned above at [\[33\]](#), JRO mentioned that she might wish to file interlocutory applications for discovery and to further amend her Statement of Claim (Amendment No 1).

113 As these applications had still not been filed by the time of the hearing of the Present Summons before me, I did not take them into account as factors in favour of the vacation of the Present Trial Dates.

114 Nevertheless, I should mention that the question of JRO amending her Statement of Claim (Amendment No 1) was raised before 1 April 2011. Indeed, JRO was even directed by the court on 16 February 2011 to serve the draft Statement of Claim (Amendment No 2) on the defendants by 21 March 2011 and to file and serve her formal application to amend by 30 March 2011 if she intended to proceed with an amendment. This was not done. At the 1 April PTC, her counsel confirmed that there was no instruction from her to amend. There was no reservation by her counsel then that she might want to resurrect this issue if her funding was finalised.

115 The current suggestion that she would want to re-visit the issue of amendment is troubling. I say no more about it for the time being.

No further issue about funding

116 According to JRO, there will be no further issue of legal representation being suspended now that her funding has been finalised (see para 14 of the Main Affidavit). This implied that she had received such a high level of support to meet all legal expenses whatever the future developments may be. For this proposition, she relied on the letter dated 16 August 2011 from 1st Class Legal. I have cited the second and third paras above at [\[55\]](#). In my view, the third paragraph meant something different. It meant that there would not be any further issue about lack of legal representation due to lack of funding because of a fee agreement which JRO had signed with ETP. It also did not elaborate what it meant by "the conclusion of the trial". Did that mean the Present Trial Dates only without any further complications or extensions, or did it include all trial dates including new or extended ones and all new interlocutory applications in between?

117 While Ms Teh also submitted that there would no longer be a problem about lack of funding, she simply referred to the letter without actually confirming the fee agreement mentioned or the full meaning of the letter.

118 In any event, I was of the view that assuming that there would be no further problem about a lack of funding, it was still for JRO to first satisfy the court that there was merit in her application to vacate. If she could not cross this threshold, then the letter from 1st Class Legal would not assist her.

Summary

119 I concluded that JRO had abused her position as a lay litigant and her need to obtain funding for legal representation. There was no strong reason to support the Present Summons. There was also a history of failure by her to comply with timelines agreed to by herself and/or imposed by the court. Her explanations were also not bona fide. In the circumstances, I declined to vacate all the Present Trial Dates. Nevertheless, I was of the view that she should be given one more chance to carry out the steps ordered under the Present Directions. For that purpose, I extended the timelines as mentioned above and vacated the first week of the Present Trial Dates as mentioned above (at [\[26\]](#)). In the circumstances, I also made "unless" orders as mentioned above (likewise at [\[26\]](#)).

Annex A

Chronology of Events

February 2005	JRO enters into Individual Voluntary Arrangement in UK.
20/3/2006	- Suit 156 of 2006 with general indorsement of Writ is filed. Protective writ. Filed by M/s Heng, Leong & Srinivasan. - JRO said she was evicted from her home and voluminous documents she needed for the claim had been warehoused.
7/6/2006	JRO appoints Legal Solutions LLC.
5/3/2007	Pre-Trial Conference ("PTC"). JRO directed to serve the Writ by 7/5/2007.

2/5/2007	Writ is served on D1 and D2.
14/5/2007	PTC. JRO directed to apply for extension of time ("EOT") for service of the Statement of Claim ("SOC").
4/6/2007	JRO files Summons No 2404 of 2007 for EOT to serve SOC.
18/6/2007	- Hearing of JRO's application for EOT. - JRO is ordered to file and serve SOC by 4pm of 22/6/2007.
22/6/2007	JRO files and serves a 93-page SOC.
24/7/2007	JRO appoints Sam Koh & Co (after obtaining funding).
18/3/2008	Plaintiff's list of documents is filed (more than 70,000 pages including those from execution of an Anton Piller order in OS 939).
10/10/2008	- Appeals on security for costs are heard by Prakash J. - Plaintiff ordered to provide security for costs for Defendants: \$70,000 for D1 \$40,000 for D2 \$70,000 for D3
1/12/2008	Notice that JRO is acting in person.
19/12/2008	PTC. Directions given: 17/4/2009 – filing and exchanging of AEICs. 6/7/2009 to 31/7/2009 – Trial.
20/2/2009	PTC. D1 and D2 raise question of illegible and/or missing documents from JRO.
4/3/2009	A&G write to JRO enclosing a list of illegible and/or missing documents and requesting for them by 13/3/2009.
5/3/2009	JRO replies to say they will be provided by 13/3/2009.
13/3/2009	JRO fails to furnish documents [1st].
17/3/2009	JRO writes to A&G hoping to respond with copies of certain documents by 20/3/2009.
20/3/2009	JRO fails to furnish documents [2nd].
26/3/2009	JRO's affidavit is filed and served on D1 and D2. She objects to A&G's request for certain documents. Will arrange for copies of remaining ones to be provided to A&G by 27/3/2009.
27/3/2009	JRO fails to furnish A&G with any document requested by A&G [3rd].
31/3/2009	JRO furnishes A&G with some documents but omits others.
9/4/2009	D1 and D2 file application (Summons 1667 of 2009) for an order that JRO furnish the omitted documents.

22/4/2009	- JRO is ordered, by consent, to furnish the written documents by Saturday 2/5/2009. - A&G informs JRO they are prepared to receive documents by 4/5/2009.
4/5/2009	JRO fails to furnish any of the omitted documents [4th].
5/5/2009	JRO forwards copies of omitted documents to A&G.
27/5/2009	JRO files further and better particulars of 176 pages (part of which is later struck out).
12/6/2009	First hearing of Summons No 3051 of 2009 to strike out part of JRO's further and better particulars. JRO says D1 and D2 have delayed filing AEICs. She is happy to file her AEICs that day.
16/6/2009	Second hearing of Summons 3051 of 2009. Part of JRO's further and better particulars is struck out.
19/6/2009	- PTC. JRO says she needs to amend her SOC (from discussions with Engelin Teh Practice ("ETP") before she appoints them). - Court vacates trial dates commencing 6/7/2009 and orders JRO to pay costs. - JRO to file application to amend by 20/7/2009.
24/6/2009	JRO appoints ETP.
20/7/2009	JRO omits to file application to amend SOC. Requests for EOT to 14/8/2009.
31/7/2009	PTC. Court grants JRO EOT to 14/8/2009 to file her application for leave to amend SOC. No further adjournment to be granted to JRO to file the said application.
15/8/2009	- JRO files application to amend SOC. - Application eventually allowed in part.
27/1/2010	SOC (Amendment No 1) filed. 270 pages
12/3/2010	Defences or Defences and Counterclaims (Amendment No 1) filed.
16/4/2010	Replies or Replies and Defences to Counterclaims (where applicable) (Amendment No 1) filed.
12/1/2011	PTC. ETP said JRO was considering, <i>inter alia</i> , amending her SOC. ETP directed to update the court on 1/2/2011.
1/2/2011	PTC. ETP unable to update the court because JRO has a family emergency.
16/2/2011	PTC. ETP said JRO is going to apply to amend her SOC. Court directs draft SOC (Amendment No 2) to be served by 21/3/2011 and JRO to file application to amend by 30/3/2011.
3/3/2011	JRO instructs ETP to suspend substantive work pending funding arrangements but ETP is still on record as her solicitors.

16/3/2011	Hearing of Summons Nos 633 and 758 of 2011 by D1 and D2 for security for costs. At this hearing, ETP asked for EOT to serve draft SOC (Amendment No 2) and JRO's application for leave to amend. Oral application is dismissed. Court says that if JRO did not comply with the deadlines given on 16/3/2011, JRO would not be allowed to amend her SOC (Amendment No 1).
21/3/2011	No draft SOC (Amendment No 2) is served by JRO.
30/3/2011	No application by JRO is filed to amend her SOC (Amendment No 1).
1/4/2011	ETP attends PTC. Confirms no instructions to apply for leave to amend. • Present Directions and Present Trial Dates are given. • D3's counsel mentions D3 may apply to strike out part of SOC (Amendment No 1)
30/4/2011	D1 and D2 file application to bifurcate the trial (Summons No 1881 of 2011).
10/5/2011	Notice of Intention to Act in Person filed for JRO.
11/5/2011	• PTC – JRO says (a) funding is approved already, (b) three weeks for funds to come in, (c) when she was acting in person, she wanted bifurcation. • D3 files application to strike out substantial portion of SOC (Amendment No 1). (See Plaintiff's submissions at [70]). D3's application was eventually unsuccessful.
31/5/2011	A&G write to JRO to request draft order made at 1 April PTC setting out the names and capacities of JRO's witnesses to be extracted by 6/6/2011.
6/6/2011	JRO fails to extract order [1st].
15/6/2011	• Hearing of application by D1 and D2 to bifurcate the trial. JRO consents to bifurcation. • JRO obtains EOT from court to extract order of 1 April PTC by 30/6/2011.
29/6/2011	A&G write to remind JRO to extract order (with names and capacities of witnesses).
30/6/2011	JRO fails to extract order [2nd].
4/7/2011	JRO contacts A&G to request to be allowed to extract order by 7/7/2011.
7/7/2011	JRO fails to extract order [3rd].
15/7/2011	A&G writes to JRO to extract order by 18/7/2011.
18/7/2011	JRO fails to extract order [4th].
3/8/2011	JRO calls A&G to say she will apply for EOT for timelines under Present Directions and to vacate Present Trial Dates.
4/8/2011	JRO re-appoints ETP.

5/8/2011	• Deadline for AEIC of witnesses to be filed and exchanged (according to the Present Directions). • ETP writes to request a PTC. • Registry replies to fix PTC on 15/8/2011.
8/8/2011 and 11/8/2011	Summons Nos 3491, 3492 and 3542 of 2011 filed by defendants to ask that JRO file her AEICs within three days and for "unless" orders.
15/8/2011	PTC. AR also hears the Defendants' three Summonses and orders JRO to file her factual AEICs by 19/8/2011 and makes other orders (JRO says that she did not have time to file reply affidavits to the three Summonses).
18/8/2011	• ETP files Present Summons (<i>ie</i>, Summons 3655 of 2011).
19/8/2011	• Anthony Soh files his affidavit to exhibit a draft of the Main Affidavit of JRO. • ETP files three appeals (<i>ie</i>, RAs 255, 256 and 257) in respect of AR Leo's decision of 15/8/2011 ordering JRO to file her factual AEICs by 19/8/2011.
22/8/2011	Hearing of the remaining prayers in Summons Nos 3491, 3492 and 3542 of 2011 for the "unless" orders. The prayers are dismissed.
23/8/2011 and 24/8/2011	Defendants file three appeals (<i>ie</i> , RAs 261, 262 and 263 of 2011) against AR Leo's decision of 22/8/2011 dismissing the application for the "unless" orders.
26/8/2011	First hearing of Present Summons and the six appeals. Adjourned for ETP to take instructions.
1/9/2011 and 2/9/2011	Second hearing of Present Summons and the six appeals. Decision given on 2/9/2011 to vacate only the first week of Present Hearing Dates. EOTs given on various timelines. "Unless" orders made against JRO. JRO granted leave to appeal. To be expedited.

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