

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2019] SGCA 49

Court of Appeal – Civil Appeal No 90 of 2018 (Summons No 122 of 2018,
Summons No 4 of 2019 and Summons No 68 of 2019)

Between

Jannie Chan Siew Lee

... Appellant

And

Henry Tay Yun Chwan

... Respondent

In the matter of HC/OS 203/2017

In the matter of the Judgment dated 15 February 2016
in Suit 1014 of 2014

Between

Henry Tay Yun Chwan

... Plaintiff

And

Jannie Chan Siew Lee

... Defendant

EX TEMPORE JUDGMENT

[Contempt of Court] — [Civil contempt] — [Execution of order of committal]

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Jannie Chan Siew Lee
v
Henry Tay Yun Chwan

[2019] SGCA 49

Court of Appeal — Civil Appeal No 90 of 2018 (Summons No 122 of 2018, Summons No 4 of 2019 and Summons No 68 of 2019)

Tay Yong Kwang JA, Belinda Ang Saw Ean J and Quentin Loh J

9 September 2019

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Tay Yong Kwang JA (delivering the judgment of the court *ex tempore*):

1 On 2 August 2017, the High Court found the appellant guilty of contempt of Court in that she had failed to comply with the consent judgment entered in Suit No 1014 of 2014. The High Court imposed imprisonment of two weeks but suspended its execution for one year subject to two conditions. First, the appellant was not to be guilty of further contempt of Court by breaching the consent judgment. Second, the appellant was to undergo psychiatric treatment once a month within the said one-year period and to furnish proof of such attendance to the respondent.

2 On 23 April 2018, the High Court found that the appellant had breached both conditions. The High Court lifted the suspension on the committal order but granted a stay of execution of the imprisonment pending the appellant's appeal to the Court of Appeal.

3 In the respondent's application in Summons No 4 of 2019 made pending the hearing of this appeal, we admitted the respondent's affidavit by consent by way of paper hearing in February 2019. That affidavit set out the alleged continuing breaches by the appellant that took place after the High Court's decision on 23 April 2018.

4 Today, we have granted the appellant's application in Summons No 122 of 2018 and admitted Dr Joshua Kua's psychiatric report dated 18 September 2018. We also decided to admit Dr Joshua Kua's psychiatric report of 28 June 2019 although it was issued after the application in Summons No 122 of 2018. Both psychiatric reports concerned the appellant's medical treatment after the said High Court's decision. We also granted the respondent's further application in Summons No 68 of 2019 to adduce further evidence of the appellant's alleged continuing breaches of the consent judgment between 22 January 2019 and 20 June 2019. We admitted all these documents as they would give a more complete perspective of the entire case, especially since this case involves penal consequences and these documents may have an influence on the question of sentence.

5 On the merits of the appeal, we should make it clear that the appeal is actually not against the making of the committal order on 2 August 2017 (as no appeal was filed) but is against the lifting of the suspension of that committal order on 23 April 2018. However, we will say something about the sentence imposed subsequently in this judgment.

6 At least three adjournments of this appeal were granted by the Court of Appeal by letter at the requests of the appellant over the last seven months or so. The reasons given by the appellant included her decision to act in person (the appeal documents had already been filed by her then solicitors, Eugene

Thuraisingam LLP) and needing time to familiarise herself with the documents, the fact that she was undergoing treatment and had a pending appointment with her doctor after which she would obtain from him the latest medical report and, after her bankruptcy in late May 2019, the fact that she had to sort things out with the Official Assignee's office regarding the continuation of her appeal. In early July 2019, after the Official Assignee's office indicated that its consent was not required for the appellant to continue with this appeal, the appellant informed us that she intended to appoint a solicitor and sought an adjournment of her appeal to August 2019. At the last request, we instructed the registry to inform the parties that we would adjourn the appeal to the week of 9 to 13 September 2019 for the appellant to resolve all her matters, that any lawyer that she engages for the appeal must be able and willing to argue the appeal on any date within 9 to 13 September 2019 and if she decides not to engage a lawyer or the lawyer engaged by her is discharged from acting for any reason whatsoever, the appellant must be able and willing to argue the appeal on any date within the said dates. We also directed the appellant to inform her doctor or other medical advisors that her appeal will be heard on any date within 9 to 13 September 2019 and that she is to ensure that no medical or any other appointments are scheduled within those dates that may coincide with the Court of Appeal hearing.

7 To date, no notice of appointment of solicitors has been filed by the appellant. On Friday 6 September 2019, she filed an affidavit exhibiting more than 600 pages of various documents, including emails and affidavits in the related court proceedings. The only explanation for filing this affidavit is:

3 I make this affidavit to oppose the action by the Plaintiff. Copies of my supporting documents are collectively annexed hereto and marked as "JC-1". I confirm that these documents are true and correct.

4 I humbly pray that their action is dismissed.

8 Also on Friday 6 September 2019, at 12.45pm, the appellant sent an email to the office email address of an officer in the Court of Appeal registry (despite having been informed in April 2019 that emails should be sent to the Supreme Court registry’s email address). That officer was out of the office and had set an “Out of office” notification in her email account with a note to contact two of her colleagues “for urgent matters”, stating their telephone numbers and email addresses. Therefore, the appellant’s email was seen by the registry officer only this morning. The appellant’s email essentially sought an adjournment of this morning’s hearing (on the ground of mental, physical, emotional trauma, distress, depression, anxiety and that the appellant is physically very exhausted and weak).

9 The Court of Appeal was informed about the above email this morning and we directed the registry officer to inform both parties immediately that the Court of Appeal will sit to hear the appeal at 11.30am as scheduled and that any application to the Court of Appeal is to be made during the sitting. The registry officer informed us that the direction was carried out.

10 The appellant is before the Court today. The appellant, who is articulate in English, has informed the Court that she is well today and is prepared to do the appeal herself. We therefore proceeded with this appeal. Although the appellant has not filed any written submissions, written submissions were filed by her former solicitors, Eugene Thuraisingam LLP, for her application to admit further evidence (which we have dealt with above) and also for this appeal. The appellant has confirmed that she wishes the Court to consider these written submissions for the purposes of this appeal. We have considered the written submissions and the oral submissions made by the appellant today.

11 In our view, despite the fact that the appellant was depressed and distressed by all her problems, she knew what she was doing when she continued to send out emails and she knew that doing such things was in contempt of Court. She had been fined \$30,000 in earlier contempt of Court proceedings relating to similar conduct in breach of the then injunction. She had legal advice from her then solicitors and had received many written demands from the respondent’s solicitors in earlier proceedings to stop breaching the Court’s orders. The appellant was not a helpless woman who did not know how to seek medical help or legal advice or redress. Yet, she preferred to go by the “non-legal” route to try to resolve what she perceived to be the problems plaguing her by doing what she said were merely her cries for help to various non-parties in these proceedings. It has been emphasised to her over and over again that this “non-legal” route was in fact an unlawful one and that she should stop her destructive actions. Despite all the warnings and exhortations and the psychiatric treatments, she continued to breach the committal order with seeming impunity. Her recalcitrant conduct was persistent and pernicious despite the many opportunities given to her to simply stop. As stated by the High Court at [52] of its grounds of decision, the appellant’s “conduct has been unremorseful and unrepentant. In fact, she has been intentionally sending the offending emails to new recipients.”

12 In the light of the persistent breaches after 2 August 2017 and again after 23 April 2018 and even in the recent months before this appeal, we think that the High Court was entirely correct in lifting the suspension on the committal order.

13 On the question of the appropriate sanction to impose for the appellant’s unceasing contempt of Court, the High Court has already considered her psychiatric condition by not increasing the imprisonment term or adding to it

some other punishment. Having considered all the evidence, including the further evidence admitted today, where there was total and continued disregard for and defiance of the Court's order, we think that the punishment of two weeks' imprisonment was actually rather lenient.

14 We therefore dismiss this appeal against the lifting of the suspension order by the High Court.

15 On 23 April 2018, the High Court ordered the appellant to pay the respondent \$15,000 costs and \$9,930 disbursements. Before the Court today, the respondent's solicitor asks for costs of \$8,000 and disbursements of \$10,821.15. The appellant says that she is already a bankrupt and has no money to pay costs. The respondent's solicitor points out that the appellant has a security deposit of \$20,000 in Court. Having heard the parties on costs, we order the appellant to pay the respondent costs fixed at \$10,000 inclusive of disbursements. This will be paid out of the said security deposit and the balance thereafter will be refunded to the appellant.

16 The effect of the dismissal of this appeal is that the imprisonment term of two weeks takes effect immediately. The appellant asked for time to settle her business matters. She said that she was actually prepared to go to prison in April 2018 but was advised by her friend that she should appeal against the High Court's order. We pointed out to her that this matter has been outstanding for more than a year and that we have granted her the adjournments mentioned earlier in this judgment. We see no reason to postpone the commencement of her imprisonment term. It is therefore to take effect immediately.

Tay Yong Kwang
Judge of Appeal

Belinda Ang Saw Ean
Judge

Quentin Loh
Judge

The appellant in CA/CA 90/2018, the respondent in CA/SUM 4/2019 and CA/SUM 68/2019 and the applicant in CA/SUM 122 of 2018 in person;
Megan Chia, Perry Wong and Jacqueline Gwee (Tan Rajah & Cheah) for the respondent in CA/CA 90/2018, the applicant in CA/SUM 4/2019 and CA/SUM 68/2019 and the respondent in CA/SUM 122/2018.
