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Common Intention Constructive Trusts in Family Property Disputes

Tia Sock Kiu Sally v Tia Oon Lai
[2026] SGHC(A) 14

11 June 2026

LEGAL UPDATE

In this Update

In *Tia Sock Kiu Sally v Tia Oon Lai* [2026] SGHC(A) 14, the Appellate Division held that a mother held the full beneficial interest in a coffeeshop lease and the rental income derived from it, even though the lease was legally registered in the names of the mother and her son as tenants in common in equal shares.

Legal ownership is not always conclusive of beneficial ownership. In determining whether a common intention constructive trust arises, the Court may look beyond the formal documents and assess the totality of the evidence, including the parties' conduct, omissions, and the broader factual context.



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INTRODUCTION

Family property disputes often arise only after a family member has passed away. In such circumstances, to determine the parties' intentions, the Court has to determine the parties' common intention based on the available evidence.

In *Tia Sock Kiu Sally v Tia Oon Lai* [2026] SGHC(A) 14 ("**Sally Tia**"), the Appellate Division of the High Court considered whether a son, Mr Tia Oon Lai ("**TOL**"), held his 50% legal share in a 30-year HDB coffeeshop lease ("**Lease**") on trust for his mother, Mdm Su Ye Chu ("**Mother**"). The dispute related to rental proceeds derived from the Lease.

The dispute arose after the Mother passed away in October 2021. The Mother's estate argued that TOL had no beneficial entitlement, and that TOL held his 50% legal share on presumed resulting trust or a common intention constructive trust for the Mother's benefit. At trial, the Court held that the Mother had a 62.35% beneficial interest based on her financial contributions.

By a majority, the Appellate Division allowed the appeals and held that from 1 August 1998 to 30 June 2018, a common intention constructive trust had arisen, under which the Mother held the full beneficial interest in the Lease and was entitled to all rental income during this period.

BACKGROUND

The family's coffeeshop business was originally operated by Mr Tia Ee Tih ("**Father**") through a sole proprietorship known as Hiap Hoe Eating House ("**Hiap Hoe**"). After the Father suffered a stroke in 1997, the Mother and TOL were registered as proprietors of Hiap Hoe. HDB later granted the Lease to the Mother and TOL as tenants-in-common in equal shares of 50%.

It was undisputed that all coffeeshop rental from October 1998 to June 2018 was paid directly to the Mother. From October 1998 to September 2023, the coffeeshop had been rented out to Koufu Pte Ltd ("**Koufu**"). In August 2018, the Mother, TOL and Koufu entered into a rental splitting agreement ("**Rental Splitting Agreement**"), which provided that rental would be paid separately to the Mother and TOL in equal shares with effect from 1 July 2018.

After the Mother passed away, TOL claimed a share of the rental received by the Mother before July 2018. The Mother's estate resisted the claim, arguing that TOL held his 50% legal share on trust for the Mother, either under a presumed resulting trust or a common intention constructive trust. TOL also sued Sally as personal representative of the Mother's Estate, and in a personal capacity for breach of fiduciary duty allegedly owed to TOL.

THE DECISION AT FIRST INSTANCE

At first instance, the Trial Judge rejected the Estate's case that the Mother was the sole beneficial owner (see *Tia Oon Lai v Tia Sock Kiu Sally (personal representative of Su Ye Chu, deceased)* [2025] SGHC 108).

The Judge held that there was insufficient evidence of a common intention between the Mother and TOL as to how the beneficial interest in the 30-year Lease was to be held prior to 1 July 2018. Instead, the Judge applied the presumption of resulting trust and held that based on their respective financial contributions, the Mother and TOL held the beneficial interest in the Lease in the ratio of 62.35:37.65 until July 2018.

THE MAJORITY DECISION OF THE APPELLATE DIVISION

The majority of the Appellate Division (comprising Woo Bih Li JAD and Debbie Ong Siew Ling JAD) allowed the appeal. The Appellate Division applied the framework in *Chan Yuen Lan v See Fong Mun* ("**Chan Yuen Lan**") [2014] 3 SLR 1048 for resolving disputes over beneficial interests in property where parties have contributed unequal amounts towards the purchase price of the property and have not executed a declaration of trust.

Under the *Chan Yuen Lan* framework, regardless of the parties' financial contributions, if there is sufficient evidence of an *express* or *inferred* common intention as to how the beneficial interest should be held, the parties will hold beneficial interest in accordance with that common intention. It is only in the absence of evidence of common intention that the Court will consider whether a presumed resulting trust arises based on the parties' financial contributions.

KEYPOINT

It is only in the absence of evidence of common intention that the Court will consider whether a presumed resulting trust arises

Common intention may be express or inferred, and there must be "*sufficient and compelling evidence*" of that intention. Although financial contributions are important, they are "*not the only basis*" on which the Court may infer a common intention. In exceptional situations, the parties' conduct may also give rise to such an inference.

The majority held that there was a common intention that the Mother would hold the full beneficial interest in the Lease prior to 1 July 2018.

The references to TOL as a tenant-in-common in the documents (including letters from HDB, the Lease agreement, a Deed of Assignment and a mortgage document) were not determinative. These references were explicable because TOL had been registered as a proprietor of Hiap Hoe, and the majority held that in the absence of evidence about why, it was not possible to infer more from that fact.

The mere fact that TOL was registered as a proprietor of Hiap Hoe and named in subsequent documents “*at most makes clear the parties’ legal positions as opposed to their beneficial positions*”. The search for the true common intention “*must necessarily look beyond what is formally stated in the documentation with third parties*”.

In the majority’s decision, what was more probative was the extent of the Mother and/or TOL’s respective involvement in relation to the coffeeshop. The Mother had a consistent and significant role in the coffeeshop’s affairs, including arranging financing for the Lease and dealing with tenancy matters, while TOL’s involvement was “*minimal and sporadic at best*”. The majority also placed weight on a letter by the Mother in 2015 where she stated that “*All the rental income from the shophouse belong to me*”. This letter was written in the context of her explaining why the coffeeshop rental was being transferred into a different bank account, and reflected her subjective belief that she held the full beneficial interest in the Lease.

The majority also considered that TOL failed to ask about his purported share of the coffeeshop rental, gave inconsistent answers during cross-examination, and did not claim a 50% share of the previous rental in 2018 when parties were discussing the Rental Splitting Agreement.

KEYPOINT

The search for the true common intention between the parties required the Court to look beyond what is formally stated in documentation with third parties

On the totality of the evidence, the majority of the Appellate Division held that there was a common intention between the Mother and TOL at the time the Lease was acquired, that the Mother would hold the full beneficial interest in the Lease. The Mother had relied on that common intention to her detriment by arranging financing for the Lease, making payments from her own funds, and paying income tax on the full amount of the rental income from the Lease.

DIFFERING APPROACHES ON ASSESSMENT OF EVIDENCE OF COMMON INTENTION

This decision of the Appellate Division was not unanimous.

In his dissenting opinion, Kannan Ramesh JAD placed greater weight on the documentary evidence as the “*bedrock*” of the analysis. He opined that the “*documentary evidence is critical*” and that where a document “*answers the factual question at the very heart of the inquiry on common intention constructive trust*”, it would be “*inappropriate and unjustified*” to go beyond or behind such an acknowledgement to search for a different answer.

His view was that the “*real inquiry*” was whether the Estate had adduced sufficient evidence to support the common intention it alleged, and that the Estate had failed to discharge its burden of proving a common intention given the “*paucity of evidence on the common intention as alleged by the Estate*”.

COMMENTARY

Family disputes often arise only after a parent passes away. Evidence in such circumstances can be imperfect and problematic. There are some practical takeaways for parties who hold family or business assets in informal arrangements.

First, legal title is not always conclusive of beneficial ownership. References to legal ownership in third-party documentation are not, without more, determinative of beneficial ownership. In this matter, a common intention constructive trust arose. In other contexts, a resulting trust can arise based on parties’ respective financial contributions to the purchase price.

Second, evidence remains important in trust law disputes.

As noted by the Appellate Division, common intention is the first step of the analysis. The Court should first ascertain whether there was a common intention, and only in the absence of evidence of such common intention, consider whether a presumed resulting trust based on parties’ financial contributions should arise.

The approach adopted by the Appellate Division aligns with the decision in *Wong Mei Lee Millie v Jake Ngor Shing Rong* [2026] SGCA 27 where the Court of Appeal emphasised that the first step is to analyse the evidence of the transferor’s intention, and that the presumptions of resulting trust and advancement are tools of last resort.

The analytical steps and presumptions under the *Chan Yuen Lan* framework do not dispense with the need for evidence. The burden of proof must be factored into the litigation strategy.

In this regard, the factual background and evidence of the parties' historical conduct also factor into the Court's analysis of the evidence because the parties' common intention may be inferred from the totality of the evidence. This includes how the parties dealt with the underlying property in the past.

Third, it is best to document intentions clearly in writing. This is particularly acute in the family context where discussions and agreements may be informal, and there is an inherent degree of trust. Formal documentation may appear unnecessary when the relationship is good.

However, family disputes may only arise and turn ugly years later. Proper documentation helps to safeguard against future disputes.

This remains a complex area of the law, as demonstrated by this split decision of the Appellate Division. Given these complexities, seeking early legal advice is especially important, even before a dispute crystallises.

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If you have any questions or
comments on this article, please
contact:



Terence Tan
Director, Dispute Resolution

T: + 65 6531 2378

E: terence.tan@drewnapier.com

Drew & Napier LLC

10 Collyer Quay
#10-01 Ocean Financial Centre
Singapore 049315

www.drewnapier.com

T : +65 6535 0733

T : +65 9726 0573 (After Hours)

F : +65 6535 4906

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