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

[2023] SGHC 288

Originating Claim No 399 of 2022

Between

Chan Wei Meng

… *Claimant*

And

Chan Lai Wan Joyce

… *Defendant*

EX TEMPORE JUDGMENT

[Equity — Trusts]

Chan Wei Meng
v
Chan Lai Wan Joyce

[2023] SGHC 288

General Division of the High Court — Originating Claim No 399 of 2022
Hri Kumar Nair J
5, 6, 11 October 2023

11 October 2023

Hri Kumar Nair J (delivering the judgment of the court *ex tempore*):

Introduction

1 This case turns on a single question of fact: what was the understanding of the parties in relation to the distribution of the assets in their joint account in HSBC ("the Joint Account") when it was closed in 2018?

2 The claimant ("Alan") maintains that half of the assets distributed to the defendant ("Joyce") was for her, and the other half ("the Trust Portion") was to be held on trust for him, and that this arrangement was reached in 2018 when the parties agreed to close the Joint Account.[1] Joyce's case is that all the assets distributed to her was for her unconditionally pursuant to an agreement reached between the parties in or around end 2007 to early 2008 when the Joint Account

[1] 1st Affidavit of Chan Wei Meng (17 Jul 2023) ("A-1") at para 48; Statement of Claim ("SOC") at para 15.

was opened, namely that the assets therein would be distributed equally between them.[2]

3 Both parties' evidence was unsatisfactory in various aspects. Nonetheless, the legal burden is on Alan to establish his claim, and I find that he has failed to do so.

The opening of the Joint Account

4 I first turn to the opening of the Joint Account, and in particular, its purpose. I will not set out the parties' respective cases in detail. In essence, Alan's case is that the Joint Account was opened to "stash" Joyce's bonus payment away from her (then) husband, Mark,[3] while Joyce's case is that the Joint Account was opened for Alan and Joyce to "pool [their] assets for investment purposes".[4]

5 Both these explanations were problematic:

(a) According to Alan, Joyce approached him in May or June 2007 to say that Mark had learned of the bonus and was "pestering" her for it.[5] But it is undisputed that Mark was aware of the bonus payment when it was paid in 2006.[6] Further, the bonus moneys were deposited, and remained, in Joyce's POSB account for about two years.[7] It is therefore

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2 1st Affidavit of Chan Lai Wan Joyce (17 Jul 2023) ("J-1") at paras 29–30; Defence at para 8(b).

3 A-1 at para 23.

4 J-1 at para 29.

5 A-1 at para 20.

6 A-1 at paras 19–20; J-1 at paras 25–26.

7 Transcript (6 Oct 2023) at p 19 lines 2–16.

unclear how placing the bonus in the Joint Account two years later was effective or necessary to shield it from Mark.

(b) On the other hand, it is undisputed that Alan was a wealthy man, certainly far wealthier than Joyce, and there was no reason why he needed to "pool" his assets with Joyce for investments. Further, he effectively had sole control over the Joint Account – only he could give instructions for making withdrawals.[8] Joyce says that she was unaware of those instructions,[9] but that only underscores that she left the management of the Joint Account entirely to Alan. Indeed, it is not Joyce's evidence that she ever made any investment decision in respect of the Joint Account.[10]

6 It was nonetheless clear from the evidence that Alan was doing Joyce a favour. She had received a sizeable bonus of about $211,000 from her employer, and he wanted her to invest and grow it.[11] The documentary evidence suggests he was teaching her about investments.[12] I find that it is likely that the Joint Account was opened, not to "pool" their assets as Joyce claims, but to enable her to benefit from Alan's investment expertise and receive a better return on her bonus moneys. In this regard, I accept Alan's evidence, which was not challenged, that he needed to put his own assets into the Joint Account to meet the minimum sum of US$1m to open such an account,[13] and that he had effective control over the Joint Account. Indeed, Joyce acknowledged that all statements

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8 A-1 at para 27.

9 J-1 at para 36.

10 J-1 at paras 36, 38, 40.

11 J-1 at paras 25, 27.

12 J-1 at para 28; pp 43–67.

13 A-1 at para 30.

and correspondence relating to the Joint Account were sent only to Alan, he managed the investment portfolio under the Joint Account, and he carried out all communications with HSBC for this purpose.[14]

7 Joyce's evidence is that there was an oral agreement between the parties – at or around the time the Joint Account was opened – that the assets (and profits generated) would be shared equally between them regardless of their initial contributions ("the Agreement").[15] I note that in her lawyer's letter dated 21 April 2021 ("the First QWP Letter"), sent in response to Alan's lawyer's letter of 9 April 2021 ("the First HEP Letter"), there was no mention of the Agreement – rather, the First QWP Letter stated that "[i]t was during the discussions concerning the closure of [the Joint Account] that parties reached an agreement on how the assets therein would be divided … in the way discussed and agreed".[16] It was only in her lawyer's second letter dated 4 August 2022 ("the Second QWP Letter") that she referred to the Agreement.[17]

8 Alan's counsel suggested that Joyce's failure to mention the Agreement in the First QWP Letter indicated that the Agreement did not exist.[18] However, the First QWP Letter must be read in context. It was sent in response to the First HEP Letter, in which Alan had demanded the return of 67,500 SPH and 400,000 Genting shares, which he claimed were held on trust by Joyce for him. I discuss this demand in detail below (at [23]–[26]) as it is inconsistent with Alan's case. Given the specific nature of this demand (for the two lots of shares), it was

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14 J-1 at paras 34–35, 38

15 J-1 at paras 29–30; Defence at para 8(b).

16 J-1 at p 110.

17 J-1 at p 117.

18 Transcript (6 Oct 2023) at p 13 lines 8–15.

reasonable for Joyce not to refer to the Agreement (which was generally for the Joint Account assets and profits to be split equally and not in relation to particular assets), and to refer instead to the agreement reached between the parties in 2018 on how the specific assets in the Joint Account would be distributed.[19] On Alan's current case, about half of the 67,500 SPH and 400,000 Genting shares he was claiming to be held by Joyce on trust were agreed by the parties to belong to her.

9 Thus, although Joyce could have done so, her failure to mention the Agreement in the First QWP Letter did not necessarily indicate that it did not exist. Having said that, I note that Joyce could not offer a satisfactory explanation for what was stated in the First QWP Letter – when questioned on it during cross-examination, she responded irrelevantly that she "didn't put everything in" and "[t]his was only the first letter".[20]

10 Alan's counsel suggested that Joyce's evidence was also not credible because it made no sense (a) for her to enter the Agreement when she did not know what Alan would contribute;[21] and (b) for Alan to enter the Agreement when he had contributed substantially more to the Joint Account.[22] Both arguments however ignore the context: the parties were on good terms at the time, Joyce had been working for Alan in Kinetic Energy Pte Ltd ("Kinetic Energy") for a number of years and Alan had received, or was going to receive, a substantial payout from Sumitomo Corporation (which purchased his shares

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19 J-1 at para 45.

20 Transcript (6 Oct 2023) at p 11 lines 23–24.

21 Transcript (5 Oct 2023) at p 160 lines 13–25.

22 Transcript (6 Oct 2023) at p 4 line 5–p 5 line 20.

in Kinetic Energy) running into the millions.[23] The evidence suggests that Alan was generous to his family, and it is conceivable that he would agree to help Joyce financially.[24] Further, his conversation with Joyce's children and text message to his other sister (see [27]–[28] below) suggests that he also intended to benefit Joyce's children, whom he was very close to. All these explain why Joyce trusted Alan and Alan's generosity towards Joyce.

The closure of the Joint Account and the distribution of assets

11 I now turn to the evidence relating to the closure of the Joint Account and the distribution of assets, which I found more relevant to the dispute.

12 Joyce's case was that the assets were distributed equally as per the Agreement.[25] Alan's counsel pointed out that the distribution was not equal in that Alan received about $77,000 more than Joyce, and Joyce did not question this.[26] I do not find that this is inconsistent with or undermines Joyce's evidence. When the Joint Account was closed, it had about $2.8m worth of assets.[27] Joyce was receiving just under $1.4m from a contribution of $250,000.[28] The $77,000 difference was therefore insignificant – a difference of under 3% of the total value of the assets in the Joint Account. More importantly, it is undisputed that most of the assets in the Joint Account were contributed by Alan. Joyce testified that Alan had given her other moneys, and she therefore saw no reason to

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23 J-1 at paras 14–19, 21; A-1 at para 13.

24 J-1 at para 8; 1st Affidavit of Justin Ho (17 Jul 2023) ("JH-1") at para 4; 1st Affidavit of Jamie Ho (17 Jul 2023) ("JH-2") at para 4; 1st Affidavit of Chan Lai Peng (17 Jul 2023) ("E-1") at para 5.

25 J-1 at para 44.

26 Transcript (6 Oct 2023) at p 6 lines 5–16.

27 J-1 at para 42.

28 J-1 at para 45.

question why it was not an equal split.[29] I accept her explanation. Indeed, to question the relatively small difference in the split as suggested by Alan's counsel would have been churlish and ungrateful.

13 Further, the manner of the division supports Joyce's case. She explained that the local shares in the Joint Account were transferred to her as she had no account to hold the foreign shares.[30] Significantly, Alan then made up the difference in value between the foreign and local shares by transferring $400,000 in cash to Joyce.[31] A precise 50–50 split would require him to transfer about $438,000 to her. It was therefore reasonable that he would round down (in his favour) the cash figure to $400,000.

14 The deliberate allocation of the assets in the Joint Account was therefore consistent with Joyce's case that the parties had agreed to split the assets in the Joint Account equally.

15 In contrast, Alan offered no explanation for the way the assets were divided – *ie*, why the amount he decided to give Joyce, together with the Trust Portion, came up to half of the total value of the assets in the Joint Account. His explanation for giving Joyce much more than her contribution was also not supported by the facts. I found this a serious deficiency in his case.

16 Alan's case was that he decided to transfer about $700,000 to Joyce, comprising her initial investment of $250,000 plus some funds to "assist her and/or her children financially".[32] However:

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29 Transcript (6 Oct 2023) at p 7 lines 3–6.

30 J-1 at para 44(a).

31 J-1 at paras 44–45; Transcript (6 Oct 2023) at p 6 lines 17–23.

32 A-1 at para 43.

(a) he offered no explanation in his affidavit of evidence-in-chief ("AEIC") as to how or why he arrived at the figure of $700,000; nor was any explanation put to Joyce;

(b) he offered no explanation at all why the division of the Joint Account roughly corresponded to a 50–50 split, although he was aware that was Joyce's case which he needed to respond to. In particular, he did not explain why he decided to transfer Joyce $400,000 in cash;

(c) his case that he decided to help Joyce financially partly because she had informed him that she might have cancer was contradicted by the evidence.[33] According to Joyce, she only discovered the tumour in or around January 2019, well after the Joint Account was closed, and that evidence was not challenged;[34] and

(d) significantly, Alan entirely failed to put to Joyce his case as to why he was giving her more than the amount she had contributed to the Joint Account (plus returns).

17 During oral closing submissions, Alan's counsel submitted that the eventual 50–50 split had been arrived at as a "coincidence", after Alan had calculated the respective amounts that he wanted to give Joyce.[35] However, this explanation did not appear in his AEIC. Given that it was Joyce's case that the 50–50 split was arrived at as a result of the Agreement, it was incumbent on Alan to provide his own explanation for the 50–50 split in order to show why Joyce's case was false. His failure to do so left Joyce's account as the only

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33 A-1 at para 41(a).

34 J-1 at para 65.

35 Transcript (11 Oct 2023) at p 47 line 16–p 48 line 1.

explanation for the 50–50 split. I also find it doubtful that such a close 50–50 split was arrived at coincidentally.

18 Further, Alan failed to put to Joyce his case as to why he decided to have her hold the Trust Portion for his wife and children. It was Alan's evidence that this was done at the suggestion of Joyce to protect his wife and children, but this was not put to Joyce.[36]

19 Further, Alan's case that he wanted Joyce to hold the Trust Portion to protect his wife and children did not make sense:

(a) it is undisputed that the Trust Portion (valued at about $700,000) was a fraction of Alan's assets at the time. It was therefore unclear why he would be concerned about the interests of his family only with respect to the Trust Portion. No evidence was led as to how he had protected his family with respect to his other assets;

(b) Alan did not explain why he wanted Joyce to hold the Trust Portion when she was not experienced in investment or managing financial assets. Further, Alan was a customer of HSBC Private Banking and would no doubt have had access to their trust services;

(c) it made no sense for Alan to entrust Joyce with the Trust Portion to protect his family when one of his stated reasons for closing the Joint Account was that Joyce may have cancer and needed money;[37]

(d) it is odd that Alan would protect his family without the alleged trust being evidenced in writing. Alan says that no written confirmation

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36 A-1 at para 45.

37 A-1 at paras 41, 43.

was needed because he trusted Joyce and she was family.[38] But Alan's evidence is that his own wife did not know the details of the trust until 2019.[39] While he claims Joyce told him she would inform their sister, Chan Lai Peng ("Elsie") and Joyce's children, Justin Ho ("Justin") and Jamie Ho ("Jamie") about the trust,[40] that would not avoid difficulties should Joyce pre-decease him or something unexpected happens to him. In that event, he or his family may have difficulties reclaiming the Trust Portion. It is therefore difficult to see how an oral arrangement protected his family;

(e) even worse, Alan claims that Joyce had told him in late 2017 that she was afraid Mark and his children would "harass" her for her bonus.[41] If so, his or his family's claim over the Trust Portion would be vulnerable should something happen to Joyce; and

(f) in February or March 2020, Alan learned that Joyce had divorced Mark,[42] which would have made any assets in her name vulnerable to matrimonial distribution. Yet, he made no effort to recall the trust or confirm it in writing. He only sent his lawyer's demand (*ie*, the First HEP Letter) a year later in April 2021,[43] and even then, took an inconsistent position as to what comprised the assets under the trust (see [23] below).

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38 Transcript (5 Oct 2023) at p 69 line 5–p 71 line 7.

39 A-1 at para 59.

40 A-1 at para 48.

41 A-1 at para 41(b).

42 A-1 at para 55.

43 A-1 at para 75.

20 Alan's counsel highlighted that Joyce had also failed to put her case to Alan that (a) she did not ask for additional funds from him; and (b) she did not suggest holding assets on trust for him as he claimed. I disagree that Joyce's failure to do so warrants the same consequences – these were positive averments made by Alan which Joyce was simply denying; further, the burden was on Alan to prove the trust, and he must therefore put his factual assertions with respect to the trust, including its formation, to Joyce. He failed to do so.

21 Alan's subsequent conduct was also inconsistent with his case on the Trust Portion.

22 First, he sent Joyce a WhatsApp message dated 11 March 2021 asking for the return of "at least $1,000,000 that [she] took from [him]",[44] which was plainly inconsistent with his case. Alan explained that this was a test – he had deliberately exaggerated the figure so that if Joyce responded to correct him by saying that the Trust Portion was only about $700,000, he would have secured evidence in writing of the trust; if she denied the request altogether, then he would know her position.[45] This explanation did not appear in his AEIC. In fact, in his AEIC, he referred to the message as "regarding [Joyce] returning me the assets held under trust" when that was plainly not the case.[46] In any event, this appeared a peculiar way to test Joyce. Alan could simply have asked for the Trust Portion directly – Joyce's answer to this direct question would have given him the same results as under the two scenarios for the "test" question. In the event, Joyce did not respond. Even if I were to grant Alan the benefit of the doubt on this incident, the other matters below weaken his case.

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44 A-1 at para 74, p 183.

45 Transcript (5 Oct 2023) at p 31 line 10–p 32 line 8.

46 A-1 at para 74.

23 Second, in the First HEP Letter,[47] Alan asserted that the trust comprised 67,500 SPH and 400,000 Genting shares[48] – that is different from what he now claims comprises the trust.[49] This position was only corrected more than a year later in his lawyer's second letter dated 8 July 2022.[50] Alan's explanation for the inconsistent position was convoluted. He testified that before coming to the decision to ask Joyce to hold some assets on trust for him, the assets from the Joint Account which he planned to give Joyce were $400,000 in cash, 20,000 SGX shares, and 80,000 Genting shares ("Joyce's Original Portion"),[51] which was worth $670,000 at the time.[52] After deciding to ask Joyce to hold some assets on trust for him, he added 67,500 SPH and 400,000 Genting shares to the assets to be transferred to her ("the Additional Portion").[53] The Additional Portion was worth slightly more than $700,000 at the time.[54] He then claimed that out of the total group of assets to be transferred to Joyce (*ie*, Joyce's Original Portion and the Additional Portion combined), they simply agreed that half of it (without specifying which components) would be the Trust Portion.[55]

24 In April 2021, when Alan decided to issue the First HEP Letter, he demanded the return of the 67,500 SPH and 400,000 Genting shares (*ie*, the Additional Portion), rather than half of all the assets transferred to Joyce, because the value of the Additional Portion had dropped from $700,000 to

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47 A-1 at pp 187–188.

48 A-1 at p 187.

49 A-1 at para 50.

50 A-1 at para 81, pp 209–213.

51 Transcript (5 Oct 2023) at p 40 lines 7–11.

52 Transcript (5 Oct 2023) at p 40 lines 8–11.

53 Transcript (5 Oct 2023) at p 40 lines 16–20.

54 Transcript (5 Oct 2023) at p 40 lines 18–20.

55 Transcript (5 Oct 2023) at p 40 lines 20–22.

$450,000.[56] Meanwhile, the value of Joyce's Original Portion had remained at around $670,000. He was willing to only take back the Additional Portion as by doing so, he thought Joyce would acknowledge that he was absorbing most of the loss in the value of the assets, and would therefore agree to return the Additional Portion.[57]

25 Alan's demand for the Additional Portion could be consistent with two scenarios – (a) a trust arrangement over vaguely "half" of the assets (which in the First HEP Letter, allegedly out of magnanimity, he decided to claim the Additional Portion as); or (b) simply demanding back from Joyce a portion of the assets which he had given her when the Joint Account was closed, which would be contrary to his case.

26 Nonetheless, I do not accept Alan's explanation:

(a) Alan testified that he did not tell his lawyers about the actual trust arrangement as he hoped that Joyce would accept his gesture and the dispute would be quickly resolved.[58] It is unclear to me how telling his lawyers the reason for asking for the Additional Portion would have disadvantaged him or delayed the resolution of the dispute;

(b) Alan could have set out the terms of the trust as he now claims in the First HEP Letter, and explicitly stated that he was offering to dissolve it on terms beneficial to Joyce. That would have been a more

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56 Transcript (5 Oct 2023) at p 41 lines 2–10.

57 Transcript (5 Oct 2023) at p 41 lines 10–21.

58 Transcript (5 Oct 2023) at p 41 lines 11–21, p 47 lines 19–25, p 48 lines 16–20.

effective gesture. Instead, in the First HEP Letter, he threatened to sue Joyce if she did not give in to his demand;[59] and

(c) most importantly, he did not include the above explanation in his AEIC. During cross-examination, his response was that he knew he would be asked about this at trial – this was a weak riposte given that the First HEP Letter contained a clearly inconsistent demand which called for an explanation.[60]

Hence, I find his account to be an after-thought.

27 Third, on 12 February 2021, Alan met with Justin and Jamie at his home.[61] He testified that he told them that Joyce took $1.6m from him and that some of it was given by him to Joyce for them,[62] although he did not mention the amount. He claimed that this was to test whether the children, specifically Justin, had been told by Joyce of the trust arrangement.[63]

28 Alan claimed that after this conversation with the children, he wanted to find out if Joyce had told Elsie about the trust arrangement.[64] Hence, he sent a WhatsApp message to Elsie to say that he had transferred $1.6m to Joyce and that this was mainly for her children.[65] Again, Alan described this as a test to

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59 A-1 at p 187.

60 Transcript (5 Oct 2023) at p 44 lines 16–24.

61 A-1 at para 66.

62 A-1 at para 67.

63 Transcript (5 October 2023) at p 87 lines 19–25.

64 A-1 at para 71.

65 A-1 at para 71, pp 174–175.

check whether Joyce had informed Elsie of the trust.[66] This explanation was more puzzling than the previous "test". Alan could have simply asked Elsie if Joyce had informed her of the trust. He claimed under cross-examination that he could not do so because Joyce's children were with him at the time.[67] But this was a text message to Elsie, which he did not have to show, and which he did not claim to have shown, the children. Further, if it was a test to see if Elsie was aware of the trust, there would be no need for him to add the line "[k]indly noted that this money are [*sic*] mainly for her 2 kids".[68] In fact, he did not respond when Elsie simply replied, "[o]k noted",[69] which did not address what Elsie may or may not have been told by Joyce. He then claimed he called Elsie about a month after the text exchange but admitted that he still did not mention the trust in that conversation.[70] I note that he did not mention calling Elsie in his AEIC,[71] nor was such a conversation put to her.

29 I note that one aspect of Justin and Jamie's evidence which was not challenged was that Alan had explained that the reason he was telling them about the Joint Account was because he wanted them to be aware of the existence of the Joint Account and the moneys therein, that the Joint Account was a good investment decision, and that they should not let it go to waste and use the moneys for their education.[72] On his own evidence, he informed the children that Joyce had taken $1.6m from him. Put together, this suggested that

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66 Transcript (5 Oct 2023) at p 36 line 21–p 37 line 11.

67 Transcript (5 Oct 2023) at p 90 lines 11–18, p 94 lines 17–23.

68 A-1 at p 176.

69 A-1 at p 176.

70 Transcript (5 Oct 2023) at p 91 line 24–p 92 line 3, p 95 lines 20–24.

71 Transcript (5 Oct 2023) at p 92 lines 4–10.

72 JH-1 at para 14; JH-2 at para 16.

all the monies transferred to Joyce was to benefit her and the children, which is also consistent with his text to Elsie.

30 If Alan wanted to find out if Joyce had informed Elsie and the children of the trust, which she allegedly had promised to do,[73] there was no reason why he could not have asked them about it directly. He did not. Instead, the impression he gave is one consistent with Joyce's story – that the assets in the Joint Account distributed to her were unconditionally hers.

31 For completeness, I do not place weight on the children's evidence that Alan had informed them that he had a "secret" account with Joyce and that they had agreed to close the account and split the assets "equally".[74] Under cross-examination, they both confirmed that Alan did not actually say those words, and that it was an impression they formed.[75]

Miscellaneous issues – the cheques

32 Both parties devoted some attention to certain cheques issued by Alan in favour of Joyce. Joyce claimed that after the Joint Account was opened, Alan "would periodically issue [her] cheques for [her] share of the profits under the Joint Account".[76] In so far as this was meant to bolster the existence of the Agreement, Joyce's testimony under cross-examination contradicted her claim – she admitted that Alan did not tell her that the cheques were her investment earnings, and simply said that they were "for her".[77]

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73 A-1 at para 48.

74 JH-1 at paras 11,13; JH-2 at paras 13, 15.

75 Transcript (6 Oct 2023) at p 28 lines 2–8, p 34 lines 4–6.

76 J-1 at para 39.

77 Transcript (6 Oct 2023) at p 17 line 13–p 18 line 2.

33 Alan's account in relation to the cheques was also unsatisfactory. Counsel for Joyce pointed to a cheque book entry recorded by Alan on 2 January 2008 showing that $15,000 was provided to "CHAN LAI WAN [*ie*, Joyce] (PROFIT ON SHARES)".[78] Alan also exhibited this cheque book entry in his AEIC, but the "PROFIT ON SHARES" portion of the entry was redacted.[79] His explanation was that he paid the $15,000 to Joyce to compensate her for taking care of their mother, Mdm Oi Joh Chan ("Mdm Oi"), and he did not want the cheque book entry to reflect that purpose.[80] He said that he redacted the entry because it had "nothing to do with this case".[81] I reject this explanation – it did not make sense for Alan to record the payment to be specifically for "profit on shares" in order to hide the fact that it was actually moneys for Mdm Oi's maintenance. Any other description, or simply an omission of one, would have sufficed. Further, the chequebook was Alan's and it was unclear, and he did not explain, why he would need to disguise the entry. The subsequent redaction of the entry was also suspect.

34 Joyce's counsel also pointed out that Alan's explanation of the origin of the unredacted cheque book entry was false.[82] Alan had explained that he adduced the redacted cheque book entry but not the unredacted copy,[83] and that it was Joyce who had obtained the unredacted copy from previous Tribunal of Maintenance of Parents proceedings involving Mdm Oi.[84] However, Alan's

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78 Agreed Bundle of Documents (19 Sep 2023) at p 119.

79 A-1 at p 223.

80 Transcript (5 Oct 2023) at p 126 line 14–p 129 line 12.

81 Transcript (5 Oct 2023) at p 130 line 20–p 131 line 3.

82 Defendant's Written Submissions ("DWS") at para 14.

83 Transcript (5 Oct 2023) at p 132 lines 3–13.

84 Transcript (5 Oct 2023) at p 132 line 14–p 133 line 8.

counsel subsequently explained that the unredacted copy was in fact disclosed by Alan, not Joyce.[85] In so far as Alan's explanation appeared to be an attempt to cover up the fact that the redaction was done during the course of preparation for this action, I find this aspect of his testimony to be suspect as well.

35 In any case, it was unclear to me how this cheque book entry related to the profits from the Joint Account investments. The Joint Account was opened in March 2008, *after* the cheque book entry which was dated 2 January 2008.[86] Joyce claimed that pending the opening of the Joint Account, Alan had in or around end 2007 or early 2008 begun making investments on behalf of Joyce and himself jointly, pursuant to the Agreement.[87] It was therefore her case that the cheque book entry related to profits from these investments. But it was Joyce's testimony that her bonus moneys were kept in her POSB bank account from when she received them in 2006, and were not touched until they were applied to the Joint Account in 2008.[88] Hence, the investments made by Alan prior to the opening of the Joint Account could not have involved any of her moneys, and could not be said to have been "joint" investments. Indeed, on Joyce's own case, the Agreement related only to assets and profits of the Joint Account.[89] Finally, I note that even if Alan had given Joyce some investment earnings from time to time (whether from the Joint Account or not), it does not mean that he did so pursuant to an agreement to split the assets and profits from the Joint Account equally. I therefore placed no weight on the said cheque payment.

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85 Letter from Harry Elias Partnership to the Court (9 Oct 2023).

86 A-1 at para 27.

87 J-1 at para 32.

88 Transcript (6 Oct 2023) at p 19 lines 2–16.

89 J-1 at para 30.

Conclusion

36 For the above reasons, I do not find that the Trust Portion was transferred to Joyce to hold on trust for Alan. I also dismiss the claim for a resulting trust – the evidence suggests that parties intended an equal and unconditional split of the assets in the Joint Account and for the Trust Portion to belong to Joyce. Alan also ran a case on a constructive trust, but that was not pleaded. In any event, based on my findings of fact, no constructive trust was formed.

37 I therefore dismiss the claim with costs to Joyce. Parties are to file their submissions on costs within seven days. For completeness, the time for appealing runs from the date of this judgment.

38 I close on this observation. On my findings and taking Joyce's evidence at its highest, Alan had made a very generous gift to her. She must accept that the $1.4m she received was largely contributed by Alan. This appears in keeping with Alan's nature – there is evidence that he routinely made gifts to family members, including to Joyce and her children.[90] Yet, Joyce ran her case based on what she says she is entitled to, without any acknowledgment of the generosity shown to her. This is unfortunate, and a matter which I hope will be acknowledged and addressed in time.

Hri Kumar Nair
Judge of the High Court

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90 J-1 at para 8; JH-1 at para 4; JH-2 at para 4; E-1 at para 5.

Tan Chau Yee, Kok Yee Keong and Toh Ming Wai (Harry Elias Partnership LLP) for the claimant;
Derek Tan Chang Shen, Tan Jee Ming and Chow Ee Ning (Quahe Woo & Palmer LLC) for the defendant.
