

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2023] SGHCF 33

Suit No 3 of 2021
(Summonses Nos 72 & 106 of 2023)

Between

WKK

...Plaintiff

And

WKL

... Defendant

AND

Between

WKL

... Plaintiff in Counterclaim

And

WKK

... Defendant in Counterclaim

FOUNDATIONS OF DECISION

[Civil Procedure — Extension of time]

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WKK
v
WKL

[2023] SGHCF 33

General Division of the High Court (Family Division) — Suit No 3 of 2021
(Summonses Nos 72 and 106 of 2023)

Choo Han Teck J

21 July 2023

25 July 2023

Choo Han Teck J:

1 The plaintiff in HCF/SUM 72/2023 has managed to prove a negative exception to the well-known inspirational theme: “If at first you don’t succeed, try, try again”. His application here is an identical application to HCF/SUM 287/2022 and HCF/SUM 344/2022, which I heard and dismissed on 16 February 2023. All these applications were, first, a request to reinstate an action that had been struck out for failing to comply with an unless order, and secondly, a request for further extension of time to set-down for trial — due to a repeated failure by the plaintiff to meet court deadlines. Given that I had already dealt with HCF/SUM 287/2022 and HCF/SUM 344/2022 in *WKK v WKL* [2023] SGHCF 6 (“*WKK*”) by dismissing them, I dismiss this application too. If the plaintiff was dissatisfied with my decision in *WKK*, he should have appealed against that decision, and not made another identical application which was doomed to fail.

2 To compound the bad move, counsel for the plaintiff, Mr Riyach Hussain (“Mr Riyach”), did not appear on 21 July 2023 for the hearing. His staff called the court minutes before the hearing to say that Mr Riyach was ill. Counsel for the defendant, Mr Steven Lee (“Mr Lee”) explained that he had received the same message from Mr Riyach’s staff. Upon Mr Lee’s request for a copy of Mr Riyach’s medical certificate to verify Mr Riyach’s illness, Mr Riyach’s staff told Mr Lee that there was no medical certificate yet, but Mr Riyach would get one. I did not adjourn the hearing for Mr Riyach. This would have caused unnecessary delay to the proceedings, where the plaintiff’s claim was already clearly unmeritorious, and for which the plaintiff would have to bear increased costs. This was reminiscent of the numerous delays and missing of deadlines which had been occasioned in the original claim and resulted in unless orders being made. This was also reminiscent of the numerous delays and missing of deadlines which led to the original claim being struck out when the unless orders were not complied with. Ironically, it appears that this pattern of delaying proceedings has not stopped, even though it has caused the plaintiff to bear additional costs, which likely led to the plaintiff struggling to finance the setting down of the trial — resulting in the unless order not being obeyed, and the original claim being struck out. That is what a deadline is, miss it and the cause is dead. Occasional lapses may be forgiven, especially where good reasons are given, however, unsubstantiated and repeated delays by counsel harm only the client.

3 Costs of HCF/SUM 72/2023 are to be awarded to defendant, with costs to be taxed if not agreed. Given my dismissal of HCF/SUM 72/2023, no order is made as to the defendant’s application in HCF/SUM 106/2023, since there is no summons left to be struck out.

4 On the same day after my decision of 21 July, Mr Riyach submitted a medical certificate for a gout attack that seems to flare up on the very days that he has to appear in my court — this was not the first such occasion. Mr Lee objected to Mr Riyach’s request on the basis that the request was filed after the hearing ended, and that the medical certificate did not excuse Mr Riyach from court proceedings. Unfortunately for Mr Riyach, Mr Lee is correct. I have already given my decision before Mr Riyach made his request, and my decision is final. In any event, Mr Riyach’s medical certificate does not excuse him from court (unlike his previous medical certificate). Nonetheless, this matter ends here because valid or not, his medical certificate will not help his case.

- Sgd -
Choo Han Teck
Judge of the High Court

Muhammed Riyach bin Hussain Omar (H C Law Practice) for the
plaintiff;
Lee Chung Yen Steven (Hilborne Law LLC) for the defendant.
