

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2023] SGHC 271

Originating Application No 511 of 2023

Between

Tan Zhi Wei, Alan (Chen
Zhiwei, Alan)

... Applicant

And

Tan Jia Lin, Jaylin

... Respondent

FOUNDATIONS OF DECISION

[Family Law — Family Court]
[Courts and Jurisdiction — Jurisdiction]

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Tan Zhi Wei Alan

v

Tan Jia Lin Jaylin

[2023] SGHC 271

General Division of the High Court — Originating Application No 511 of 2023

Chua Lee Ming J

23 August 2023

27 September 2023

Chua Lee Ming J:

Introduction

1 The question in this case was whether an application to remove a joint administrator may be made to the General Division of the High Court (the “General Division”) or whether it should be made to the Family Justice Courts, specifically the Family Courts.

Facts

2 Mr Tan Sue Hua (the “Deceased”) died intestate on 7 May 2018. He was survived by:

- (a) Mdm Ng Hwee Hoon (“Mdm Ng”), his lawful widow;
- (b) the applicant, his lawful son; and

- (c) the respondent, his lawful daughter.

They are the only beneficiaries of the Deceased's estate (the "Estate").

3 The bulk of the Estate comprised a one third share (worth \$9.33m as of 11 December 2018) in a property at Upper Serangoon Road and a one quarter share (worth \$1.75m as of 11 December 2018) in a property at Tai Keng Gardens.

4 Unfortunately, disputes arose over who should apply for letters of administration of the Estate. There was distrust between Mdm Ng and the respondent on the one hand, and the applicant on the other. Suffice it to say for present purposes that:

(a) Mdm Ng first applied to be appointed as administratrix of the Estate but subsequently withdrew her application after the applicant objected to her application. Mdm Ng also confirmed her intention to renounce her prior rights and to consent to the applicant and respondent being joint applicants and administrators of the Estate.

(b) The respondent then filed a caveat against the Estate and the applicant challenged the caveat. Eventually, agreement was reached, and the applicant and the respondent jointly applied for letters of administration of the Estate. The letters of administration were granted to both of them on 27 June 2022 by the Family Courts.

5 The truce did not last. Disputes arose between the applicant and the respondent over the opening of a bank account for the Estate.

6 On 18 May 2023, the applicant filed the present application for:

- (a) the respondent to be removed as the joint administrator, and for the applicant to continue as the sole remaining administrator of the Estate;
- (b) in the alternative, for the Estate to be administered by the court, and for the applicant to be solely authorised to prosecute all actions necessary in the administration of the Estate; or
- (c) in the further alternative, that the respondent shall co-operate and collaborate with the applicant in prosecuting all actions necessary in the administration of the Estate upon giving the respondent notice of not less than seven clear days.

The respondent's preliminary objection

7 The respondent submitted that the General Division did not have jurisdiction to hear or make the orders sought in this application because the matters fell within the jurisdiction of the Family Division of the High Court (the "Family Division"). The respondent argued that:

- (a) The application to remove the respondent as an administrator was an application to revoke and/or amend the grant of letters of administration to the applicant and the respondent.
- (b) The jurisdiction to grant probates and letters of administration and to alter or revoke such grants is to be exercised through the Family Division: s 22(1)(a) of the Family Justice Act 2014 (2020 Rev Ed) (the "FJA") read with s 17(1)(f) of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) (the "SCJA").

8 The applicant submitted that the General Division had jurisdiction over this matter for the following reasons:

(a) The present application did not fall within the jurisdiction of the Family Division because the application was not about the granting, amendment, or revocation of the letters of administration, and was not a “family proceeding” under the FJA.

(b) The inherent jurisdiction of the General Division under O 3 r 2(2) of the Rules of Court 2021 was required for the removal of the respondent as joint administrator of the Estate.

My decision

9 In my view, the applicant was wrong to have commenced the present proceedings in the General Division. This application ought to have been filed in the FJC, specifically the Family Courts.

10 First, although the Probate and Administration Act 1934 (2020 Rev Ed) (the “PAA”) does not provide specifically for the removal of a co-administrator, in my view, the power to do so is to be found in s 32 of the PAA which provides that “[a]ny probate or letters of administration may be revoked or amended for any sufficient cause.” The removal of a co-administrator involves (a) revoking the grant to that co-administrator (*ie*, a partial revocation of the original grant), and (b) amending the original grant to reflect the revocation of the grant to that co-administrator.

11 Second, the *jurisdiction* to exercise the power under s 32 of the PAA is part of the civil jurisdiction of the General Division by virtue of s 17(1)(f) of the SCJA which states:

Civil jurisdiction — specific

17.—(1) Without limiting section 16, the civil jurisdiction of the General Division includes —

...

(f) jurisdiction to grant probates of wills and testaments, letters of administration of the estates of deceased persons and to alter or revoke such grants;

...

12 However, the jurisdiction under s 17(1)(f) of the SCJA is to be exercised through the Family Division by virtue of s 22(1)(a) of the FJA. Section 22 of the FJA states:

Original civil jurisdiction of General Division of High Court exercisable through Family Division

22.—(1) The part of the civil jurisdiction of the General Division of the High Court which is exercised through the Family Division consists of —

(a) the jurisdiction conferred on the General Division of the High Court by sections 17(1)(a), (d), (e) and (f) and 17A of the Supreme Court of Judicature Act 1969; and

(b) such other jurisdiction relating to family proceedings as is vested in or conferred on the General Division of the High Court by any written law.

(2) To avoid doubt, the Family Division of the High Court has, when exercising any jurisdiction mentioned in subsection (1)(a) or (b), all the powers of the General Division of the High Court in the exercise of its original civil jurisdiction.

13 The Family Division is one of the courts forming the FJC, the others being the Family Courts and the Youth Courts: s 3 of the FJA. Section 22 of the FJA refers to the Family Division but s 26(2) of the FJA makes it clear that the Family Courts also have the jurisdiction and the powers mentioned in s 22 of the FJA. Section 26 of the FJA states:

Jurisdiction of Family Courts

26.—(1) A Family Court is a court of record.

(2) Subject to subsections (4), (5) and (6), a Family Court has –

(a) all the civil jurisdiction of the General Division of the High Court mentioned in section 22(1)(a) and (b);

(b) when exercising any jurisdiction mentioned in section 22(1)(a) or (b), all the powers of the General Division of the High Court in the exercise of the original civil jurisdiction of the General Division of the High Court; and

(c) such other jurisdiction relating to family proceedings as is conferred on a Family Court by any written law.

...

(3A) If any family proceedings may be heard and determined by a Family Court or by the Family Division of the High Court, those proceedings must in the first instance be commenced in a Family Court.

(4) Despite subsections (2), (3) and (3A), the Chief Justice may by order in the Gazette direct that any class or description of family proceedings specified in the order are to be heard and determined by the Family Division of the High Court.

...

With respect to subsection (4), O 2(b) of the Family Justice (Family Proceedings before Family Division of High Court) Order 2014 states that “any proceedings to alter, revoke or annul any grant of probate or letters of administration by the [Family Division]” shall be heard and determined by the Family Division. However, O 2(b) did not apply in the present case because it was a *Family Court* that granted the letters of administration to the applicant and respondent. Subsections (5) and (6) were not relevant for present purposes.

14 As defined in s 2(1)(q) of the FJA, “family proceedings” include “on or after 1 January 2015, any civil proceedings under the [PAA]”.

15 The present application to remove the respondent as co-administrator of the Estate was a civil proceeding under the PAA. Accordingly, it was clear that, by virtue of s 26(3A) of the FJA, it ought to have been filed in the first instance in a Family Court.

16 This conclusion is confirmed by the Explanatory Statement to the Family Justice Bill (8 July 2014). The Explanatory Statement to Clause 22 (which was subsequently enacted as s 22 of the FJA) states that “Clause 22 sets out the part of the civil jurisdiction of the High Court which *must* be exercised through the Family Division of the High Court [emphasis added]”, thus making it clear that the matters referred to in s 22 (including an application to remove a co-administrator) fall within the jurisdiction of the Family Division. By virtue of s 26(2) of the FJA, a Family Court would then also have jurisdiction over such matters (subject to subsections (3), (4) and (5)).

17 This conclusion is also consistent with the legislative purpose and object of establishing the FJC by the FJA. The FJC was intended to be a specialist court to hear all family-related cases: *Singapore Parliamentary Debates, Official Report* (4 August 2014), vol 92 (K Shanmugam, Minister for Law).

18 For completeness, I should add that given my decision on the preliminary issue of jurisdiction, it was unnecessary for me to consider the merits of the application to remove the respondent as a co-administrator. That will have to be dealt with by the Family Courts, if the applicant decides to file a fresh application there.

Conclusion

19 For the above reasons, I dismissed the application. I ordered the applicants to pay costs to the respondent fixed at \$2,000, including disbursements.

Chua Lee Ming
Judge of the High Court

Han Kee Fong and Donny Tan (Tan Rajah & Cheah) for the
applicant;
Oei Ai Hoea Anna (Tan Oei & Oei LLC) for the respondent.
