

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGFC 128

FC/S 9 of 2023
HCF/DCA 93 of 2025

Between

XVQ

... Plaintiff

And

XVR

... Defendant

GROUND S OF DECISION

[Probate and Administration Act 1934] — [Validity of Will] – [Testamentary Capacity] – [Knowledge and Approval of Will] — [Undue Influence]

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

XVQ

v

XVR

[2025] SGFC 128

Family Justice Courts — FC/S 9/2023

District Judge Cassandra Cheong

25 to 28 November 2024, 2-3 December 2024, 8-9 January 2025 and 08 August 2025

2 March 2026

District Judge Cassandra Cheong:

Introduction

1 The Plaintiff is the youngest of three sons of the deceased. The Defendant is the youngest sister of the deceased. This case involves a dispute between the parties over a Will executed by the deceased on 22 June 2020 ("the 2020 Will").

2 Under the 2020 Will¹, the deceased revoked all prior Wills and codicils and appointed the Defendant as sole executrix and trustee of the said Will. She also made the following bequests:

¹ See Exhibit SV1 - Annex 17 of the Defendant's Affidavit of Evidence in Chief ("AEIC").

- (a) to her second son, her sole immovable property (i.e. a HDB flat located at Klang Lane (“the HDB flat”);
- (b) to the Defendant all the assets listed in a table attached to the Will. These include mainly monies in bank accounts of the deceased (including monies in the account of an employment agency ran by the deceased) and some Singtel Shares;
- (c) \$1.00 to each of her sons; and
- (d) the residuary estate to the Defendant.

3 It is undisputed that the 2020 Will was prepared by Mr A of A Law Corporation (“ALC”) and Ms C (“Ms C”), a former associate of the firm. It was subsequently executed by the deceased at the office of ALC, the witnesses of the said Will being the staff of the firm.

4 It is also undisputed that at the material time of execution of the 2020 Will, the Defendant was in Perth, Australia where she has been residing since 2005.

5 Prior to the execution of the 2020 Will, the deceased had executed two other Wills on 24 August 2018 (“the 2018 Will”) and 15 May 2019 (“the 2019 Will”) respectively.

The 2018 Will

6 Under the 2018 Will², the deceased appointed the Defendant and a friend of the deceased as executors and trustees of the said Will. The deceased also made the following bequests:

- (a) The HDB flat to be held on trust by the trustees for the deceased's granddaughter, P, until she attained 21 years of age;
- (b) After payment of her debts, testamentary and funeral expenses, all her ready cash, monies in her CPF, bank accounts, insurance policies, jewellery, furniture and fittings in the HDB flat, to be given to the Defendant; and
- (c) The sum of \$1.00 to each of her three sons.

7 It is undisputed that the Deceased had independently engaged solicitors to draft the 2018 Will which she executed by affixing her left thumbprint on the said Will in the presence of two solicitors who acted as witnesses to the Will. The deceased then handed the said Will to the Defendant for safekeeping.³ Neither the Plaintiff nor the Defendant were involved in the preparation and execution of the said Will.

The 2019 Will

8 The 2019 Will⁴ was drafted by one Mr D ("Mr D"), a solicitor and long-time family friend of the deceased. Mr D first knew the deceased in 2015 when

² See Exhibit – "SS-1" of the Plaintiff's AEIC, pages 23-26.

³ Paragraph 39 of the Defendant's AEIC.

⁴ See Exhibit – "SS-1" of the Plaintiff's AEIC, pages 27-29.

she approached him for assistance in relation to the Plaintiff's divorce matters with his second wife. Mr D subsequently represented the Plaintiff in other legal matters, such as his custody application for P and represented him in his criminal matters as well.

9 As it was his practice not to act as a witness for any Will he had drafted, Mr D referred the deceased to another solicitor, Mr E ("Mr E"), for its execution. Mr E explained the will to the deceased in Tamil, who confirmed she understood the contents of the 2019 Will before affixing her left thumbprint onto the said Will in the presence of Mr E and another witness, M. Thereafter, the witnesses signed on the said Will in the presence of the deceased and each other.⁵

10 Under the 2019 Will, the deceased appointed Mr D and the Plaintiff's wife, B as executors and trustees of her will. She also made the following bequests:

- (a) The HDB flat to be held on trust for her granddaughter, P, until she attains 30 years of age upon which the trustees are to transfer the HDB flat to P absolutely. The deceased further stipulated that the trustees shall not rent out the flat under any circumstances and after the transfer of the flat to P, the flat shall not be sold and P must continue to stay at the property until her demise.
- (b) With regard to the deceased's ready cash, monies in her CPF, bank accounts, insurance policies, jewellery, furniture and fittings in the HDB flat, these were also to be given to P.
- (c) The sum of \$1.00 to each of her three sons.

⁵ Paragraphs 4 and 5 of Mr E's AEIC.

(d) The deceased further stated in the Will that no one else was allowed to enter her flat upon her demise, except for her trustees.

11 At the time of filing of his Affidavit of Testamentary Scripts dated 15 March 2022, the Plaintiff could only exhibit an unexecuted draft of the 2019 Will, which he had obtained from Mr D. A copy of the 2019 Will was subsequently obtained, with the assistance of Mr D, from Mr E and exhibited in the Plaintiff's Supplementary Affidavit of Testamentary Scripts dated 20 May 2022. It is undisputed that the original 2019 Will has yet to be found. It is not in the possession of any of the parties.

12 According to Mr D, after the execution of the 2019 Will, the deceased entrusted the Will to him for safekeeping. The original Will was later returned to her upon her request, sometime in February 2020. Although no reason was given by the deceased for this, Mr D suspected that the deceased intended to execute a new Will.⁶

13 The deceased subsequently passed away on 19 September 2021, alone at home. On the night of 18 September 2021, the Plaintiff's wife made attempts to contact the deceased on her mobile phone but to no avail. Concerned with the wellbeing of the deceased, the Plaintiff's wife, B went to the deceased's home to check on her. When she arrived at the HDB flat, she called the deceased only to hear the sound of the deceased's phone ringing inside the house without any response from the deceased. Worried she contacted the Plaintiff who suggested to call the police. B called the police and SCDF who forced open the door to the HDB flat. They found the deceased lifeless on the floor of her living room, due to a tragic fall that impacted her head.

⁶ Paragraph 24 of Mr D's AEIC.

14 On 16 February 2022, the Plaintiff commenced the present probate action in the Family Division of the High Court. It was subsequently transferred to the Family Justice Courts due to the value of the deceased's estate. On 15 May 2023, after parties had filed and exchanged affidavits of testamentary scripts, the Plaintiff filed an amended Statement of Claim, claiming the following:

- (a) that the 2020 Will be declared void and invalid;
- (b) Probate to be granted to the executors appointed in the 2019 Will; and
- (c) The Defendant to provide full and detailed account of all the assets of the estate of the deceased, including the deceased's Australian property.

15 The Plaintiff disputes the validity of the 2020 Will on the following basis:

- (a) That the circumstances surrounding the 2020 Will were suspicious as the terms were suggested by the Defendant to the deceased prior to its execution. The changes to the 2019 Will were instructed by the Defendant, not the deceased, to ALC.
- (b) That the Will was executed pursuant to a misrepresentation by the Defendant to the deceased that the Defendant would hold the estate on trust for the benefit of the beneficiaries of the deceased's estate.
- (c) The deceased in reliance of the Defendant's misrepresentation, was unduly influenced, coerced and/or manipulated into executing the 2020 Will.

16 Initially, the Plaintiff had pleaded that even if the 2020 Will was valid, which he asserted was not, he was one of the beneficiaries of the deceased's estate under a secret trust as established by the said Will. However, this claim was subsequently abandoned when the Plaintiff filed his Statement of Claim (Amendment No.2) on 15 May 2023.

17 The Defendant denied the Plaintiff's claim on the basis that they were bare allegations and asserted that the deceased had exercised her judgement freely and independently when giving instructions to ALC and when executing the Will. Specifically, the Defendant denied making any representation to the deceased as alleged by the Plaintiff and further filed a counterclaim seeking the following:

- (a) A declaration that the Will dated 20 June 2020 is the true and last will of the deceased and that the Defendant is entitled to apply for, and be granted, probate over the estate of the deceased;
- (b) An order that the Plaintiff provide an account to the Defendant of the property of the deceased seized by the Plaintiff on 19 September 2021; and
- (c) Costs.

18 Although the Defendant disputed the execution of the 2019 Will in her Defence and Counterclaim (Amendment No.2), it is noted that during the trial and in her submissions, the Defendant expressly clarified that the execution of the 2019 Will was not disputed.

19 For avoidance of doubt, the deceased's testamentary capacity is not disputed in the present case. Although the deceased had suffered a stroke

sometime in 2012, based on the medical reports⁷ dated 21 December 2016 and 14 March 2017, the deceased was still able to function independently after her stroke, as evidenced by her continued care of P and the running of her employment agency until the date of her demise. It did not affect her testamentary capacity to execute a will. It is also not the Plaintiff's case that the deceased lacked the requisite testamentary capacity to execute the 2020 Will.

20 After considering the evidence and the submissions made by the Plaintiff and counsel for the Defendant, I dismissed the Plaintiff's claim as I found that his allegations were bare allegations, unsubstantiated by the evidence and granted order in terms of the Defendant's counterclaim. Dissatisfied, the Plaintiff now appeals against the whole of my decision.

Background Facts

21 It is not disputed by parties that the deceased was a capable, independent woman of strong character. Her first marriage ended in 1980 after the deceased commenced divorce proceedings against her husband who had abandoned the family. Thereafter, the deceased became a single mother of three sons, whom she supported by working as a carpark attendant. She subsequently remarried in 1992 and helped her second husband to start his own scaffolding business. In 2004, the deceased started her own maid employment agency, specialising in bringing domestic helpers from India into Singapore, which she operated until her death on 19 September 2021. It was undisputed by parties that she was a successful businesswoman who was well known in Little India for her employment agency.

⁷ Pages 41 and 48 of the Bundle of Documents filed on 11 November 2024.

The deceased's three sons

22 The deceased had three sons who were at one point or another, causes of distress and concern for the deceased. The first son, N, took over the deceased's late husband's business after the latter's demise. Unfortunately, the business was mismanaged, incurring debts and requiring the financial assistance of the deceased. It was further alleged and undisputed by the parties that N had even forged the deceased's signature and sold off two of her properties in order to pay off the said debts. The business, which the deceased's late husband had painstakingly built, was eventually closed sometime in 2015 or 2016 and N declared an undischarged bankrupt.

23 The second son, S, has a history of drug related offences, including drug consumption and trafficking. In 1999, he was first sentenced to 10 years of imprisonment but was released in early 2004 or 2005 for good behaviour under a conditional remission order. After his release, he worked for his late step-father until 2008, when he was caught again for drug consumption and sentenced to 8 years jail. During this period of time, S turned over a new leaf. He completed his O-levels and A-levels and several computer courses. The deceased would visit him twice a month in prison. He also kept in touch with the Defendant, who had already migrated to Australia then, through written letters. S was subsequently released in February 2014 under a conditional remission order for good behaviour. At the time of the trial, he was gainfully employed since 2016 as a pharmaceutical driver for a pharmaceutical company. From 2014 to 2016, S lived together with the deceased and P at the deceased's home, until he had an argument with the deceased over his drinking. S moved out thereafter to live with his then-girlfriend V, whom he subsequently married in 2020.

24 The Plaintiff is the youngest son of the deceased and from the evidence provided, arguably the son who gave the deceased the greatest cause for concern. He had a troubled youth. At the tender age of 12, he was placed in Boys Home for three years for causing grievous hurt to a prefect in his class. Around 15 years of age, he subsequently ran away from the home but was later reported by his parents and sent thereafter to a Reformatory Training Centre (“the Centre”) for 4 years. At the Centre, the Plaintiff completed his N-levels. He was subsequently given early conditional release after 20 months and proceeded to obtain a diploma Certificate in culinary skills. Subsequently after that, the Plaintiff experienced 2 failed marriages, a series of failed businesses and convictions for other offences.

25 After his marriage to his first wife, the Plaintiff was convicted for stealing jewellery from his mother-in-law and sentenced to prison. This marriage ended in divorce. After the Plaintiff’s release from prison, he married P’s mother, who then gave birth to P. He was subsequently convicted for driving without a licence and for offences under the Employment Act. He was sentenced again to imprisonment from 2012 - 2014. He subsequently divorced P’s mother and in 2019, he married his current wife, B. The Plaintiff was last convicted for assaulting a CISCO Officer about 2 years ago.

26 The Plaintiff also started a series of businesses in the F&B industry, like a restaurant and minimart, and the construction industry. Some of these businesses were funded by the deceased’s late husband while he was alive. Unfortunately, most of these businesses proceeded to become struck off or dormant. As at the time of the trial, the Plaintiff was running a company in the business of transportation, manpower and construction.

Relationship between the deceased and her granddaughter P

27 It is not disputed by either party that the deceased cared deeply for her granddaughter P, who was the Plaintiff's daughter from his second marriage. Pursuant to the Plaintiff's divorce from his second wife, P lived with the deceased since she was 3 years old until she was 12 years old. The deceased took care of P and paid for all of P's expenses solely. She even applied for the custody of P sometime in 2015. The Plaintiff did not take care of P.

28 During the period that P lived with the deceased, the deceased engaged tuition teachers to help P in her studies. She also enrolled P in dance classes, singing lessons and swimming lessons for P's personal enrichment. The deceased was strict in her upbringing and would nag and scold P, who did not have an interest in studying or the extra-curricular lessons, resorting at times to using the cane to discipline P. As P grew older, P became increasingly defiant as she resented the strict approach of the deceased. This led to increased conflicts between the deceased and P.

29 The deceased was deeply troubled over the issue of who was to care and provide for P upon her demise, given the lack of parental involvement and guidance in P's life, especially after her stroke in 2012. She subsequently executed the 2018 and 2019 Wills.

30 Sometime in 2019, the deceased found some of her jewellery missing from her home. At the time, the only person living with the deceased at the HDB flat was P. The deceased suspected P of stealing her jewellery upon the instigation of the Plaintiff and filed a police report. Upset by the deceased's accusations, P left the HDB flat and stayed with the Plaintiff for two days. After

which, she requested the deceased to let her return to the HDB flat to stay with her.

31 On 19 November 2020, P was brought to J Centre by Child Protection Services (“CPS”) and on 2 December 2020, she was placed on longer term care in J Centre (“the Centre”). The main reason for P’s admission into the Centre is unclear due to the lack of documentary evidence provided by the parties. From P’s oral testimony in court and from the Plaintiff’s affidavit, it appears that P had reported to her school teacher that she did not want to return home to live with the deceased, due to the constant nagging and scolding of the latter. P also threatened to harm herself if she was made to return home.⁸ Presumably, this led to P’s admission into J Centre. During her stay at the Centre, the deceased visited P almost on a weekly basis. She would bring lunch for P and leave after lunch was done, until the fateful day of 18 September 2021, when the deceased failed to turn up for her usual visit. P subsequently learnt on 19 September 2021 that the deceased had passed away.

Relationship between the deceased and the Defendant

32 The deceased was the 4th child among her 5 siblings, with the Defendant being the youngest. It is not disputed that the two shared a close relationship at the time of the deceased’s death. Even after the Defendant migrated to Australia in 2005, they remained in frequent communication and would talk almost every night on the phone. This is confirmed by P who lived with the deceased. The deceased would share with the Defendant, amongst other things, her woes over her three sons, the challenges she faced with P and seek the Defendant’s advice

⁸ NE Day 4, pages 26-29.

on what she should do about P. She also brought P to Australia to visit the Defendant sometime in 2016 and 2017.

33 As the deceased ceased her education after primary school, she would approach the Defendant, who completed her GCE 'O' Levels, to assist her in drafting correspondences to various government agencies and institutions and handling administrative matters on her behalf. For example, the Defendant assisted the deceased to draft correspondences to banks, income tax related enquiries and appeal letters relating to foreign domestic workers to the Ministry of Manpower. The Defendant also drafted correspondences on behalf of the deceased to the National Library Board for a lost library book and to the deceased's landlord to extend the date given for early termination of her lease.

Circumstances leading up to the execution of the Will

34 Sometime around December 2019, the deceased informed the Defendant that she wanted to have a new will drafted and asked the Defendant to recommend a law firm. As the deceased regularly worshipped at the Mariamman Temple near Chinatown, the Defendant recommended A Law Corporation ("ALC"), based on its convenient location in Chinatown and the reputation of the firm as a well-established law firm in Singapore. Prior to this occasion, the Defendant did not have any dealings with ALC previously. The deceased agreed and sought the Defendant's assistance to liaise with ALC for the drafting of a new Will.

35 Sometime in February 2020, the Defendant returned to Singapore to attend a friend's wedding. During this period, the deceased requested for the defendant to arrange an appointment for her at the office of ALC and to accompany her for the meeting with ALC, which the defendant did. The

Defendant also assisted to deliver documents to ALC on the deceased's behalf. When the Defendant returned to Australia on 22 February 2020, the Defendant continued to assist the deceased with ad hoc communications with ALC at the deceased's instructions.

36 Notwithstanding the above, the deceased also communicated with ALC directly through handwritten notes endorsed with her thumbprint which she would fax over. She also attended meetings in person and submitted documents at ALC's office on her own.

37 It is important at this juncture to set out the timeline of events from the Defendant's first point of enquiry with ALC to the execution by the Deceased of the 2020 Will.

Timeline of events from the first meeting with ALC to the execution of the 2020 Will

38 On 3 January 2020, ALC received an inquiry from the Defendant requesting for an appointment pertaining to a Will.

39 On 17 February 2020, the deceased attended at ALC's office, accompanied by the Defendant. The first meeting was attended to by the Defendant, the deceased, one Ms C ("Ms C") and the Executive Director of ALC, Mr A, himself ("Mr A"). At the first meeting, the Defendant was asked to wait outside the room as the deceased provided the instructions for the drafting of the Will herself as follows:

- (a) The deceased owned a HDB flat, jewellery, bank accounts, CPF funds and Singtel shares.

- (b) She wished to bequeath the flat to her granddaughter, P who was 12 years old and residing with her at the time. She went to HDB and she was told to make a Will.
- (c) She did not want P to sell the flat.
- (d) She wished to bequeath her jewellery in the bank's safe deposit and her Singtel shares to the Defendant.
- (e) She wished to bequeath all her monies in her bank accounts to the Defendant's son, R.
- (f) And she wished to leave \$1.00 to each of her three sons.

40 As the deceased had not made any CPF nominations at the time, she was advised by ALC to make the requisite nomination accordingly. She was also asked to provide the title deed of her HDB flat, her bank account numbers, a copy of one of the beneficiary's passport and the name of a co-administrator since there were minority interests in the will.

41 Towards the end of the first meeting, as the deceased did not have the full range of motion of her right arm due to her earlier stroke, the Defendant was asked to assist the deceased to fill in the details of ALC's Warrant to Act and Client information Request Form which was endorsed by the deceased with her left thumbprint. The Defendant's email was also written on the Warrant to Act upon the deceased's request for the Defendant to be copied in all correspondences between ALC and the deceased, as she wanted the Defendant to assist in conveying her instructions to ALC via email, as the deceased herself has some difficulty communicating via email and preferred to use fax instead.

The deceased also requested permission from ALC for her sister to submit documents to ALC on her behalf.

42 On 21 February 2020, the Defendant attended alone at ALC's office to submit some of the documents that had been requested previously by ALC. The documents submitted included a handwritten note, drafted by the Defendant but endorsed with the deceased's thumbprint, informing ALC that she would like to give the HDB flat to her second son S ("the Handwritten Note"). In view of this, Ms C informed the Defendant that since the deceased had decided not to will the HDB flat to P, as there are no minority interests, it would not be necessary to have a second executor. Apart from this meeting, there was no other occasion thereafter when the Defendant attended at ALC.

43 On 26 February, at 3.15 p.m., Ms C sent an email to the deceased, copying the Defendant and Mr A, acknowledging receipt of the documents received through the Defendant and requesting for the deceased to (a) confirm her instructions stated on the Handwritten Note and (b) submit further documents in relation to the drafting of the Will. The Defendant responded at 4.14 p.m. via email stating that the deceased had gone for an eye operation and was resting at home and that she will inform the deceased to drop the documents off at ALC's office next week.

44 On the same day at 4.18 p.m., the Deceased subsequently responded by forwarding an email from the Defendant, repeating the same instructions that was stated on the Handwritten Note.

45 On 9 March 2020, at 11.13 a.m., Ms C sent an email to the deceased, again copying the Defendant and Mr A, requesting for further documents and details. On the same day at 6.06 p.m. the Defendant responded to inform that

the Deceased will attend at ALC's office on Wednesday between 11.00 a.m. to 12.00 p.m. to submit the relevant documents.

46 On 11 March 2020, at around 10.20 a.m., the deceased attended at ALC's office and handed another handwritten note containing her company account number two personal account numbers and late husband's estate account number. She was attended to by Mr A. The deceased wore an eyepatch on that day, presumably from an eye operation. At the meeting, she informed Mr A that she did not want to leave the Plaintiff anything in the will. Mr A advised the deceased that the Plaintiff may contest the Will. The deceased decided to give the Plaintiff only \$1.00 as he was very troublesome and always asking her for money. She further informed Mr A that the Plaintiff had no fixed employment which was why she wanted to provide for her granddaughter.

47 On 17 March 2020, at 12.59 p.m. Ms C sent an email to the deceased and the Defendant attaching a draft of the Will for her review and enquired if she wished to have an executor who was residing in Singapore.

48 On 20 March 2020, the Defendant replied to state that the deceased was going for another eye surgery, this time on her other eye, and will provide the information requested next week. The Defendant also enquired if the deceased could send a copy of the second son's NRIC via email.

49 On 26 March 2020, the deceased sent a copy of second son's NRIC to ALC via email.

50 On 2 April 2020, the Defendant sent an email to Ms C to update ALC on the status of the requested documents and information.

51 On 20 April 2020, the Deceased sent a note to ALC via fax providing further information to be included in her Will and informing ALC among other things, that she did not want an executor living in Singapore. The fax transmission was in the form of an email from the Defendant to the deceased, which the deceased had printed out and endorsed with her thumbprint.

52 On 21 May 2020, the deceased attended at ALC's office. The meeting was attended by the deceased and Ms C. During the meeting, Ms C provided the deceased with the draft Will dated 21 May 2020 for her review. The deceased informed Ms C that she wanted to keep the original Will after execution and she will send it to her sister, the Defendant thereafter. When asked if she wanted to deposit the Will in the Wills Registry, the deceased informed that she would like to check with the Defendant first before getting back to ALC. The deceased also expressed her intentions for the HDB flat to be transferred to her second son to be held on trust for her granddaughter until she attained the age of 30. The deceased further reiterated for the HDB flat not to be sold and it should be transferred to P when she turns 30 years of age and instructed ALC to amend paragraph 4.1 of the Draft Will accordingly.

53 After the meeting on 21 May 2020, at 4.33 p.m., Ms C sent an email to the deceased and the defendant, copying Mr A, to update the deceased that since the second son owns his own property, in the event of her passing and the HDB flat is to be transferred to the second son, he may have to sell one of the properties as stipulated by HDB. ALC will check HDB's rules and respond to the deceased's amendments to the Will in due course.

54 On 3 June 2020, at 3.24 p.m., Ms C informed the deceased via email (address to the deceased and the Defendant, and copying Mr A) that based on HDB's rules, since P is a minor, the HDB flat will be managed by P's parents

or guardian until she attains the age of 21, which was not what the deceased intended. Alternatively, an express trust may be declared in the Will for a professional executor such as a lawyer or trust company to act as a trustee to manage the property until P turns 21 years of age.

55 On 8 June 2020, the deceased sent a handwritten note to ALC via fax informing ALC not to change the Will and that she will sign the same. She also instructed ALC to add a statement in her Will stating that the Defendant and her second son are to be involved in her funeral arrangements. The other two sons can help if they want. The note was endorsed with the deceased's thumbprint.

56 On the same day at 5.40 p.m. ALC sent an email acknowledging the receipt of the Fax Transmission dated 8 June 2020. In the same email, Ms C confirmed the deceased's instructions that the HDB flat will be given to her second son.

57 On 18 June 2020, Mr C sent an email to the deceased attaching the amended draft Will for her review and to confirm her attendance on 22 June 2020 to execute the Will.

58 It is not disputed that at all material times, the deceased had conversed with and gave her instructions to ALC in the English language.

Execution of the Will

59 On 22 June 2020, the deceased attended alone at ALC's office around 10.35 a.m. to execute the Will. She confirmed that she would keep the original Will and to have the details entered in the Wills Registry. Only the deceased, Ms C and the two witnesses of the Will (who were staff of ALC) were present

in the meeting room at the time the deceased executed the Will. The deceased was fluent in English and she confirmed that the Will accurately reflected her intentions and that she understood the contents of the said Will. The Original Will was not released to the deceased immediately. It was registered on 22 June 2020 in the Wills Registry.

60 Subsequently, on 15 July 2020, the deceased attended at ALC's office to collect the original 22 June 2020 Will. She acknowledged the receipt of the same by endorsing her thumbprint in ALC's letter dated 15 July 2020.

Events after the execution of the Will

61 A few months after the execution of the Will, the deceased contacted Mr D and sought his advice on her 2020 Will. According to Mr D, the deceased shared with him that she had informed the Defendant of her wishes for all of her assets to go to P but was duly advised by the Defendant that such wishes need not be inserted in the Will as the Defendant knows what to do to fulfil the deceased's last wish. She was reassured by the Defendant that she (the Defendant) will fulfil the Deceased's last wishes on giving all of her assets to P. Therefore, the deceased agreed to the 2020 Will as the deceased trusted the Defendant without any doubt.

62 The deceased further informed Mr D that she was under duress and pressured by the Defendant to execute the 2020 Will and that she was half-hearted in executing the said Will since it was the Defendant who set up the appointment and gave instructions for the content of the 2020 Will. Mr D informed the deceased that, if the deceased intended to execute a new Will to replace the 2020 Will, she could still appoint the Defendant as executrix, but

she needed to be clear in the distribution of her assets to her intended beneficiary to avoid any disputes after her demise.

63 The deceased's calls to Mr D for advice in relation to the 2020 Will became more frequent in mid-2021, during which the deceased would reiterate that she wanted everything to go to P and that she (the deceased) had made a mistake by trusting the Defendant and it would be better to change the 2020 Will as soon as possible. However, no instructions were given by the deceased to Mr D for the preparation of a new Will.

64 The last conversation Mr D had with the deceased was on 17 September 2021, before the deceased's demise. The deceased had contacted Mr D to speak about the Plaintiff's criminal matters, when the issue of amending the 2020 Will arose. According to Mr D, the deceased had informed him to go over to her home as she wanted to give new instructions for a new Will to supersede the 2020 Will. Mr D replied that he would go over to her place on the evening of 18 September 2021, after her visit to P at the Centre. The deceased informed him that she would contact him when she returned home. However, he never got to hear from the deceased as she passed away that fateful evening.

The Applicable Legal Principles

65 The formal validity of a Will is governed by Section 5(2) of the Wills Act 1838, as set out below:

“Rules as to formal validity

5.— (2) A will shall be treated as properly executed if its execution conformed to the internal law in force —

(a) in the territory where it was executed;

(b) in the territory where the testator was domiciled at the time —

- (i) when the will was executed;
- (ii) or of his death;
- (c) in the territory where the testator habitually resided at either of the times referred to in paragraph (b); or
- (d) in the state of which the testator was a national at either of the times referred to in paragraph (b)..."

66 Where the Will was executed in Singapore, Section 6 of the Wills Act 1838 applies:

Mode of Execution

6.— (1) No will shall be valid unless it is *in writing and executed in the manner mentioned in subsection (2)*.

(2) Every will shall be *signed at the foot or end thereof by the testator*, or by some other person in his presence and by his direction, and the signature shall be made or acknowledged by the testator as the signature to his will or codicil *in the presence of two or more witnesses present at the same time, and those witnesses shall subscribe the will in the presence of the testator*, but no form of attestation shall be necessary.

67 As such, for a Will to be validly executed, it has to be signed at the foot or the end by the testator, in the presence of at least two witnesses present at the same time and subscribed by those witnesses in the presence of the testator.

Testamentary Capacity

68 It is established law that the propounder of a Will bears the legal burden of proving that the deceased had testamentary capacity to execute a Will.⁹

69 Testamentary capacity will generally be presumed, and will be *prima facie* established, when the Will was duly executed in ordinary circumstances

⁹ See *ULV v ULW* [2019] SGHCF 2.

i.e. where the testator was not known to be suffering from any kind of mental disability. One indication of testamentary capacity is the rationality of the Will, having regard to its terms and the identities of the beneficiaries. If the Will is rational on its face, the testator is presumed to have had testamentary capacity.¹⁰

70 Once the presumption of testamentary capacity operates, the party challenging the Will may rebut this presumption by adducing evidence to the contrary, such as evidence that the testator was suffering from a medical illness that was serious enough for the court to find that the testator lacked testamentary capacity. The burden of proving the unsoundness of mind lies with the person alleging it.¹¹

Knowledge and Approval of Contents

71 Where testamentary capacity is established, a rebuttal presumption arises that the testator knew and approved the contents of the Will and the evidential burden shifts in the ordinary circumstances to the opponent of the Will to rebut this presumption.

72 The presumption will not operate where there were circumstances attending or relating to the preparation and execution of the Will which would raise a well-grounded suspicion that the Will did not express the mind of the testator. Circumstances which have nothing to do with the preparation and execution of the Will are to be disregarded. Only circumstances that attend to or relate to the preparation and execution of the Will are relevant. Conduct after the preparation and execution of the Will may be taken into account if such

¹⁰ *Chee Mu Lin Muriel v Chee Ka Lin Caroline (Chee Ping Chian Alexander and another, interveners)* [2010] SGCA 27.

¹¹ *UWF & Anor v UWH & Anor* [2021] 4 SLR 314.

conduct has a direct bearing on whether the testator knew and approved of the contents of the Will.

73 Whether the testator approved of or had knowledge of the contents of the Will is based on whether the testator understood:

- (a) what was in the Will when he/she signed it; and
- (b) what its effect would be.

(See case of *Chee Mu Lin Muriel v Chee Ka Lin Caroline (Chee Ping Chian Alexander and another, interveners)* [2010] SGCA 27; *ULV v ULW* [2019] SGHCF 2; and *Lian Kok Hong v Lian Bee Leng and another* [2016] SGCA 24.)

Undue Influence

74 In the context of a Will, undue influence cannot be presumed. The burden of proof is on the party alleging the undue influence and in the probate context, it means coercion i.e. the testator is coerced into making a Will (or part of a Will), which the testator does not want to make. It must be shown that the testator was not merely persuaded but was pressured into losing his freedom of choice. The persuasion or pressure must have been of such an intensity as to overpower the volition of the testator without actually convincing the testator in his or her own judgment. It must be shown that the party accused of undue influence dominated the testator to such an extent that the testator's independence was so undermined that the accused party's domination caused the testator to execute the Will. This is a high burden of proving undue influence to vitiate any testamentary disposition. The test for undue influence in the testamentary context is therefore coercion alone. (See *UWF & Anor v UWH & Anor* [2021] 4 SLR 314).

75 *In Rajaratnam Kumar (alias Rejاراتنام Vairamuthu) v Estate of Rajaratnam Saravana Muthu (deceased) and another and another Suit* [2010] 4 SLR 93, then Tan Lee Meng J held that:

“This is not easy to prove as undue influence in the making of a will is usually proven by the testimony of witnesses present at the execution of the wills or by forensic analysis.”

The Court’s Findings

Was the Will duly executed in accordance with Section 6 of the Wills Act 1838?

76 Section 6 of the Wills Act 1838 applies to a Will executed in Singapore. A presumption arises whenever a will, regular on the face of it and apparently duly executed, that the Will was executed. Unless there is evidence to the contrary, there is no necessity for positive evidence of due execution.

77 In the present case, the witnesses to the 2020 Will were not called as witnesses for the trial. I understand one of the witnesses of the said Will is no longer working at ALC. Evidence of due execution of the 2020 Will was provided instead by Ms C, who was the drafter of the said Will and present at the time of the execution of the Will by the deceased. Ms C gave evidence that she had interpreted the contents of the Will to the deceased and explained it to her in the English language before witnessing the deceased affix her left thumbprint at the bottom of the Will, in the presence of herself and the other two witnesses to the Will. I note that this is consistent with the manner of execution of the earlier two Wills, which the deceased had affirmed by affixing her left thumbprint on the Will.

78 I find that the Will is regular on the face of it and there is no evidence to the contrary to suggest that the deceased did not execute it. In any event, it is

not the Plaintiff's case that the deceased was illiterate in the English language or that she had failed to execute the Will in the presence of two witnesses. The formal requirements for validity under Section 6 of the Wills Act 1838 have been met.

Did the deceased have testamentary capacity to execute a Will?

79 It is not the Plaintiff's case that the deceased lacked testamentary capacity to execute the Will. As mentioned above, testamentary capacity will generally be presumed, and will be *prima facie* established, when the Will was duly executed in ordinary circumstances i.e. where the testator was not known to be suffering from any kind of mental disability.

80 I find that even though the deceased had suffered a stroke sometime in 2012, while the stroke may have impaired her mobility and range of physical movements, there is no evidence to suggest that the stroke had affected the deceased's testamentary capacity. I note further that all three Wills were executed by the deceased thereafter.

81 From a medical report dated 21 December 2016 by one Dr F c/o Raffles Hospital, Dr F confirms that the deceased was under his care since 2012. On 21 December 2016, she was presented to the Emergency Department with acute stroke with rubber upper and lower limb witness and was warded for a few days. After treatment, she recovered partially and has been able to walk on her own without assistance, is independent in the activities of daily living and is still able to take care of P, including sending and fetching P from school and preparing meals. The only residual disability is weakness and incoordination in the deceased's right upper limb. As a result, the deceased is unable to hold a pen well enough to sign. She uses her left hand for almost all tasks requiring fine

motor movement such as signing, eating and holding objects. Dr F further stated in the report that the deceased is of sound mind and able to make her own decisions. The same is again reiterated in a later medical report dated 14 March 2017 by Dr F.

82 Dr F was not called as a witness in the course of the proceedings. The medical reports were relied upon during the trial as part of the Bundle of Documents filed by the Plaintiff and was admitted into evidence by agreement.

83 I find therefore that the 2020 Will had been duly executed under ordinary circumstances.

Was the contents of the Will rational and did the deceased know and approve of the contents of the 2020 Will?

84 I find that the deceased did indeed have actual knowledge of the contents of the 2020 Will and that the contents of the Will is rational. In order to ascertain this, it is necessary to go into the nature of the relationship of the deceased with the parties and the intended beneficiaries as well as the conduct of the deceased pursuant to the execution of the Will.

85 It is not disputed that the deceased did share a close relationship with P, her granddaughter. Even after P was accused of stealing the deceased's jewellery and left home, it is clear that the deceased continued to remain concerned for P and her well-being. She was open to P returning home to live with her and even visited P when she was staying at the Centre. It is clear from the contents of her earlier Wills and her initial instructions in relation to the 2020 Will that the benefit of P was foremost on her mind. For instance, in both the 2018 and 2019 Wills, the deceased had bequeathed to P the HDB flat to be

held on trust for P until she reached the age of 30. She further gave P the rest of her assets in the 2019 Will, save for \$1.00 to be given to each of her sons.

86 Why then did the deceased bequeath the HDB flat to S in the 2020 Will? This was propelled mainly by two factors: first, the deceased had been advised by ALC that, based on HDB's rules against the creation of a trust over a HDB flat,¹² the flat could not be held on trust for P until she reached the age of 30 years old. In fact, the creation of a trust over a HDB flat was subject to HDB's approval. Second, ALC had informed the deceased that in such a situation, the flat would be managed by the minor's custodian, such as a parent or legal guardian, until she turned 21 years of age. Alternatively, an express trust may be declared in the Will for a professional executor such as a lawyer or trust company to act as a trustee to manage the property until P turns 21 years of age

87 Given the advice she had received, the deceased was faced with the possibility that the Plaintiff would become the trustee of the HDB flat. It is not disputed that the incident in November 2019 affected her deeply, when she suspected and accused P of stealing her jewellery under the instigation of the Plaintiff. From the evidence provided in relation to the Plaintiff's history of offences and failed businesses, I find that the deceased did have valid concerns about the Plaintiff's suitability to be a trustee of the HDB flat in the event of her demise. This is evident from the Defendant's and Mr D's evidence as well as the instructions given by the deceased to ALC in the course of the preparation of her Will. There is no reason for me to doubt the evidence of her solicitors who have no benefit to gain from the current action.

¹² Section 58 of the Housing and Development Board Act 1959.

88 For avoidance of doubt, I make no finding on whether or not the Plaintiff did instigate P to steal the jewellery for the following reasons:

(a) The Plaintiff denied having instigated P to steal the deceased's jewellery. P also denied stealing the deceased's jewellery.

(b) Both had been interviewed by an Investigation Officer after the deceased reported the incident. From the evidence provided, it did not appear that any action was formally taken against the Plaintiff or P pursuant to the report.

89 I wish to clarify at this juncture that it is trite law that a person does not automatically become the trustee of the assets of a minor beneficiary simply by virtue of their position as parent of the said beneficiary. Sections 15 to 20 of the Guardianship of Infants Act 1934 is clear. Only a court appointed guardian of an infant's property can give a good and valid receipt for the minor beneficiary's share of the estate, if so, authorised by the court. Notwithstanding this, the fact remains that the deceased had operated based on the understanding that the Plaintiff would automatically become the trustee of the HDB flat in the circumstances, upon her demise.

90 Even if the deceased was to create an express trust in the Will to manage the property, it appears from the advice given that the trust would be subject to HDB's approval and it could only last until P turns 21 years of age, which was not in line with the deceased's intent. I note that the deceased took time to consider this fact and thereafter, gave instructions to her solicitors for the flat to be bequeathed to her second son, S instead.

91 I note further that the deceased had changed her instructions in relation to the HDB flat three times. First, she instructed for the flat to be bequeathed to

S. Then she gave instructions for S to hold the flat on trust for P until she reached 30 years of age. Finally, when she realised the creation of the said trust was not possible in light of HDB's rules and regulations, she decided to revert to her initial instructions of bequeathing the flat to S. I find it telling that the deceased would rather appoint S as trustee of the said flat, instead of having the Plaintiff manage the flat on behalf of P. It is indicative of a trust that the deceased had in S and the nature of the relationship that she had with him.

92 I find as well that the deceased had a close relationship with the Defendant and remained in constant contact with her. It is not disputed that in the earlier 2018 Will the deceased had bequeathed all other assets, apart from the HDB flat to her sister. Although the 2018 Will did not contain a residuary clause, it expressly stated that for all of the deceased's jewellery, ready cash, monies in bank accounts, insurance policies, furnishings and fittings in the flat, and CPF monies to be bequeathed to the Defendant. It is therefore not inconceivable that the deceased would bequeath the rest of her assets in her 2020 Will to the Defendant, given the close relationship the two sisters had shared. I note further that in all three wills, the deceased maintained the clause bequeathing only one Singapore dollar to each of her sons. The deceased would probably not have bequeathed the flat to S as a beneficiary, but for the legal advice she had received from ALC in relation to the HDB flat. In view of the evidence above, I found the contents of the deceased's Will to be rational.

93 I bear in mind that this was not the first time that the deceased was executing a Will. This is the deceased's third Will. For all the three Wills executed by the deceased, she had engaged solicitors to prepare the said Wills. From the evidence adduced, she had received the relevant legal advice she required on the effect and impact of a Will, especially in relation to the 2019 and 2020 Wills. This is clear from the evidence of Mr D, Ms C and Mr A. She

knew the effect of a Will and the need to revoke a Will if she did not intend for it to take effect. As far as the 2020 Will was concerned, she was given legal advice prior to the execution and had sufficient time of about four months from February 2020 to June 2020 to consider the contents of the Will before executing it. I find therefore that she had knowledge and approval of the contents of the Will.

Presumption of Testamentary Capacity to Operate

94 Based on the evidence before me, I am therefore satisfied that the presumption of testamentary capacity operates in this case. The Will was duly executed in ordinary circumstances where the deceased was not known to be suffering from any kind of mental disability. The Will also appears to be rational on its face.

Was the Will prepared and executed under suspicious circumstances or under the undue influence of someone?

95 The Plaintiff claims in his pleadings and submissions that:

- (a) the circumstances surrounding the 2020 Will were suspicious as the terms were suggested by the Defendant to the deceased prior to its execution. The changes to the 2019 Will were instructed by the Defendant, not the deceased, to ALC.
- (b) the Will was executed pursuant to a misrepresentation by the Defendant to the deceased that the Defendant would hold the estate on trust for the benefit of the beneficiaries of the deceased's estate.

(c) the deceased in reliance of the Defendant's misrepresentation, was unduly influenced, coerced and/or manipulated into executing the 2020 Will.

96 The Plaintiff as a lay person gave only one set of particulars for the allegations set out above. In his Statement of Claim (Amendment No.2), the Plaintiff pleaded at paragraphs 8-9 the following particulars in support of his claims:

(a) The Defendant came to know of the 2019 Will that the Deceased had made using her close relationship with the Defendant, coerced the Deceased to change the 2019 Will.

(b) The Defendant misrepresented to the Deceased that the Defendant would hold the Deceased estate on trust for the benefit of the beneficiaries of the Deceased's estate.

(c) The Defendant wrote an email which was forwarded to the Deceased who in turn forwarded the said email to M/s A Law Corporation. The Defendant sought to show that the changes to the 2019 Will was purportedly written by the Deceased to make a fresh Will.

(d) On or about 22 June 2020, the Deceased in reliance of the Defendant's misrepresentation, induced and/or coerced the Deceased to execute the 2020 Will.

97 I will first deal with the Plaintiff's claim that the Will was prepared and executed under suspicious circumstances by the deceased as the terms were suggested by the Defendant to the deceased prior to its execution. This claim is closely connected to the Plaintiff's claim that the Defendant had misrepresented

to the deceased that she would hold the estate on trust for the benefit of the beneficiaries of the estate.

Circumstances surrounding the preparation and execution of the Will

98 The Plaintiff submits that the fact that the Defendant had played a leading part in the making of the 2020 Will, under which she stands to receive a substantial benefit, amounts to a suspicious circumstance. Whether the Defendant had played a leading part in the making of the 2020 Will is a finding of fact.

99 Based on the evidence provided, I find that other than (a) helping the Plaintiff to find ALC, resulting in the Plaintiff's engagement of their services, and (b) communicating the deceased's instructions and submitting documents to ALC on the deceased's behalf, the did not otherwise play a dominant role in the preparation and execution of the Will for the following reasons:

(a) On the first meeting with ALC on 17 February 2020, the Defendant had waited outside ALC's room when the Deceased was giving instructions to ALC on the drafting of her Will. At no point in time was the Defendant involved in the delivery of the deceased's instructions on her Will to ALC during the meeting.

(b) There is no evidence to suggest that the Defendant had compelled the Deceased to engage ALC as her solicitors. At the end of the day, if the Deceased had been dissatisfied with ALC, she was at liberty not to engage them. However, the Deceased chose to sign the Warrant To Act. Further, from the evidence provided by Ms C and Mr A, it was the Deceased who requested on her own accord for ALC to receive communications and documents on her behalf from the

Defendant, given the difficulties that the Deceased had in using email to communicate.

(c) The only times that the Defendant was involved in communicating the Deceased's instructions to ALC on the drafting of the 2020 Will are as follows:

(i) The Defendant had attended alone at ALC on 21 February 2020 to hand the Handwritten Note over to Ms C. The note was written by the Defendant and endorsed with the deceased's left thumb print. The note confirmed the deceased's instructions, which she had given at the meeting on 17 February 2020 that the deceased would like to give the HDB flat to her second son, S. It did not provide new instructions.

(ii) The Defendant has assisted the Deceased to draft instructions via email to ALC on two occasions. The first was on 26 February 2020 which the Deceased forwarded to ALC using her own email. The 26 February 2020 email concerned confirmation by the Deceased on her initial instructions, given at the 21 February 2020 meeting, for the flat to be given to S. The second was on 20 April 2020, which the Deceased had printed out, endorsed the printed copy with her thumbprint and faxed over to ALC. The 20 April 2020 email concerned further information, as requested by Ms C and providing confirmation, in response to ALC's query, that she did not wish to have an executor residing in Singapore. I note both emails drafted by the Defendant did not concern new instructions in relation to the drafting of the Will.

(iii) Apart from the above involvement, the Defendant had assisted the deceased to respond to ALC's emails to inform them of the deceased's unavailability (as the deceased had to undergo two eye operations) or to update them on the status of the information or documents requested. This is evidenced from the email replies of the Defendant to ALC dated 26 February 2020, 9 March 2020, 20 March 2020 and 2 April 2020.

(d) More pertinently, the deceased had changed her instructions twice in relation to the flat through direct communications with ALC. There is no evidence that the Defendant had influenced any of these changes in her instructions:

(i) The first was on 21 May 2020 when the deceased stated that her instructions was for the flat to be given to P, which she communicated in person during a meeting with Ms C at ALC's premises.

(ii) The second was on 8 June 2020, when the deceased herself sent a handwritten note to ALC via fax, not an email prepared by the Defendant, informing ALC not to change the Will (i.e. S will remain as the beneficiary of her HDB flat) and that she will sign the same. She also instructed ALC to add a statement in her Will stating that the Defendant and S are to be involved in her funeral arrangements, the other two sons can help if they want. The note was endorsed with the deceased's thumbprint. There is no evidence provided by the Plaintiff to suggest that the above instructions on 8 June 2020 were instigated by the Defendant, or that the said handwritten note had

been drafted or written by the Defendant, who was at the material time residing in Australia.

(e) On 22 June 2020, it is not disputed that the Deceased had attended at ALC's office alone for the execution of the Will. The Defendant was in Australia at the material time. There is no evidence to show that the Defendant was involved in the actual execution of the 22 June 2020 Will.

100 Based on the evidence above, I find that apart from assisting the Deceased to look for a law firm for the preparation of a Will and assisting the Deceased to communicate with ALC and submit documents on her behalf, the Defendant did not interfere in the preparation or execution of the 2020 Will.

Was the 2020 Will executed by the deceased in reliance on a misrepresentation by the Defendant to the deceased that she would hold the property on trust for the benefit of the beneficiaries of the deceased's estate?

101 The Plaintiff relied on the testimony of P, B, Mr D and a friend of the deceased, K to support his claim that the Defendant had misrepresented to the deceased that she would hold the estate on trust for the benefit of the Deceased's beneficiaries and the deceased did not need to state her true intentions in the 2020 Will. It was this misrepresentation that induced the deceased to execute the 2020 Will. The Plaintiff also sought to portray the Defendant as a greedy, deceitful and a self-serving person who sought to obtain the deceased's assets for herself by creating a rift in the relationship between the deceased and P and her children. I set out in the following paragraphs my findings in relation to the evidence of the said witnesses.

P's evidence

102 At the time of the trial, P was 16 years of age. She testified during the trial via video-link from Girls Home. She was accompanied during the trial by her caseworker. On the stand, I assessed from preliminary questions asked of P that she was mature enough to understand her role as a witness and the importance of her evidence on the witness stand.

103 P's evidence related mainly to her relationship with the deceased and how it was strained due to the intervention or manipulation of the Defendant, who did not like P. I note from the cross-examination of P that there were blatant inconsistencies in P's affidavit and in her oral testimony. For instance, P had alleged at paragraph 18 of her Affidavit of Evidence in Chief ("affidavit"):

*"18. There was on one occasion when the Defendant scolded me and kept telling me that **"don't think that the house in Singapore, jewellery and all the cash belongs to you! Don't dream on! I know what to do."** She even quoted about all the assets belonging to her sister (i.e. the Deceased) because of her second husband's wealth.*

[emphasis in bold is as per the original script]

104 Emphasis was deliberately placed on the phrase *"don't think that the house in Singapore, jewellery and all the cash belongs to you! Don't dream on! I know what to do."* The aim of the drafting was to highlight an intention on the part of the Defendant to disinherit P.

105 However, during cross-examination, P testified¹³ that she could not recall at all the Defendant telling her the words “*don't think that the house in Singapore, jewellery and all the cash belongs to you! Don't dream on! I know what to do.*” She could only recall the Defendant telling her that the house was not her late grandfather’s, but the deceased’s husband’s house. When asked why she was able to recall this conversation, P testified that the conversation had occurred during an argument she between her and the Defendant in Australia, when P discovered for the first time from the Defendant that her grandfather (being the deceased’s second husband and the Plaintiff’s stepfather) was not her biological grandfather.

106 Another instance of inconsistency appears at paragraphs 23 and 24 of her affidavit, where P stated as follows:

“23. *The Deceased's last wishes that I could remember on the last visit at J Centre and those days prior to my stay at J Centre and even before we had tensions in our relationship were that she wanted me to focus on my studies, she wanted me to take good care of myself and most importantly she did mention that she will make sure **all my needs will be taken care of when she passed away.***

24. *I wished to emphasize that I do not know what the Deceased's meant "**with my needs will be taken care of when she passed away**" "*

[emphasis in bold is as per the original script]

107 The phrase “*my needs will be taken care of when she passed away*” was intentionally left in bold in P’s affidavit. The intention, I believe, was to

¹³ NE Day 4, pages 32 to 34.

highlight the deceased's assurance of how P would be provided for, specifically upon her demise. The logical inference it would appear from this statement was that the deceased had made arrangements for P's financial provision after her death and the 2020 Will therefore, did not reflect the true intentions of the deceased.

108 When cross-examined on the witness stand, P gave contradictory evidence¹⁴:

Q: You say you remember these statements that were made by her

A: Um, yes, but it's not just on the last visit. It's like something that she always tells me

Q: Ah, okay. So, she was saying that it's not something that just came up in the last visit but your grandmother will always tell you that your needs will be taken care of when she pass away.

A: Um, she doesn't say when she pass away because she never talk about dying. But—

Q: Yes

A: She did say that, um, you'll always be like someone to like take care of me and that she will be there for me

Q: She will be there for you is it?

¹⁴ NE Day 4, pages 37 to 40.

A: Mmmm.

....

Q: *Okay, so that's your understanding actually of what she had promised you that she will be there for you and will take care of you actually*

A: Yes.

Q: *Okay, did your grandmother have-- I mean share with you concerns about your well-being after she passes away? Did she share?*

A: ***Um, no, she never talk about dying.***

[Emphasis mine]

109 This evidence of P is consistent with the evidence of Mr D who had also testified that the deceased once cried at a family meeting when the issue of who she wanted to give her assets to and who was to light her pyre upon her death was raised.¹⁵ It saddened the deceased that her family would discuss the distribution of her assets when she was still alive and not dead. The evidence of both witnesses seems to suggest that the deceased was not a person inclined to speak or discuss with P or her children matters concerning her death.

110 Given P's oral testimony above, I find the statements at paragraphs 23 and 24 of P's affidavit contrived and a deliberate attempt by the drafter to mislead the Court. I note further from the evidence that P blames the Defendant

¹⁵ NE Day 2, pages 184 to 185.

for the breakdown in her relationship with the deceased. She also resented the Defendant for slapping her once, when she was in Australia. I find that the inconsistencies in P's affidavit related to material portions of her evidence on the Defendant's motive and the deceased's intentions in relation to the deceased's estate. It would appear that the contents of her affidavit had been deliberately scripted to create a particular impression about the Defendant which aligned with the Plaintiff's case.

111 Given the material inconsistencies in her affidavit and her oral testimony, as well as her relationship with the Defendant, I did not find P a credible witness and hence placed little weight on P's evidence as an independent witness.

B's evidence

112 The Plaintiff's wife, B gave evidence of how she was close to the deceased and acted as her right hand, assisting the Deceased mainly with her office work such as sending out emails for her and even making calls for her. The deceased trusted her in work matters concerning the deceased's employment agency. B further painted a picture of her having a close relationship with the deceased, going on holidays together and accompanying the deceased on trips. She also portrayed herself as the deceased's confidante and how the deceased would confide in her problems that the deceased had with the Defendant, the deceased's sons and P.

113 It is not disputed that prior to the deceased's death, B did not know the Defendant and had never spoken to the Defendant. In fact, she had only seen the Defendant once. Any information B had about the Defendant was based mainly on what the deceased had allegedly told her. According to B, the

deceased had shared with her about the Defendant's personal affairs, such as how the Defendant had locked herself inside their mother's room (after their mother's death) for two hours and took things like cash and anything valuable with her, that she had an affair with an Indian married professor just to have a child with good genes and that the Defendant's marriage to her husband, who was an Australian, was a marriage of convenience – all of which were hearsay evidence and matters irrelevant to the execution of the 2020 Will.

114 B also portrayed the Defendant as a person who was responsible for the breakdown in the relationship between the Defendant and P, by intentionally instigating the deceased into being stricter in her relationship with P resulting in a rift in the deceased's relationship with the latter. The deceased told B that the Defendant disliked P and even told the deceased to pack and send P back to the Plaintiff. The deceased further confided that she was getting stressed and annoyed at her sister (i.e. the Defendant) for placing so much pressure on her and that the Defendant was too controlling. No details or evidence was provided by B to clarify how the defendant was too controlling or how she had placed so much pressure on the deceased.

115 According to B, prior to her marriage to the Plaintiff, the deceased had brought B to Certis Cisco, where she kept all her jewellerys meant for P. The deceased told B that she wanted to replace the Defendant's name with B's name as a joint lessee of the safe deposit box as she trusted B more than anyone else. However, as she had paid for the subscription of the safe deposit box for a year, she had to wait one year before she could make any amendments or changes to the lessee's name. The deceased informed B that she planned to wait until the year ended to close the present safe deposit box and open a new one in joint names with B. According to B, the jewellerys inside the safe deposit box were allegedly worth approximately more than a million Singapore dollars. The

deceased further informed B that she had been keeping the jewelleries in the safe deposit box for P, including a set of jewelleries which she had bought as a gift for P when she attained the age of puberty, based on their customary tradition. The set of jewelleries cost approximately about SGD \$12,000.

116 After the deceased passed on, the Plaintiff wrote to Certis Cisco who informed them that the deceased did not have any active safe deposit box with them. No details are provided in Certis Cisco's letter on the date of termination of the safe deposit box. It is unknown when the safe deposit box had been terminated and whether it was prior or subsequent to the deceased's death.

117 More pertinently, B gave evidence that the deceased had shared with her the "dark side" of the Defendant, calling the latter "a crazy woman" who told the deceased's first daughter-in-law that she will take all of the deceased's assets. The Defendant even told this daughter-in-law that the deceased "had too much money and that she will make sure all of it will come to her". It is not known how the deceased came to know about the Defendant's alleged assertions. The first daughter-in-law was also not called to give evidence on the stand to confirm what had been told to her by the Defendant.

118 B further alleged that the Defendant knew the full worth of the deceased's assets and wanted the deceased's assets for herself entirely. As such, the deceased was deceived into believing the Defendant will carry out her last wishes in relation to the 2020 Will.

119 I find it difficult to believe B's evidence regarding her relationship with the deceased and the matters relating to what she had heard from the deceased about the Defendant for the following reasons:

(a) It is worth nothing that B had no knowledge of the existence of the 2020 Will until the commencement of this action. If the relationship of B and the deceased is as close as described in B's affidavit, I find it strange that the deceased did not confide in her about her uncertainties in relation to the 2020 Will. Based on the evidence provided, the deceased had shared with B in great detail her concerns and complaints about the Defendant. If the deceased had concerns over the Defendant's conduct or intentions in relation to the 2020 Will, it would only seem logical for the deceased to share her concerns with B given the nature of their close relationship.

(b) In relation to B's evidence about the safe deposit box and the deceased's deep level of trust in her, I note from the documentary evidence provided that the contract for the safe deposit box was first registered by the Defendant and the deceased on 8 March 2017. The exact period when the deceased had brought B to access the safe deposit box is unknown, except that it happened prior to B's marriage to the Plaintiff on 1 September 2019. The deceased died in late September 2021 which was two years after B's marriage to the Plaintiff. If it was truly the deceased's intention to open a new safe deposit box with B, she had more than enough time to do it. However, no such steps were taken.

120 The issue that I have with B's evidence is that most of it is based on hearsay evidence. The Court must be circumspect in hearing evidence from a witness in relation to what the deceased has said to a particular witness. Bare allegations alone, without any independent corroborating evidence will not suffice. Without any independent corroborating evidence in support of B's allegations, I find it difficult to give weight to her evidence pertaining to her personal relationship with the deceased and the matters the deceased had related

to her. I note further that B's evidence bore spurious allegations against the Defendant without any supporting evidence, all apparently told to her by the deceased, P or the Plaintiff. Most of the allegations, were either irrelevant to the issue of the 2020 Will or speculative and slanderous, aimed at attacking the character of the Defendant. In view of the above, I did not find B a credible witness.

Mr D's Evidence

121 Mr D's evidence is as stated at paragraphs 8 to 10 and 12 above in relation to the 2019 Will, and paragraphs 60 to 63 above in relation to the 2020 Will.

122 In his affidavit, Mr D asserted in relation to the 2020 Will that the deceased had told him she wanted all of her assets to go to P. However, the Defendant had assured her that she would distribute all of the deceased's assets, save for the HDB flat, to P and such wishes need not be inserted in the Will as she (the Defendant) knew what to do to fulfil the deceased's last wish. It was based on this assertion, that the deceased agreed to sign the 2020 Will. The deceased further told him that she felt she was under duress and pressure to execute the 2020 Will and was half-hearted in executing the said 2020 Will. After all, it was the Defendant who had set up the appointment and gave instructions for the content of the 2020 Will. He further states in his affidavit:

*"30. The phone calls for advises became frequent by mid of 2021 in which she started to panic and kept saying that she wanted everything to go to P and inter alia in her actual words, **"I think I made a mistake by trusting her (the Defendant). It is better for me to change the Will as soon as possible."***

[emphasis in bold is as per the original script]

123 I note that there are inherent inconsistencies in Mr D's evidence. If the deceased had intended for all of her assets to go to P, why would the deceased act on the Defendant's assurance, if any, that she would distribute all of the deceased's assets except for the HDB flat to P? This representation would not be in line with the deceased's intentions. To complicate matters, during cross-examination¹⁶, Mr D gave evidence that the deceased's intention was for all of her assets, including the HDB flat, to be distributed equally among her children. When cross-examined on these inconsistencies, Mr D sought to explain that the deceased was constantly changing her mind in relation to the 2020 Will:

Q: Okay. Then, at para 27, Mr. D, you go on to say that "The deceased further told me that she did inform the Defendant of her wishes that she wanted all her assets go to her granddaughter P, but she was duly advised by the Defendant that such wishes need not be inserted in the Will as she knows what to do to fulfil the deceased's last wish and the deceased was reassured by the Defendant that she will fulfil the deceased's last wish---wishes on given all her assets." And then in brackets "(excluding a flat situated at Apartment Klang Lane to P) that she agreed to signed the said 2020 Will and the assurance by the Defendant was so convincing that the deceased trusted the Defendant without any doubt". Okay. So, my question is, you know, this---this paragraph actually, you know, it's contradictory actually.

A No. This---

Q You know, on the face of it---it's contradictory. I'm just---

¹⁶ NE Day 2 Page 161 to 163

A Okay. Okay. I---I can explain.

Q Okay. Because you say that, you know, she told you, you know, that all the assets should go to P, you know, but then you said that, you know, the--and this is, you know, some---a promise that, you know, that the Defendant actually made, right, to her to make sure that all the assets will go to P. And then subsequently, you said she was reassured that she will fulfil the---the last wish which will be all assets excluding the flat actually, yes. And that's the substantial asset. So, what is that actually, you know? I mean between your first sentence and last sentence, right?

A: Are you at paragraph 27?

Q Yes. Paragraph 27, I mean, because the beginning of the paragraph, you say that, you know, she told you that her wish is for all the assets will go to granddaughter, right? That would include the HDB flat, correct?

A: Oh, yah, yah, yes.

Q: Then later on, you say, actually, you know, the Defendant actually promised her she will, you know, ensure she gets all the assets except the flat which, you know, which was given to S actually under the 2020 Will.

A: Yes.

Q: Then, you know, and that's the basis on which she agreed to sign the 2020 Will, okay. This promise you said made by the Defendant to---

A: Defendant, yah.

Q: deceased. So, can you explain this contradiction?

A: First, she told me that when the---the first call which was she went to me then she told me she want to---her assets all to be equally distributed, okay. Subsequently also she call---after she I think she---

Q: This is not the same discussion, is it?

A: Oh, no, no.

Q: Okay. But it doesn't come across as a, you know---because you said there further told me, yes?

A: Told me---I mean somewhat---some other call, not the same---

Q: Okay.

A: Because I told her to think about it and come back to me again.

Q: Okay.

A: Because she keep on changing.

Q: Right.

A: One moment---

Q: She keeps changing her mind.

A: One moment she's telling that she want give every---equal share to everybody.

Q: Yes.

A: One moment she says she wanna go give to everything to P. Then, one moment---I mean---

Q: Okay.

A: She's confused.

Q: Okay.

A: So, I told her, I mean if you're going to keep on changing your mind about this, you must make up your mind what exactly you want.

Q: Yes.

A: Regarding your assets, including your---

Q: Yes.

A: your---your flat.

Q: Yes.

A: One moment she want to give the flat to S.

Q: S.

A: One moment she says she want to give the flat to P.

Q: Right.

A: So, I told her, "Think about it carefully"---

Q: *Right.*

A *“what exactly you want”. So, I---I---I’d rather you come and see me, or I’ll come to your house to discuss about it.*

124 This was also the reason why the deceased did not execute a new Will soon after the 2020 Will. It would appear from Mr D’s testimony above that the deceased was unsure of her intentions and was constantly changing her mind as to how she wanted to distribute her estate. He reiterates this further in cross-examination¹⁷:

Q: *Okay. So, but you on the face of it, there’s a contradiction but you’re saying that’s because [the deceased] herself changed her mind actually, right? Whenever you spoke to her, she had, you know,---*

A: *Yah.*

Q: *Right?*

A: *Yes.*

Q: *changed her mind as to---*

A: *Change her mind because she also unsure what exactly she---*

Q: *She wants.*

A: *want to do---she wants, you see?*

Q: *Okay.*

A: *So, I mean, then---but I told her, “You make your mind carefully”---*

Q: *Yes.*

A: *“what exactly you want to do---what do with your assets after you---you’re gone”.*

¹⁷ NE Day 2 Page 164 to 165

Q: *Right.*

A: *I mean, nobody can force you to do something beyond that but the thing is you clearly have to make up your mind what exactly you want, because you keep on changing. One moment, I told her 2019, you want to give everything to P.*

Q: *Okay.*

A: *2020, now you want to give the house to S and also want to give to--- everything to your sister. Now, you're telling me you are not sure. You must---must make up your mind and do something, because looks like it you've been changing---*

Q *Changing her mind.*

A *Changing her mind. I mean, I didn't tell you what the reason.*

Q *Yes.*

A *Maybe she's confused, maybe she's not sure, I---I don't know.*

125 No evidence was provided by Mr D as to what or who had caused the deceased to keep changing her mind in relation to the 2020 Will, save that the deceased herself was unsure as to what exactly she wanted to do in relation to her estate. In fact, if we look at the deceased's 2018, 2019 and 2020 Will, the deceased does oscillate in her instructions as to who she wanted to be appointed as executors and how she wanted her estate to be distributed.

126 In light of the evidence above, I find therefore that there is insufficient evidence on a balance of probabilities to prove that (a) at the time of execution of the 2020 Will, the said Will did not express the intentions of the deceased and (b) that the deceased was induced to execute the Will by an alleged misrepresentation by the Defendant, if any, that the Defendant would distribute the Will in accordance with the wishes of the deceased.

127 In relation to the deceased being under duress and pressured to sign the 2020 Will, Mr D clarified on the stand¹⁸ that the conversation with the deceased had taken place in Tamil, and she did not use the actual English word “duress”. From her conversation with the deceased, he understood the deceased to mean that the defendant “was pushing her to execute the Will the soonest possible”. This was because the deceased had taken about 4 months to execute the Will. No further information was provided by Mr D as to how the Defendant had been pushing the deceased on pressuring her to execute the 2020 Will.

K’s evidence

128 K gave evidence that she was a close friend of the deceased and were like sisters. The deceased would often call her to seek her advice on her relationship with her children, the defendant and P. Sometime after the execution of the 2019 Will, the Deceased had confided in K of the following:

- (a) that she was utterly disappointed with her first son who sold her property and forged her signature without her knowledge and consent at the time when she had a mild stroke.
- (b) that she had chased her 2nd son, S out of her house after his release from prison for drug problems because he kept asking her for money. For her own safety and the safety of her granddaughter, she was left with no choice but to chase him out of her house. (I note this is corroborated by the evidence of S himself.)
- (c) that she was upset that her relationship with the Plaintiff deteriorated due to his problems with alcohol. This is corroborated by

¹⁸ NE Day 2 pages 172 to 177.

Mr D who gave evidence that the deceased was indeed concerned over the Plaintiff's issue with alcohol.

(e) that she was very disappointed with P whom she had loved so much for saying things she did not do, to the extent of having to stay at J Centre. This is corroborated by P herself.

129 According to K, the Defendant knew that the deceased was upset with her children and P and took the opportunity to persuade the Deceased to execute a fresh last Will by appointing the Defendant to be in-charge of the intended new Last Will.

130 K further stated that on 18 September 2021, the night before the deceased's demise, she had a lengthy conversation with the Deceased where the deceased shared that she had actually executed a new Will on 22 June 2020 by appointing the Defendant to be "in-charge" of everything including the distribution of her assets such as jewelleries to her grand-daughter, flat to the 2nd son and whatever balance of her assets to be distributed to the other children/beneficiaries.

131 When K asked the deceased if she trusted the Defendant to distribute as per the deceased's wishes without itemizing the legacies to be given to which beneficiary, the deceased told her that she trusted her sister to carry out her wishes and that her sister was only in-charge of distributing the said assets. The Deceased was under the impression that the Defendant will not betray her trust for her personal agenda or greed and that the Defendant will definitely distribute the assets according to her last wishes.

132 As a sidenote, K admitted on the stand that she did not know what the word “legacies” meant even though it had been used in her affidavit. When confronted on this, K stated that her affidavit had been drafted by her son-in-law.

133 I find the evidence of K in relation to her conversation with the deceased over the execution of the 2020 Will suspect, as the deceased was already uncontactable on the night of 18 September 2021. This is clear from the evidence of B. The evidence of K also contradicted a material part of Mr D's evidence - that the deceased had second thoughts on the Will and had spoken to him on 17 September 2021, the night before she died, for him to go down to her house as she wanted to give fresh instructions for the execution of a new Will to supersede the 2020 Will.

134 It was only on the witness stand that K sought to embellish her evidence, by stating that the deceased had also told her she intended to execute a new Will after the 2020 Will. Again, such evidence was contradictory to K's initial evidence in her affidavit that the deceased trusted the Defendant to distribute her estate in accordance with her last wishes, based on the Defendant's alleged misrepresentation. If the deceased indeed so trusted the Defendant, there would be no need for a new Will to be executed.

135 I note further that K was first informed of the present dispute over the deceased's 2020 Will by B, during the deceased's sixteenth day prayer. When queried by the Court how did she knew in detail of the assets of the deceased's estate, even though it was not set out in the deceased's Will, K replied that she had been informed by B of the present dispute between the Plaintiff and the Defendant over the distribution of the deceased's assets. I note further that, like the affidavits of B and the Plaintiff, bare allegations were also made in K's

affidavit against the Defendant's character based on hearsay evidence and were irrelevant to the execution of the 2020 Will.

136 Given the inconsistencies of K's evidence and how K came to be a witness for the present proceedings, I found it difficult to place much weight on K's evidence due to issues I had with her credibility as an independent witness.

The Plaintiff's Evidence

137 The Plaintiff sought to adduce evidence to show that the Defendant was greedy, deceitful and self-serving through the following:

(a) The Plaintiff claims after his release from state care, he had lived with his grandmother at the Defendant's place. The Defendant's son was born out of wedlock during this time. After the Defendant's son was born, she chased both the Plaintiff and his grandmother out of her house. The Plaintiff also witnessed the Defendant treating his grandmother harshly.

(b) During the time that the Plaintiff was at Boys Home and Reformatory Training Centre, the Defendant was not on talking terms with him. When the Plaintiff first married in 2002, he did not invite the Defendant to his housewarming given his relationship with the Defendant. She attended it anyway together with his parents.

(c) After the Plaintiff's grandmother passed away, the Defendant went into his late grandmother's room to search for her Last Will and took all of her jewellery.

(d) The Defendant also tried to evade her son's obligation to serve National Service. She got the deceased to help her sell her house while she and her son moved to Australia.

(e) The deceased and the Defendant stopped talking after the deceased gave the Defendant the sale proceeds from the sale of her house.

(f) The Defendant failed to attend the funeral of the deceased's second husband. When the Defendant visited the deceased, the deceased had shut the door on her and refused to speak to her. It was with the help of the Plaintiff, that they reconciled.

(g) More pertinently, the Defendant started to manipulate the deceased to try and separate the deceased from her sons and P. The Defendant gradually came to know about their family assets being worth more than \$5 million. The Defendant then began to advise the Deceased into rewriting her Last Will.

138 For paragraphs (a)-(f), I found the evidence to be either bare allegations or irrelevant to the execution of the 2020 Will. In relation to (g), apart from a bare assertion, there is no evidence provided in support of the Plaintiff's assertion that the Deceased's assets were worth more than \$5 million¹⁹, that the Defendant had knowledge of this purported value or that she had advised the deceased to rewrite her 2019 Will. The allegation is at best speculative.

139 Apart from spurious allegations made against the Defendant's character, without any independent corroborating evidence, the Plaintiff further asserts in

¹⁹ NE Day 2, Page 81.

his affidavit that it was the Defendant who had instigated the deceased to draft the 2018 and 2020 Will in such a way that the Defendant would have the lion's share of the deceased's estate. The Plaintiff further asserts that the Defendant was motivated to pressure the deceased into executing the 2020 Will because the defendant had been left out of the 2019 Will. I find however that these allegations are unfounded for the following reasons:

(a) Apart from the deceased handing over the original 2018 Will to the Defendant for safekeeping, there is no evidence to show that the defendant had any part to play in the preparation of the deceased's 2018 Will or the execution of it. The Plaintiff is simply taking stab in the dark with this bare allegation.

(b) In relation to the Defendant's motivation for the 2020 Will, it is undisputed that parties originally thought that the deceased did not execute the 2019 Will as only a draft of the Will could be found. This is clear from the first affidavit of testamentary scripts filed by parties. It was only after the Plaintiff had written to Mr D for assistance that a copy of the executed 2019 Will was furnished by Mr D to parties for the purposes of these proceedings. As such, I find that the Plaintiff's claim is again but a bare allegation against the Defendant and it is unfounded based on the sequence of events as I have stated above.

(c) Furthermore, I find from the evidence that it was the deceased who had initiated the preparation and execution of the 2020 Will by approaching the Defendant for assistance.²⁰

²⁰ Paragraph 43 of the Defendant's AEIC.

140 In light of the above, the Plaintiff's first claim that the Defendant was motivated by the 2019 Will and hence instigated the Deceased to draft the 2020 Will is doomed to fail.

141 In relation to the Plaintiff's second claim that the Will was executed pursuant to a misrepresentation by the Defendant to the deceased that the Defendant would hold the estate on trust for the benefit of the beneficiaries of the deceased's estate, it is unclear as to what the nature of the "misrepresentation" was. For instance, who does the Plaintiff claim are the beneficiaries of the deceased's estate? And what was the manner in which the Defendant was supposed to distribute the estate? It is unclear from the Plaintiff's pleadings.

142 The Plaintiff asserts that the deceased's intention was to provide for P's education and safeguard her three sons.²¹ The Plaintiff also asserts that it was the deceased's intention for her jewellery and her HDB flat to go to P. The evidence of his witnesses however contradicts this:

(a) According to P's affidavit, the deceased had intended to provide for all of P's needs upon her death.²²

(b) According to K, a close friend of the deceased, the deceased had intended to give her jewellery to P, the HDB flat to her second son and the remaining assets to her children and other beneficiaries.²³ It is unknown who the other beneficiaries would be.

²¹ Paragraph 35 of the Plaintiff's AEIC.

²² Paragraph 24 of P's AEIC.

²³ Paragraph 20(a) of K's AEIC.

(c) According to Mr D, the Defendant had assured the deceased that she would give all of the assets, excluding the HDB Flat, to P.²⁴ However, on the stand, Mr D confirmed on cross-examination that the deceased wanted all assets including the HDB flat to be shared equally but she could not decide on who the beneficiaries were to be.²⁵

143 It is unclear therefore what the Plaintiff's case in relation to the alleged "misrepresentation" is. Another fundamental flaw in the Plaintiff's case is his failure to address adequately, based on his case theory, why the Defendant would instigate the deceased to state S as a beneficiary of the HDB flat. Apart from a wider conspiracy theory that the aim of the Defendant was to disinherit P and the deceased's three sons entirely from the deceased's estate, the Plaintiff has not sufficiently addressed why the Defendant would instigate the deceased to name S as a beneficiary of her HDB flat, especially if the Defendant's main aim was to inherit the deceased's estate for herself. I venture to explore the possibilities:

(a) While it is undisputed that the Defendant would not be eligible based on HDB's requirements to retain the deceased's HDB flat, it does not prevent the flat from being sold in the open market by the personal representative of an estate and for the sale proceeds to be given to a foreign beneficiary. If the deceased's intention was to safeguard P's education financially and her three sons, the Defendant could still represent to the deceased that she would distribute the sale proceeds of the HDB flat accordingly, if the deceased named her as beneficiary. There would have been no need to involve S in this matter.

²⁴ Paragraph 27 of Mr D's AEIC.

²⁵ NE Day 2, Pages 156-158.

(b) If the deceased's intention was for the flat to be given to S, with the intention of the said flat being transferred to P when she attains the age of 30, S' consent to the same would probably be crucial for the deceased's arrangement with the Defendant to work. However, there is no evidence to show that S had agreed or consented to the same. It is also not the Plaintiff's allegation that S had been privy to any alleged arrangements between the deceased and the Defendant. The "misrepresentation" was bound to fail as it would have been unworkable without S' consent on the same. In fact, I note that it was undisputed by the Plaintiff during cross-examination that it was indeed the deceased's intention for the HDB flat to be given to S.

144 The deceased was not a weak-willed, elderly lady who was ignorant in relation to the workings of a Will. There is clear, consistent evidence from the parties and the witnesses, such as B and Mr D, who personally knew the deceased, that she was a feisty, independent and strong-willed woman and a well-known business woman in the Little India area. It is also not disputed that she had executed three Wills with the assistance of qualified solicitors and had the benefit of legal advice. I find it difficult to believe therefore that she would have acted simply on a "misrepresentation" by the Defendant that she would distribute the estate in accordance with her wishes, without assessing and making a decision for herself on the feasibility of such a plan.

The Australian Properties

145 It is part of the Plaintiff's evidence that the deceased had purchased two Australian properties in the name of the Defendant. Evidence was adduced from

B, K and Mr D in this regard as the Plaintiff did not have any personal knowledge of the same.²⁶

146 According to B²⁷, the deceased had told her that she owed two houses in Australia. One property was meant for P, B and the Plaintiff to stay while P studied in Australia. The other property was intended to generate rental income for them. The deceased further informed B that she had paid SGD \$780,000 for the basic renovations. She even told B that the properties were rented out at SGD \$3,000 per month. The said sum was sent by the Defendant every month. It is unknown where in Australia the said properties were bought. I note there is no evidence provided as to the identity of the properties or when the properties were bought. No details were also provided as to how the monies were being sent by the Defendant every month to the deceased. The Defendant alleges that after the deceased's death, the Plaintiff had control of the deceased's flat as the key to the flat was with the Plaintiff.²⁸ Some of the documentary evidence provided by the Plaintiff for the purposes of the trial were in fact obtained from the deceased's flat. This was expressly admitted by the Plaintiff who also admitted to holding the keys to the deceased's flat. It is also not disputed that B had access to the deceased's email accounts and some of the documentary evidence provided in support of the Plaintiff's case were obtained by B from the deceased's emails account.²⁹ Given these facts, it is not inconceivable for the Plaintiff or B to search for and obtain any relevant documents they may require in support of the Plaintiff's case. I note no documentary evidence were exhibited

²⁶ NE Day 2 Page 64

²⁷ See Paragraph 31 of B's AEIC.

²⁸ NE Day 2, page 83

²⁹ NE Day 2, pages 84 to 86

in support of the purported Australian properties or rental monies received by the Deceased.

147 From the evidence of K, I note at no point in time did K mention in her affidavit of the deceased sharing with her about the purchase of the Australian properties. Nevertheless, reference was made in parenthesis to the Australian properties at paragraph 26 of K's affidavit as follows:

*“ 26. The Deceased was a sweet lady who always think about tothers and her family before her own needs. She worked hard and saved hard for her children and her granddaughter. The Deceased trusted the Defedant very much to fulfil her last wishes but turned out the Defedant is not saying that the entire assets **(including the properties in Australia)** of the Deceased's estate (excluding the flat situated at Klang Lane) belong to her and the Deceased gifted to her.”*

[Emphasis mine]

148 Again, no details in relation to the Australian properties were provided by this witness as well in her affidavit. Upon cross-examination, K testified³⁰ that the deceased had informed her the properties were bought for P and they were bought in the name of the deceased (not the Defendant's). This differs materially from the evidence of B.

149 The purchase of the Australian properties is also referred to in paragraphs 21 to 23 of Mr D's affidavit. According to Mr D, the deceased paid for the purchase of two properties in Perth, Australia as she intended for P to live in one while she was studying in Australia and to earn rental income from

³⁰ NE Day 3 pages 28 to 30.

the other, to pay for P's living expenses during her studies in Australia. This conflicts with B's evidence that one of the said properties were purchased for the Plaintiff, B and P to reside in. According to Mr D, the said properties were purchased under the Defendant's name as the deceased was "not able to obtain a green card to purchase the said two properties under her sole name". Again, no other information was provided by Mr D in his affidavit in relation to the specific identity of these two properties such as the name or address of the said properties. During cross-examination³¹, it was highlighted to Mr D that the concept of having a "green card" does not apply in Australia. No evidence was also provided at the trial to clarify whether the matters allegedly conveyed to the witness was true i.e. whether a Singaporean Citizen could purchase a property in Australia in her own name without any residency status in Australia.

150 The evidence of all three witnesses gave conflicting accounts in terms of who owned the purported Australian properties and the purposes for which the properties were bought. In the absence of any documentary evidence in support of the purported Australian properties, I am unable to make any findings on a balance of probabilities in relation to the existence of the said properties. In any event, I note the Plaintiff's case in relation to the deceased's Australian properties were not expressly pleaded in the Plaintiff's Statement of Claim (Amendment No. 2) save that it was referred to in the reliefs sought by the Plaintiff i.e. for the Defendant to provide a full and detailed account of all the assets of the deceased, including the Australian property.

³¹ NE Day 2 pages 141 and 142.

Undue Influence

151 The Plaintiff alleges that based on the Defendant's alleged misrepresentation, the deceased was unduly influenced, coerced and manipulated into executing the 2020 Will. As mentioned in the paragraphs above, there were insufficient evidence for me to conclude on a balance of probabilities that any misrepresentation had been made by the Defendant to the deceased or that the deceased had been induced to sign the 2020 Will based on the misrepresentation of the Defendant.

152 I find that the allegation of undue influence, in reliance of the Defendant's misrepresentation, if any, is but a bare allegation for the following reasons:

(a) At the material time of the execution of the 2020 Will, the Defendant remained mostly in Australia as she was resident there. The deceased remained in Singapore and continued to live and work independently of the Defendant. Apart from their daily calls, decisions were ultimately made by the deceased, whether it was in relation to her handling of P, her sons or the execution of the 2020 Will.

(b) I find that apart from introducing the deceased to ALC and assisting the deceased to communicate with ALC via emails and submit documents via email, the defendant was not otherwise involved in the preparation and execution of the Will.

(c) I note further that the deceased had also given instructions to ALC independently herself either by way of faxed handwritten notes endorsed with her thumb print or by attending at ALC in person alone. It is not disputed that the deceased had attended meetings at ALC

without the Defendant and had executed the Will in the absence of the Defendant.

(d) When presented with the option of whether to create an express trust over the HDB flat in favour of the P until she reached 21 years of age, the deceased took time to consider this option before replying to ALC with her final instructions in relation to the 2020 Will. If the deceased was indeed under the undue influence of the Defendant, it would have been unlikely that the deceased would amend her initial instructions relating to the HDB flat on 21 May 2020 in the first place.

(e) The deceased was capable of giving ALC instructions to change her Will on 21 May 2020, when she attended at their office alone. If the Defendant had indeed represented to the deceased that there was no need to indicate in the Will the deceased's true intentions in relation to the distribution of the deceased's assets and the Defendant would distribute the estate in accordance with the Deceased's wishes, there would have been no reason for the deceased to instruct ALC to amend the clause relating to the HDB flat on 21 May 2020 for the HDB flat to be held on trust for P.

153 In view of the above, I find that the allegation of “undue influence, coercion and manipulation” is not made out. The Plaintiff has not satisfied the high bar of proving, on a balance of probabilities, that the deceased had executed the Will under the undue influence of the Defendant nor were there any suspicious circumstances surrounding the execution of the Will.

The Defendant's Counterclaim

154 With regard to the counterclaim, I accepted the evidence of the 1st Defendant, Ms C and Mr A that the Will was duly executed by the deceased after having given due consideration to the advice of her solicitors. I have already addressed much of their evidence in various parts of my decision above.

155 As such, I find that the deceased did indeed have knowledge and understanding of the contents of the 2020 Will and did approve the contents of the said Will of her own accord before voluntarily executing it.

156 Since I have found in favour of the 2020 Will, I did not make any findings or pronouncements in relation to the validity of the 2019 Will.

Conclusion

157 In view of all the reasons stated above, I dismissed the Plaintiff's claim and granted the Defendant's counterclaim against the Plaintiff for a declaration (a) pronouncing the force and validity of the Will dated 20 June 2020 made by the deceased and (b) that the Defendant is entitled to apply for a Grant of Probate based on the said Will.

158 At the trial, submissions on costs were adjourned to be heard at a later date. Parties have since submitted on cost and the Plaintiff was ordered on 5 December 2025 to pay the Defendant costs of the action fixed at S\$74,892.29 (all in, including disbursements agreed at S\$12,392.29). I took into account the length of the trial, which took place over 8.5 days with a total of 10 witnesses, excluding the parties themselves. There was also a total of 23 case conferences leading up to the trial. I note the Plaintiff has not sought to extend the appeal to the issue of costs ordered.

XVQ v XVR

[2025] SGFC 128

Cassandra Cheong
District Judge

Plaintiff in Person;

Mr Bhaskaran S/O Sivasamy
(Messrs Skandan Law LLC) for the Defendant.