

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

[2023] SGHC 314

Suit No 150 of 2022

Between

- (1) Khoo Phaik Eng Katherine
- (2) Khoo Phaik Lian Joyce

... Plaintiffs

And

- (1) Khoo Phaik Ean Patricia
- (2) Ng Eu Lin Evelyn

... Defendants

And

Between

- (1) Khoo Phaik Ean Patricia
- (2) Ng Eu Lin Evelyn

... Plaintiffs in Counterclaim

And

- (1) Khoo Phaik Eng Katherine
- (2) Khoo Phaik Lian Joyce
- (3) Khoo Teng Jin

... Defendants in Counterclaim

JUDGMENT

[Trusts — Resulting trusts — Ownership of moneys in joint bank accounts]
[Family Law — Advancement — Presumption]

TABLE OF CONTENTS

INTRODUCTION.....	1
FACTS.....	2
THE PARTIES	2
BACKGROUND TO THE DISPUTE	4
<i>Dr Khoo's Will</i>	4
<i>Defendants were added as co-account holders of the Joint Accounts</i>	7
<i>The Codicil</i>	9
<i>Subsequent events</i>	12
<i>Balances in the Joint Accounts at the time of Dr Khoo's death</i>	14
SUMMARY OF THE PARTIES' CASES.....	15
THE PLAINTIFFS' CASE	15
REMEDIES SOUGHT BY THE PLAINTIFFS.....	17
THE DEFENDANTS' CASE.....	19
THE DEFENDANTS' COUNTERCLAIM.....	21
THE THIRD DEFENDANT (BY COUNTERCLAIM)'S CASE	21
ISSUES TO BE DETERMINED	22
THE APPLICABLE LEGAL PRINCIPLES	23
MY FINDING: THERE IS CLEAR EVIDENCE THAT DR KHOO INTENDED TO RETAIN THE BENEFICIAL INTEREST IN THE JOINT ACCOUNTS AT THE MATERIAL TIME.....	27
THE BANKS' TERMS AND CONDITIONS GOVERNING THE JOINT ACCOUNTS	27

THE UNDISPUTED CHRONOLOGY OF EVENTS.....	31
CONVERSION OF THE JOINT ACCOUNTS ON 7 NOVEMBER 2019	31
THE TERMS OF THE CODICIL.....	35
DR KHOO’S SUBSEQUENT CONDUCT.....	40
THE POSSIBILITY THAT DR KHOO HAD ADDED THE DEFENDANTS AS CO-ACCOUNT HOLDERS FOR ADMINISTRATIVE REASONS COULD NOT BE RULED OUT	43
DR KHOO’S RELATIONSHIP WITH HIS FAMILY MEMBERS	44
CONCLUSION.....	47
IF THE PRESUMPTION OF RESULTING TRUST ARISES IN FAVOUR OF THE ESTATE, WHETHER A PRESUMPTION OF ADVANCEMENT APPLIES IN FAVOUR OF THE DEFENDANTS AND REBUTS IT	48
ADDENDA: THE WILL AND CODICIL ARE SILENT ON HOW THE PROPERTY AND/OR ITS SALE PROCEEDS SHOULD BE DEALT WITH IF EVELYN CHOOSES TO STAY ON UNTIL HER DEMISE	48
CONCLUSION.....	50

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**Khoo Phaik Eng Katherine and another
v
Khoo Phaik Ean Patricia and another**

[2023] SGHC 314

General Division of the High Court — Suit No 150 of 2022
Lee Siu Kin J
9–12, 15 May, 31 July 2023

31 October 2023

Judgment reserved.

Lee Siu Kin J:

Introduction

1 These proceedings consist of a claim (“the Original Action”) and a counterclaim (“the Counterclaim”). The Original Action involves a claim by the plaintiffs against the defendants for a declaration that, upon the demise of the late Dr Khoo Boo Kwee (“Dr Khoo”) on 21 January 2021, the defendants hold the entire balance of the moneys in two joint accounts totalling approximately some \$4,000,000 on resulting trust for Dr Khoo’s estate, along with other consequential relief. In the Counterclaim, the defendants are suing the plaintiffs and one Khoo Teng Jin (“Teng Jin”) for a declaration that the defendants jointly hold the legal and beneficial interest to the entire balance of the moneys in the said joint accounts.

2 The parties to this suit are the surviving spouse and children of the late Dr Khoo, who had been a practising doctor for many years. He was a general practitioner who ran his own clinic, initially at Rochor and later at Whampoa, until he retired at around the age of 65 years.¹ Dr Khoo kept his savings in the two joint accounts which form the subject of the present dispute. In his will dated 10 August 2012, he provided that, upon his death, the moneys in the aforesaid accounts would be distributed among his four children in equal shares. It is common ground between the parties that the late Dr Khoo was a highly educated man, highly literate in the English language and careful to keep his affairs in order, as the evidence below will show. Unfortunately, upon Dr Khoo's demise on 21 January 2021, an intractable dispute arose as to whether ownership of the moneys in the two joint accounts passed to the defendants by operation of the right of survivorship.

Facts

The parties

3 The late Dr Khoo was married to Ng Eu Lin Evelyn ("Evelyn"), the second defendant, and together, they had four children:

- (a) The first plaintiff is Khoo Phaik Eng Katherine ("Katherine"), the youngest daughter.² Katherine is a Singapore citizen and a part-time lecturer at the Nanyang Technological University.³

¹ Evelyn's AEIC dated 15 November 2022 at para 11.

² Evelyn's AEIC dated 15 November 2022 at para 9(d).

³ NE 9 May 2023 at 4 lines 5–7.

(b) The second plaintiff is Khoo Phaik Lian Joyce (“Joyce”), the second daughter.⁴ Joyce is a Singapore citizen and is retired. Previously, she was a company secretary.⁵

(c) The first defendant is Khoo Phaik Ean Patricia (“Patricia”), the eldest daughter.⁶ Patricia is a Singapore citizen and is retired. Before she retired, she was a part-time lecturer at the Singapore University of Social Sciences, and prior to that, she was the chief financial officer of a listed trust company, the division head of the Civil Aviation Authority of Singapore, and also an investment manager and fund manager.⁷

(d) The third defendant by counterclaim is Teng Jin, the eldest child and only son.⁸ Teng Jin is a Singapore citizen and is an architect by profession.

4 Evelyn is a Singapore citizen and a retiree.⁹ I refer to Katherine and Joyce collectively as “the Plaintiffs” and to Patricia and Evelyn collectively as “the Defendants”.

5 All the parties in the Original Action and Counterclaim are beneficiaries of the will and codicil of Dr Khoo. Katherine and Patricia are also the executrices and trustees of Dr Khoo’s will and codicil.¹⁰

⁴ Evelyn’s AEIC dated 15 November 2022 at para 9(c).

⁵ NE 10 May 2023 at 61 lines 16–17.

⁶ Evelyn’s AEIC dated 15 November 2022 at para 9(b).

⁷ NE 12 May 2023 at 33 lines 21–25 and at 34 lines 3–14.

⁸ Evelyn’s AEIC dated 15 November 2022 at para 9(a).

⁹ Evelyn’s AEIC dated 15 November 2022 at para 15.

¹⁰ Statement of Claim dated 23 February 2022 (“SOC”) at para 1; Defence and Counterclaim dated 10 May 2022 (“DCC”) at para 4.

Background to the dispute

Dr Khoo's Will

6 On 10 August 2012, the deceased executed a will (the “Will”). Katherine, Joyce and Patricia were appointed as the executrices and trustees of the Will.¹¹

7 Among other things, the Will provided as follows:¹²

4. (1) I am the sole owner of my detached house known as [address redacted] comprised in Certificate of Title Volume [xxx] Folio [xx] (hereinafter called “my house”). Upon my death, my wife, [Evelyn] (hereinafter called “my wife”), can stay in my house until she dies on condition that she pays for the upkeep of my house using her own funds.

(2) In the event that my wife moves out of my house on her own volition, my house shall then be sold by my executrices and the proceeds of sale shall be distributed to my wife and to my four (4) children whose personal particulars are set out in clause 5(1) of this my Will in five (5) equal parts, that is to say, each of them shall be entitled to a twenty per cent (20%) share.

(3) For the avoidance of all doubts, I hereby CONFIRM that my house shall not form part of my residuary estate as defined in clause 5 of this my Will.
5. (1) Subject to clauses 2, 3 and 4 of this my Will, I GIVE AND DEVISE AND BEQUEATH ***all my remaining property/properties as set out in Schedule A annexed to this my will*** and all real and personal property of whatsoever kind or character and wheresoever situate including any property over which I may have a general power of appointment or disposition by Will (hereinafter called “my residuary estate”) ***to my four (4) children in equal shares***. My four (4) children are:
 - (i) my son, [Teng Jin];

¹¹ SOC at para 2; DCC at para 5.

¹² Agreed Bundle of Documents dated 27 April 2023 (“AB”) at p 19.

- (ii) my eldest daughter, [Patricia];
- (iii) my second daughter, [Joyce]; and
- (iv) my youngest daughter, [Katherine].

...

[emphasis added in bold italics]

8 Schedule A is annexed to the Will and sets out Dr Khoo's remaining properties. This includes:¹³

(1) Shares

...

(1.2) 33,000 shares with SGX

(2) Fixed Deposits

Fixed Deposits totalling \$4,080,000.00 with UOB
Limited as follows:-

<u>Fixed Deposit No</u>	<u>Account No</u>	<u>Amount</u>
[xxxxx1]	[xxx-xxx-xxx-7]	\$1,100,000.00
[xxxxx2]	[xxx-xxx-xxx-7]	\$1,100,000.00
[xxxxx3]	[xxx-xxx-xxx-7]	\$540,000.00
[xxxxx4]	[xxx-xxx-xxx-7]	\$550,000.00
[xxxxx5]	[xxx-xxx-xxx-7]	\$575,000.00
[xxxxx6]	[xxx-xxx-xxx-7]	\$215,000.00

...

(4) Motor Car

Motor Vehicle bearing registration number SC[XXXX]E
(Toyota Corolla 1.5M. Effective date of ownership
23.11.2001)

(5) Cash Balance(s)

¹³ SOC at para 3.3; DCC at para 6; AB at p 21.

Whatever cash balances that are available. My cash balance(s) are presently under lock in my room drawer(s).

(6) POSB Savings Account No: [xxx-xxxxx-8]

Whatever balance amount remaining in this savings account of mine maintained with POSB Siglap Branch.

9 The six fixed deposits enumerated in Item (2) of Schedule A of the Will were held under a single bank account, *ie*, UOB Account No xxx-xxx-xxx-7 (the “FD Account”). The moneys in the FD Account and in the POSB Savings Account No xxx-xxxxx-8 (the “POSB Account”) form the subject matter of the present dispute between the parties. For convenience, I refer to these two accounts collectively as the “Joint Accounts”. Strictly speaking, a bank account is a chose in action; “a contractual recognition by the bank that the account-holder has deposited money with it and that the bank is required to return that money to the customer in accordance with the terms of their contract” (*MF Global Singapore Pte Ltd (in creditors’ voluntary liquidation) and others v Vintage Bullion DMCC (in its own capacity and as representative of the customers of the first plaintiff) and another matter* [2015] 4 SLR 831 at [51], citing Alastair Hudson, *Equity and Trusts* (Routledge, 8th Ed, 2015) at p 1294). As the authors of E P Ellinger, E Lomnicka & C Hare, *Ellinger’s Modern Banking Law* (Oxford University Press, 5th Ed, 2011) point out (at p 324), the proper issue where one of the holders of a joint account dies is not the ownership of the funds as such, which remains with the bank from the time of deposit. Rather, what is at stake is *the right to the chose in action* that entitled the account holder to draw upon the credit balance or to instruct the bank to make payments from the joint account. Nonetheless, the parties in their submissions consistently refer to the ownership of the “moneys in the Joint Accounts” and I accept that this phrase can be used as a convenient shorthand which also accords with the

layperson’s understanding of what happens when he deposits moneys in a bank account.

Defendants were added as co-account holders of the Joint Accounts

10 In October 2019, Dr Khoo was diagnosed with liver cancer.¹⁴

11 On 7 November 2019, Dr Khoo, at short notice, brought Patricia and Evelyn to the UOB Parkway Parade Branch. There, he added Patricia and Evelyn as co-account holders of the FD Account, under which each joint account holder could operate the account *independently of* each other, subject to the bank’s terms and conditions.¹⁵ According to the Defendants, Dr Khoo informed the UOB officer at the bank that he wished to convert the FD Account to be held in the joint names of Patricia, Evelyn and himself. The UOB officer then explained the difference between a “Joint-Alternate” or “Joint-All” account. The former would allow any of the co-account holders to operate the account independently, whereas the latter would require the approval of all co-account holders to approve a transaction before it could be effected. Following an interview with the UOB officer to confirm Dr Khoo’s instructions, the FD Account was converted into a “Joint-Alternate” account, with Patricia and Evelyn added as co-account holders alongside Dr Khoo.¹⁶

12 The FD Account was governed by the UOB Terms and Conditions Governing Accounts and Services (Individual Customers) (“UOB Terms and Conditions”). I reproduce the relevant parts of the UOB Terms and Conditions:¹⁷

¹⁴ DCC at para 12.

¹⁵ SOC at para 6; DCC at paras 10(b) and 11.

¹⁶ Patricia’s AEIC dated 15 November 2022 at para 79.

¹⁷ DCC at para 16; AB at p 413.

Death of Joint Account Holder

2.15 If a joint Account holder dies (except in the case of joint Accounts designated as trust or executors' accounts):-

- (a) ***the surviving Account holder obtains on the face of it, title to the Account and may give instructions on the Account***; but, if we choose to, we may take such steps we deem appropriate including paying the credit balance in the Account into a court of competent jurisdiction; and
- (b) the obligations of the surviving Account holder and our rights (including any lien or right of set-off) are not affected.

...

[emphasis added in bold italics]

13 That same day, Dr Khoo, together with Patricia and Evelyn, attended at the DBS Treasures Siglap Branch to convert the POSB Account from a personal account to a joint account. Patricia and Evelyn were added as co-account holders of the POSB Account.¹⁸ According to Patricia, Dr Khoo was attended to by two bank officers who explained the difference between a “Joint-Alternate” and “Joint-All” account. Dr Khoo confirmed that he wanted to convert the POSB Account to a “Joint-Alternate” account.¹⁹

14 The POSB Account was governed by the DBS Terms and Conditions Governing Accounts (Applicable to Individuals) (“DBS Terms and Conditions”). I reproduce the relevant parts of the DBS Terms and Conditions:²⁰

¹⁸ SOC at para 6; DCC at para 10(a); Patricia’s AEIC dated 15 November 2022 at para 81.

¹⁹ Patricia’s AEIC dated 15 November 2022 at para 81.

²⁰ DCC at para 16; AB at p 342.

12 OPERATION OF JOINT ACCOUNT

Where the Account (including Account in “Trust” other than Trust POSBKids Account) is in 2 or more joint names or has 2 or more authorised signatories:

...

(b) if any one Account holder dies, ***we are authorised to hold any credit balance in the Account to the order of the surviving Account holders.*** This does not affect any other right we may have in respect of such balance arising out of any lien, charge, pledge, set-off or any other claim or counter-claim actual or contingent or otherwise. We will be released from all demands, claims, suits and actions by the heirs, executors and administrators of the deceased. In addition, we may, if any Account holder dies, suspend or close the Account (whether it is a Joint-All or Joint-Alternate Account) without notice;

...

[emphasis added in bold italics]

15 According to the Defendants, the terms and conditions set out at [12] and [14] above had been explained to Dr Khoo by the bank officers when he attended at the UOB Parkway Parade Branch and the POSB Siglap Branch on 7 November 2019.²¹

The Codicil

16 Subsequently, on 18 November 2019, Dr Khoo made a codicil to the Will (the “Codicil”). In the Codicil, Dr Khoo made, *inter alia*, the following amendments to his Will:²²

²¹ Evelyn’s AEIC dated 15 November 2022 at paras 79 and 80.

²² AB at p 22.

(a) First, pursuant to cl 1.1 of the Codicil, Joyce was removed as an executrix and trustee of the Will. Only Patricia and Katherine remained as executrices and trustees of the Will.

(b) Second, pursuant to cl 1.4.1 of the Codicil, the number of SGX shares reflected in Item (1) of Schedule A of the Will was amended to 38,000 shares, as the original figure of 33,000 shares in the Will was incorrect.

(c) Third, pursuant to cl 1.4.2 of the Codicil, a sum of \$80,000 was to be taken out of the fixed deposits of \$4,080,000 in the FD Account and paid to Evelyn as a cash gift (the “\$80,000 Cash Gift”).

(d) Fourth, pursuant to cl 1.4.3 of the Codicil, Dr Khoo confirmed that since the making of the Will, he had changed the make of his motor car stated in Item (4) of Schedule A of the Will to a “Nissan Note”, but was still retaining the number plate of “[SCExxxE]”.

(e) Fifth, pursuant to cl 1.4.4 of the Codicil, Dr Khoo updated that the POSB Account was maintained with POSB Marine Parade Branch. The POSB Siglap Branch had been closed and its business was taken over by the Marine Parade Branch.

(f) Finally, pursuant to cl 1.2.1 of the Codicil, Patricia or “any member(s) of her own family” were given the choice to purchase the property at [address redacted] referred to by Dr Khoo as “my house” under the Will (the “Property”), of which Dr Khoo was the sole owner. I set out cll 1.2.1 and 1.2.2 of the Codicil in full:

1.2.1 For Clause 4(2) read together with Clause 6(1)(a) of my said Will I hereby DECLARE and CONFIRM the following:

(i) ***my house shall be sold to and my definite choice of the Purchaser(s) for my house shall be my eldest daughter, [Patricia] and/or any member(s) of her own family as nominated by her.*** By “own family” I mean her husband and/or any of her own child/children;

(ii) ***the sale price of my house to my eldest daughter [Patricia] and/or her own family nominee(s) shall be determined by obtaining the average of the two (2) valuations*** obtained by my two (2) trustees from any two (2) of Singapore’s three (3) leading local banks namely DBS Bank Ltd, United Overseas Bank Limited (hereinafter called “UOB”) and Oversea-Chinese Banking Corporation Limited; and

(iii) ***the maximum time duration allowed for my house to be sold and for the sale to be completed*** (hereinafter called “the Completion Date”) ***to my eldest daughter [Patricia] and/or her own family nominee(s)*** shall be the later of the following two (2) dates namely:

(a) six (6) years computed from the date of my demise; or

(b) three (3) years computed from the date of either (i) the demise of [Evelyn] (hereinafter called “my wife”) or (ii) my wife moving out of my house on her own volition, whichever is the earlier.

1.2.2. I hereby DECLARE and CONFIRM that I have carefully deliberated on all the matters under Clause 1.2.1 (i), (ii), and (iii) of this Codicil and I have made my decision accordingly. The matters so decided by me as aforesaid shall not be disputed by any of the beneficiary/beneficiaries of my estate.

[emphasis in original omitted; emphasis added in bold italics]

17 The Codicil was drafted by one Mr Jeffrey Ching (“Mr Ching”) of K H Ching LLC, who was not called as a witness to give evidence at the trial.²³

²³ Plaintiffs’ written submissions dated 10 July 2023 at para 43.

Subsequent events

18 On 9 January 2021, Dr Khoo suffered an accidental fall at home and was hospitalised.²⁴ It was undisputed that Dr Khoo remained of sound mind even during his final hospitalisation at Changi General Hospital in January 2021.²⁵ Subsequently, on 21 January 2021, Dr Khoo passed away at Changi General Hospital.²⁶

19 On 8 March 2021, Mr Lawrence Chua (“Mr Chua”), a solicitor at Messrs Lawrence Chua Practice, was instructed by Patricia and Katherine to act for them as the executrices of the Will and the Codicil of Dr Khoo and to obtain the Grant of Probate for the Will and the Codicil.²⁷ Subsequently, on 22 March 2021, the Will and the Codicil were read by Mr Chua at the office of Messrs Lawrence Chua Practice.²⁸

20 On 16 June 2021, Mr Chua filed Originating Summons No HCF/P 226/2021 (“P 226/2021”) relating to the estate of Dr Khoo (the “Estate”). The Grant of Probate was granted on 12 August 2021.²⁹ Patricia and Katherine then had to prepare the Schedule of Assets for filing to court.³⁰

²⁴ DCC at para 12; Katherine’s AEIC dated 15 November 2022 at para 13.

²⁵ SOC at para 16; Defendants’ written submissions dated 10 July 2023 at para 59; Defendants’ Lead Counsel’s Statement on Trial Proceedings dated 28 November 2022 at S/No. 2 under “Main Facts Not in Dispute”.

²⁶ DCC at para 12; Katherine’s AEIC dated 15 November 2022 at para 14.

²⁷ SOC at para 7; DCC at para 12.

²⁸ SOC at para 8; DCC at para 13.

²⁹ AB at p 35.

³⁰ SOC at para 10; DCC at para 15(c)–(d).

21 However, Patricia and Katherine were unable to agree on whether the moneys in the Joint Accounts were to be included in the Schedule of Assets. On or around 2 September 2021, Patricia instructed Mr Chua to exclude the moneys in the Joint Accounts from the Schedule of Assets. On 22 September 2021, at Mr Chua's office, Patricia repeated the same instruction to Mr Chua. She also told him that Dr Khoo had given her the moneys in the FD Account to help her buy the Property.³¹ Subsequently, on 1 October 2021, Katherine and Joyce met Mr Chua at his office and objected to Patricia's instructions to exclude the Joint Accounts from the Schedule of Assets.³²

22 On 22 October 2021, Katherine signed a Schedule of Assets prepared by Mr Chua which included the Joint Accounts.³³ However, Patricia refused to sign the Schedule of Assets.³⁴ On 1 November 2021, there was a meeting between Mr Chua, Katherine, Patricia and Evelyn at Mr Chua's office. Evelyn informed Mr Chua that the moneys in the Joint Accounts were used to pay for Dr Khoo's high medical costs.³⁵

23 At present, the moneys in the Joint Accounts have been withdrawn and deposited into other bank accounts owned by Patricia and Evelyn.³⁶

³¹ SOC at para 11; DCC at para 18.

³² SOC at para 13.

³³ SOC at para 13.

³⁴ SOC at para 15; DCC at para 22.

³⁵ SOC at para 14; DCC at para 21.

³⁶ SOC at para 12; DCC at para 19; NE 12 May 2023 at 116 lines 15–20; NE 15 May 2023 at 9 lines 17–25 and at 10 lines 1–13.

Balances in the Joint Accounts at the time of Dr Khoo's death

24 At the time of Dr Khoo's death on 21 January 2021, the balance in the POSB Account stood at \$139,410.77.³⁷ The Defendants exhibited a copy of the POSB transaction records for the month of January 2021 which showed this to be the balance as of that date.³⁸

25 As for the FD Account, the UOB statement of account for the period from 1 January 2021 to 31 January 2021 showed that the total deposits and investments stood at \$3,930,000 at the time of Dr Khoo's death.³⁹ Whilst the Will and Codicil had stated the total amount of Dr Khoo's fixed deposits in the FD Account to be \$4,080,000,⁴⁰ Patricia satisfactorily explained that on or around 12 October 2020, Dr Khoo had withdrawn a sum of \$180,332.88 from the FD Account and deposited this sum into the POSB Account, in anticipation of nine upcoming sessions of cancer treatment. This sum comprised a principal sum of \$150,000 from the fixed deposits as well as interest amounting to \$30,332.88 that had accrued on two of the fixed deposits. The Defendants also exhibited a copy of the page of the passbook for the POSB Account (the "POSB Passbook") showing the deposit of \$180,332.88 on 12 October 2020,⁴¹ and a cashier's order from UOB dated 12 October 2020 for the withdrawal of the same, alongside a handwritten note stating "[d]eposited to POSB [xxx-xxxxx-8]".⁴² Therefore, I accept that the total deposits and investments in the FD

³⁷ AB at p 332.

³⁸ Patricia's AEIC dated 15 November 2022 at para 88; AB at p 332.

³⁹ AB at p 397; Patricia's AEIC dated 15 November 2022 at para 85.

⁴⁰ AB at pp 21 (Schedule A) and 24 (cl 1.4.2 of the Codicil).

⁴¹ Patricia's AEIC dated 15 November 2022 at para 87(b) and exhibit "PK-18"; AB at p 377.

⁴² Patricia's AEIC dated 15 November 2022 at para 87(b) and exhibit "PK-18"; AB at p 394.

Account stood at \$3,930,000 at the time of Dr Khoo's death. Furthermore, the six fixed deposits had been renewed prior to Dr Khoo's death. Their details stood as follows:⁴³

Fixed Deposit No	Account No	Principal Amount	Interest Rate (%)	Maturity Date
xxxxxx7	xxx-xxx-xxx-7	\$1,000,000	0.55	12 August 2021
xxxxxx8	xxx-xxx-xxx-7	\$1,050,000	0.55	12 August 2021
xxxxxx9	xxx-xxx-xxx-7	\$540,000	0.55	16 September 2021
xxxxxx0	xxx-xxx-xxx-7	\$550,000	0.55	23 September 2021
xxxxxx1	xxx-xxx-xxx-7	\$215,000	0.55	30 September 2021
xxxxxx2	xxx-xxx-xxx-7	\$575,000	0.50	5 November 2021

Summary of the parties' cases

The Plaintiffs' case

26 Counsel for the Plaintiffs acknowledges that the legal principles on the right of survivorship are equally applicable to joint bank accounts.⁴⁴ However, counsel contends that there is sufficient direct evidence demonstrating Dr Khoo's intention for the moneys in the Joint Accounts to form part of his Estate and for the moneys to be distributed equally between his four children,

⁴³ AB at p 397; Patricia's AEIC dated 15 November 2022 at para 84 and exhibit "PK-16".

⁴⁴ Plaintiffs' written submissions dated 10 July 2023 at para 109.

as provided under the terms of his Will and Codicil.⁴⁵ Although Dr Khoo had converted the FD Account and POSB Account into joint accounts, counsel for the Plaintiffs submits that there is no evidence to support a clear intention from Dr Khoo to gift the moneys in the Joint Accounts to the Defendants as the joint account holders. Substantial weight should be accorded to the fact that the material terms of the Will relating to the distribution of moneys in the Joint Accounts were not amended by Dr Khoo in his Codicil. Counsel also submits that the presence of a survivorship clause in the banks' terms and conditions governing the Joint Accounts should not be a decisive factor in determining whether the right of survivorship applies.⁴⁶ As for the Defendants' evidence that Patricia was Dr Khoo's favourite child, having demonstrated a willingness to take care of her parents and that Dr Khoo wanted to provide financial support for Evelyn in her twilight years, counsel points out that the majority of the Defendants' evidence in relation to Dr Khoo's feelings or opinions of his children were based on what *the Defendants had perceived* from his actions or expressions. Counsel thus submits that such evidence should not be given much weight as they are presumptive in nature.⁴⁷

27 As it is the Plaintiffs' case that there is sufficient direct evidence demonstrating Dr Khoo's intention to distribute the moneys in the Joint Accounts equally between his four children, as provided under the terms of his Will and Codicil, counsel contends that a resulting trust arises in favour of the Estate to displace the presumption of the right of survivorship.⁴⁸

⁴⁵ Plaintiffs' written submissions dated 10 July 2023 at para 122.

⁴⁶ Plaintiffs' written submissions dated 10 July 2023 at paras 111–114.

⁴⁷ Plaintiffs' written submissions dated 10 July 2023 at paras 115–116.

⁴⁸ Plaintiffs' written submissions dated 10 July 2023 at paras 99 and 122.

28 In the alternative, if the evidence as to Dr Khoo’s actual intention is found to be equivocal, counsel contends that the presumption of resulting trust applies. This is because there was a transfer of property to Patricia and Evelyn for which they had not provided any consideration and the moneys in the Joint Accounts were contributed solely by Dr Khoo. Furthermore, the presumption of advancement applies but is rebutted by the evidence which shows that, while Dr Khoo was alive, he had full and complete dominion over the moneys in the Joint Accounts and used the moneys primarily for himself.⁴⁹

Remedies sought by the Plaintiffs

29 Based on the foregoing, the Plaintiffs seek the following remedies:⁵⁰

- (a) A declaration that all of the \$4,080,000 in the Joint Accounts as at the date of Dr Khoo’s death, as well as all moneys mentioned in the Will and/or Codicil belong to the Estate (collectively, the “Will and Codicil Moneys”) and that the Will and Codicil Moneys were and are held on trust by the Defendants for the Estate and the beneficiaries in the Will and Codicil.
- (b) An order for the Defendants to return to the Estate all the documents and material with regard to the Will and Codicil Moneys that are in the possession, power or control of Patricia.
- (c) An injunction to restrain the Defendants (whether in acting by their servants or agents or any of them or otherwise) from dispersing any of the Will and Codicil Moneys.

⁴⁹ Plaintiffs’ written submissions dated 10 July 2023 at paras 125–128.

⁵⁰ SOC at pp 9–11.

(d) An order that the Defendants give an account of the Will and Codicil Moneys to the Plaintiffs on behalf of the Estate or to the Estate and to pay such amount of the Will and Codicil Moneys found to be due to the Estate to the Estate forthwith.

(e) An order that the Defendants pay the interest on the amount of the Will and Codicil Moneys found to be due to the Estate in the amount of interest that would have accrued if such moneys had been left in their respective accounts to the Estate.

(f) In the alternative to (e) above, an order that the Defendants pay interest on the amount found to be due to the Estate at such rate and for such periods as the court deems fit and just.

(g) An order that the Defendants give an account of the cash balance(s) that were locked in Dr Khoo's drawer, as referred to in Schedule A of the Will (the "Cash Balance") as at the date of Dr Khoo's death to the Plaintiffs on behalf of the Estate or to the Estate and pay such amount of the Cash Balance found to be due to the Estate to the Estate forthwith.

(h) An order that Patricia shall sign and submit the Schedule of Assets in P 226/2021, which includes the Will and Codicil Moneys and the Cash Balance, pursuant to the prayers herein, to the Family Justice Court ("FJC") within two weeks from the date of this order, and that Patricia shall sign and submit an affidavit verifying the Schedule of Assets to the FJC within one week from the date of the FJC's acceptance of the Schedule of Assets.

- (i) That the costs of this suit are to be paid by the Defendants to the Plaintiffs on an indemnity basis.
- (j) Interest, pursuant to s 12 of the Civil Law Act 1909 (2020 Rev Ed).
- (k) Such further and/or other relief as the court deems fit.

The Defendants' case

30 The Defendants' case relies heavily on the fact of Dr Khoo's conversion of the Joint Accounts in November 2019. They say that whilst the Joint Accounts were listed in Schedule A of the Will executed in 2012, Dr Khoo had changed his mind by November 2019 and no longer intended for the moneys in the Joint Accounts to be distributed to his four children in equal shares.⁵¹

31 Counsel for the Defendants submits that upon Dr Khoo's demise, by operation of the right of survivorship, it is presumed that Patricia and Evelyn jointly hold the entire balance of the moneys in the Joint Accounts as legal and beneficial owners. The Plaintiffs and Teng Jin are unable to show a contrary intention on the part of Dr Khoo that he intended to retain beneficial ownership of the Joint Accounts. On the contrary, there is sufficient evidence that Dr Khoo intended to gift the balance of the moneys in the Joint Accounts to Patricia and Evelyn upon his demise.⁵²

32 In the alternative, counsel for the Defendants contends that any presumed resulting trust which arises is: (a) a weak one, given the strength of the evidence showing Dr Khoo's intention to gift the moneys in the Joint

⁵¹ Defendants' written submissions dated 10 July 2023 at paras 6–7.

⁵² Defendants' written submissions dated 10 July 2023 at para 19(a)–(c).

Accounts to Patricia and Evelyn;⁵³ and (b) displaced by a strong presumption of advancement that applies in favour of Evelyn and Patricia, as Dr Khoo's wife and eldest daughter respectively, given the nature and state of their relationships with him.⁵⁴

33 As to the prayer (see [29(g)] above) that the Defendants give an account of the Cash Balance as at the date of Dr Khoo's death, the Defendants take the position that there is no dispute between the parties as to the Cash Balance, and therefore, no basis for the Plaintiffs to seek any relief in relation to the same. At no point did the Defendants claim that they are the sole owners of the Cash Balance. Furthermore, it is undisputed that Patricia is currently safekeeping the Cash Balance with the knowledge and consent of the Plaintiffs.⁵⁵

34 At this juncture, I accept that there is no dispute as to the Cash Balance. Patricia deposed that in or around February 2021, she gathered Katherine, Joyce and Evelyn in Dr Khoo's room to witness the opening of the locked room drawer in which the Cash Balance was kept. With the knowledge and consent of Katherine and Joyce, Patricia then held onto the Cash Balance for the purposes of safekeeping. She also stated that the Cash Balance amounts to \$3,380 and that she has not used any amount of the Cash Balance since the day it was removed from the drawer in Dr Khoo's room.⁵⁶ At trial, when cross-examined as to this point, Katherine agreed that the Plaintiffs had told Patricia

⁵³ Defendants' written submissions dated 10 July 2023 at para 152.

⁵⁴ Defendants' written submissions dated 10 July 2023 at para 19(d)–(e).

⁵⁵ Defendants' written submissions dated 10 July 2023 at para 172.

⁵⁶ Patricia's AEIC dated 15 November 2022 at para 182.

to hold onto the Cash Balance for safekeeping.⁵⁷ I am therefore satisfied that there is no dispute between the parties as to the Cash Balance.

The Defendants' counterclaim

35 On the basis of the above matters, the Defendants added Teng Jin as the third defendant to the counterclaim, and counterclaim for:⁵⁸

- (a) A declaration that upon the demise of Dr Khoo on 21 January 2021, the Defendants jointly hold the legal and beneficial interest to the entire balance of the moneys in the Joint Accounts, in accordance with the terms and conditions of the said accounts.
- (b) Costs.
- (c) Such further or other relief as the court deems fit.

The third defendant (by counterclaim)'s case

36 Teng Jin broadly aligns himself with the Plaintiffs' position that there is strong and conclusive evidence of Dr Khoo's intention for the moneys in the Joint Accounts to form part of his Estate and for the moneys to be distributed equally between his four children, as provided under the terms of his Will and Codicil. In the circumstances, counsel for Teng Jin submits that a resulting trust plainly arises in favour of the Estate to displace the right of survivorship.⁵⁹

37 In the alternative, assuming that there is no evidence of Dr Khoo's actual intentions and desires, counsel for Teng Jin submits that the presumption of

⁵⁷ NE 10 May 2023 at 51 line 22–52 line 12.

⁵⁸ DCC at pp 20 and 21.

⁵⁹ Teng Jin's written submissions dated 10 July 2023 at paras 190 and 191.

resulting trust which arises is *extremely strong*.⁶⁰ The presumption of advancement applies but it is a weak one. Evelyn was not financially dependent on Dr Khoo and, in fact, receives a monthly pension of \$2,100 and a monthly rental income of \$7,000 from a commercial shophouse property that she inherited from her parents. Furthermore, the Defendants' claims that Evelyn and Dr Khoo's marriage was a loving one and that Patricia was the "closest" to Dr Khoo are overstated. In any event, counsel for Teng Jin submits that the (weak) presumption of advancement is easily rebutted on the facts.⁶¹

Issues to be determined

38 The following issues arise for my determination:

- (a) Whether there is clear evidence of the intention of Dr Khoo, at the time of conversion of the Joint Accounts on 7 November 2019, to retain all beneficial interest in the Joint Accounts for himself, or conversely, to gift the beneficial interest in the Joint Accounts to the Defendants.
- (b) If there is no clear evidence of the intention of Dr Khoo at the material time, whether a presumption of resulting trust arises in favour of the Estate by virtue of the gratuitous nature of the conversion of the Joint Accounts on 7 November 2019.
- (c) If a presumption of resulting trust arises in favour of the Estate, whether a presumption of advancement arises in favour of the Defendants to rebut the presumption of resulting trust.

⁶⁰ Teng Jin's written submissions dated 10 July 2023 at paras 197 and 198.

⁶¹ Teng Jin's written submissions dated 10 July 2023 at paras 199–210.

39 The parties have indicated that they would make their full submissions on costs after judgment has been delivered.⁶²

The applicable legal principles

40 The parties broadly agree on the applicable legal principles as set out in *Estate of Yang Chun (Mrs) née Sun Hui Min, deceased v Yang Chia-Yin* [2019] 5 SLR 593 (“*Yang Chun*”).⁶³ In that case, an issue arose as to whether ownership of moneys in bank accounts held in the joint names of Mr Yang and his wife, Mdm Sun, passed to Mdm Sun by operation of the right of survivorship upon Mr Yang’s death (*Yang Chun* at [50] and [51]). Ang Cheng Hock JC (as he was then) found that Mr Yang and Mdm Sun had made unequal contributions to the joint accounts (*Yang Chun* at [70]). Ang JC affirmed that the principles of survivorship are equally applicable to joint bank accounts, citing the decision of Warren L H Khoo J in *Tan Seng Pow v Tan Seng Hock* [1992] SGHC 104 (“*Tan Seng Pow*”), and held that the operation of the right of survivorship turned on the following successive stages of analysis (*Yang Chun* at [53]–[55], [57]–[58], [61] and [64]):

- (a) First, citing the grounds of decision of Judith Prakash J (as she then was) in *Collars Muriel Esther de Jesus v Sandra Audrey Jude Collars* [2008] SGHC 110 at [30], in the case of a joint bank account, there is a presumption that the survivor(s) takes the whole of the benefit of the account in the absence of a contrary intention. The onus would be on the person challenging the right of survivorship to demonstrate a contrary intention.

⁶² Plaintiffs’ reply submissions dated 31 July 2023 at para 68; Defendants’ written submissions dated 10 July 2023 at para 174.

⁶³ Plaintiffs’ written submissions dated 10 July 2023 at para 108; Defendants’ written submissions dated 10 July 2023 at para 13.

(b) Where such a contrary intention can be shown, the rule of survivorship may be displaced by a resulting trust or a presumed resulting trust. A resulting trust will arise where there is evidence of a clear intention on the part of the deceased to retain beneficial ownership of the joint account. On the other hand, the presumption of resulting trust will operate where there has been a transfer of property to the survivor(s) for which the survivor(s) has not provided the whole of the consideration (*Lau Siew Kim v Yeo Guan Chye Terence and another* [2008] 2 SLR(R) 108 (“*Lau Siew Kim*”) at [35]) and there is no evidence before the court which “adequately reveals the true intention of the transferor” (*Su Emmanuel v Emmanuel Priya Ethel Anne and another* [2016] 3 SLR 1222 (“*Su Emmanuel*”) at [79]).

(c) Where the presumption of resulting trust arises, the deceased’s lack of intention to benefit the survivor(s) is *inferred*. The burden of proof shifts such that the deceased is presumed to have intended to retain the beneficial ownership of the property. Ang JC further noted that the Court of Appeal in *Lau Siew Kim* had made it clear that the presumption of resulting trust “should not be applied mechanically” and that the strength of the presumption must be accorded varying weight, depending on the particular circumstances of each case.

(d) Next, Ang JC pointed out that the presumption of resulting trust, being a rebuttable presumption in cases where it arises, is capable of being rebutted in certain circumstances where the transferor may be regarded as having made a gift to the recipient, with no intention to retain an interest in the property concerned. This is the presumption of advancement, which is only relevant where a presumed resulting trust has already been found on the facts (*Lau Siew Kim* at [57]). If applicable,

the presumption of advancement shifts the burden of proof *back* to the party who challenges the transfer to the surviving recipient.

(e) In respect of the application of the presumption of advancement, Ang JC also highlighted the Court of Appeal's view in *Lau Siew Kim* that, as with the presumption of resulting trust, so too the strength of the presumption of advancement would vary according to the individual circumstances of each case (see *Lau Siew Kim* at [77]). This "would allow a court to more accurately give effect to the parties' intentions". The Court of Appeal in *Lau Siew Kim* endorsed a fact-sensitive inquiry, with two key elements that guide this inquiry: (a) first, the nature of the relationship between the parties, *eg*, the obligation that one party has to the other; and (b) second, the state of the relationship, *eg*, whether the parties were in a close or distant relationship. Based on the weight of the evidence, the court will determine if the presumption of advancement has been successfully rebutted. If the challenging party succeeds in defeating the presumption of advancement, then the original presumption of resulting trust will operate. Conversely, if the challenging party fails, the presumption of advancement will displace the presumption of resulting trust and the right of survivorship shall take.

41 In *Lau Siew Kim*, the Court of Appeal noted that the presumption of advancement comes into play to displace the presumption of resulting trust where there is a pre-existing relationship between the parties which falls into one of the established categories of relationships. Such recognised categories of relationships include transfers from husband to wife, and from father to child (*Lau Siew Kim* at [60] and [107]).

42 In *Ho Woon Chun (administratrix of the estate of Ho Fook Tuck, deceased) v Wang Kai Qing* [2023] SGHC 115, Mavis Chionh J further observed (at [51]) that in applying the analytical approach set out by Ang JC in *Yang Chun*, it is also important to bear in mind the Court of Appeal’s statement in *Chan Yuen Lan v See Fong Mun* [2014] 3 SLR 1048 (“*Chan Yuen Lan*”) (at [52]) that “the question in every case where the claim is based on the existence of a resulting trust is still whether there is any direct *evidence that may adequately reveal the intention of the transferor*” [emphasis in original]. The Court of Appeal in *Chan Yuen Lan* endorsed the reasoning of the High Court in *Lim Chen Yeow Kelvin v Goh Chin Peng* [2008] 4 SLR(R) 783 (“*Kelvin Lim*”). In that case, the High Court found that it was not necessary to make use of presumptions such as the presumption of resulting trust because it was satisfied on the basis of the evidence before it that the deceased had intended to give the moneys in the joint bank account to the defendant. In so finding, the court observed (at [116]) (and its observations were cited with approval by the Court of Appeal in *Chan Yuen Lan*):

... If the court could discern a clear intention on the part of the deceased to gift all the moneys in the joint account to the survivor from the evidence before it, then there should be no need to apply any presumption of a resulting trust to aid the fact-finding or decision-making process. *Only when the court is not able to find any clear intention or if the evidence is inconclusive either way as to what the deceased’s real intention might be, then in this rather limited and exceptional situation (where the evidence is so finely balanced on either side) should the court apply the evidential presumption of a resulting trust to tilt the balance in favour of the estate of the deceased (who solely contributed the moneys in joint account).*

[emphasis added]

My finding: there is clear evidence that Dr Khoo intended to retain the beneficial interest in the Joint Accounts at the material time

43 Bearing the above principles in mind, I first consider whether there is clear evidence of Dr Khoo’s actual intention at the time of the conversion of the Joint Accounts on 7 November 2019.

The banks’ terms and conditions governing the Joint Accounts

44 The Defendants submit that the FD Account is governed by the UOB Terms and Conditions and that the POSB Account is governed by the DBS Terms and Conditions, and these terms and conditions incorporate the right of survivorship at common law.⁶⁴ They further cite *Lau Siew Kim* at [108]:

... In particular, in the case of bank accounts held *and operated* jointly by persons in the established categories of relationships, there will be a strong inference that the rule of survivorship is intended to apply. This may be reinforced, if there exist bank documents which prescribe and declare the operation of survivorship in relation to the joint account; such documents could constitute cogent evidence of the parties’ intention that the absolute benefit of the account should devolve to the surviving joint account-holder. ***Nevertheless, this needs to be assessed in relation to the factual matrix***; see *Low Gim Siah* ... at [51].

[emphasis in original in italics, emphasis added in bold italics]

45 Owing to the reliance placed by the Defendants on the banks’ respective terms and conditions governing the Joint Accounts, it is instructive to be reminded of the legal principles in relation to such documents. When a person opens an account with a bank, he enters into a contract with that bank. Their relationship will be determined by the terms of that contract by which the account holders agree to abide. It is therefore well-settled that *the bank’s* legal obligations in the opening of a joint account are governed by the terms of the

⁶⁴ DCC at para 16.

contract between the bank and the joint account holders: Poh Chu Chai, *Law of Banker and Customer* (LexisNexis, 6th Ed, 2016) at p 225.

46 Where the bank's terms and conditions provide for the right of survivorship, the survivorship clause must be interpreted by giving it its plain meaning. Case authority has, however, established that a survivorship clause without more is a *contractual* arrangement between the bank and the joint account holders as to how to deal with the moneys in a joint account and, therefore, *not* conclusive evidence of the parties' intention as to ownership of the moneys in the joint account. In *Low Gim Siah and others v Low Geok Khim and another* [2007] 1 SLR(R) 795 ("*Low Gim Siah*"), the Court of Appeal cited with approval the decision of the Ontario Court of Appeal in *Saylor v Madsen Estate* (2006) 261 DLR (4th) 597 ("*Saylor*"). The facts of *Saylor* can be stated simply: the father, who died in 1998, had made one of his daughters ("Ms Brooks") a joint signatory to his bank accounts, which provided for a right of survivorship. In September 1997, the joint accounts were closed, and the funds deposited into an investment account, which again was a joint account with Ms Brooks and had a right of survivorship (*Saylor* at [10]). During the father's lifetime, Ms Brooks did not deposit any of her own moneys into the accounts and only drew out cheques on her father's directions (*Saylor* at [33]). The issue was whether the father had intended to make a gift of that moneys to Ms Brooks or whether he intended to remain the beneficial owner of it (*Saylor* at [11]). The Ontario Court of Appeal, in upholding the trial judge's finding that no gift to Ms Brooks had been intended, considered that the probative value of bank documents could only be ascertained after an assessment of the totality of the relevant evidence (*Saylor* at [27], [40]–[41]). As the case demonstrated, such bank documents do not always provide accurate evidence of the parties' intentions. In this regard, I find helpful the approach as stated by LaForme JA (*Saylor* at [27] and [31]):

[27] Bank documents can be strong evidence of a party's intention at the time the parties signed them. ***I do not, however, agree that the bank documents should be assigned presumptive value when trying to determine a party's intention.*** The probative value of such documents, like any other relevant evidence, can only be ascertained after an assessment of the totality of the relevant evidence. As this case demonstrates, the document does not always provide accurate evidence of the parties' intent.

...

[31] The more recent bank agreements provide for a right of survivorship so it can no longer be said that the documents do not define rights as between the joint account holders. ***However, there is no reason to treat the documents as dispositive of the actual relationship between the parties.*** Documents remain a piece of evidence — perhaps a very important piece of evidence — going to the intention of the parties who created the document. Nevertheless, ***the weight to be assigned to such documents in any given case must be left to the trier of fact.***

[emphasis added in bold italics]

47 The above approach is aptly illustrated by the factual matrix in *Low Gim Siah*, which was referred to in the passage from *Lau Siew Kim*, as cited by the Defendants (at [44] above). In *Low Gim Siah*, the deceased (“LKT”), had held six bank accounts jointly with one of his sons (“LGB”), during his lifetime (*Low Gim Siah* at [1]). The joint accounts each provided for the right of survivorship and stipulated that either co-account holder's signature was sufficient to operate the accounts (*Low Gim Siah* at [9] and [10]). Nonetheless, the evidence showed that LKT made sure that only he could draw on the joint accounts (*Low Gim Siah* at [49]). The Court of Appeal thus found that LKT had retained full and complete dominion throughout his life over the moneys in the six joint accounts, and this fact of absolute dominion was sufficient to rebut the presumption that LKT intended for LGB to have the moneys in the joint accounts upon his death (*Low Gim Siah* at [51]).

48 In a similar vein, in relation to transfer documents generally, it was pertinently observed by the Appellate Division of the High Court in *Lim Choo Hin (as the sole executrix of the estate of Lim Guan Heong, deceased) v Lim Sai Ing Peggy* [2022] 1 SLR 873 (“*Lim Choo Hin*”) that “our courts have previously found that properties were held on trust for the transferor *in the face of* transfer documents suggesting that the transfer had been intended as a gift” [emphasis added] (at [11]). In *Lim Choo Hin*, the sole registered proprietor of a flat (“Mr Lim”) had transferred the flat to himself and his daughter (“LSI”) as joint tenants (at [2]). The sole executrix of LGH’s estate (“LCH”) brought an application seeking a declaration that LSI held the flat on trust for Mr Lim’s estate (*Lim Choo Hin* at [1]). At first instance, the trial judge relied in particular on a stamp on the Title Deed which reflected that the 1981 Transfer had taken place, and which stated that the flat had been “TRANSFER[RED] TO [LSI] (BY GIFT) AND [MR LIM] AS JOINT TENANTS OF THE WITHIN LEASEHOLD ESTATE” [emphasis in original] (*Lim Choo Hin* at [10]). On appeal, the Appellate Division of the High Court disagreed, stating that whilst these transfer documents are contemporaneous records, they could hardly be said to be *conclusive* of the transferor’s actual intent or state of mind at the material time (*Lim Choo Hin* at [11]). Furthermore, the importance of considering the circumstantial evidence in that case was reinforced by the fact that Mr Lim, being deceased, was no longer able to provide direct evidence of his own intentions (*Lim Choo Hin* at [12]).

49 I would add also that a bank is only concerned with its obligations and liabilities to the customer. It is not typically concerned with the identity of the person *beneficially entitled* to the chose in action that is the joint account. This is rightly so, as such an undertaking may increase the costs to the bank of providing such a service. Hence, in the standard terms considered at [12] above, UOB bank reserves the right to “take such steps [it] deem[s] appropriate

including paying the credit balance in the [FD Account] into a court”. Hence, while the fact of adding a person as a joint account holder may be evidence of an intention of a gift, it is not determinative of that intention.

50 Bearing the above principles in mind, I am satisfied, for the reasons stated at [59] and [67] below, after considering the totality of the evidence in this case, that the banks’ terms and conditions governing the Joint Accounts are not conclusive of Dr Khoo’s state of mind at the material time. The Codicil was executed just 11 days after the conversion of the Joint Accounts and made it plain that Dr Khoo continued to treat the moneys in the Joint Accounts as *his* moneys to be bequeathed under the Will and Codicil.

The undisputed chronology of events

51 There is no dispute between the parties as to the chronology of the following material facts (the “Material Chronology”):

- (a) Dr Khoo executed the Will on 10 August 2012;
- (b) Dr Khoo was diagnosed with liver cancer in October 2019;
- (c) Patricia and Evelyn were added as co-account holders of the FD Account and the POSB Account on 7 November 2019, with the signature of any one co-account holder being sufficient for the operation of the Joint Accounts; and
- (d) Dr Khoo executed the Codicil on 18 November 2019.

Conversion of the Joint Accounts on 7 November 2019

52 The Defendants’ case on these events is that Dr Khoo’s conversion of the Joint Accounts on 7 November 2019 showed his intention to gift the entirety

of the beneficial interest in the Joint Accounts to the Defendants upon his demise. There is no direct evidence that Dr Khoo expressly stated his intention as such, but the Defendants rely on the cumulative weight of the circumstantial evidence as follows. Dr Khoo's trip to the UOB Parkway Parade Branch on 7 November 2019 was "out of the ordinary" as Dr Khoo typically would only visit UOB for the purpose of renewing his fixed deposits when they were due to mature. None of Dr Khoo's fixed deposits with UOB were maturing or due for renewal on or around that date, and the Defendants submit that the trip was specifically arranged by Dr Khoo for the sole purpose of converting the Joint Accounts.⁶⁵

53 The Defendants also rely on Patricia's evidence that upon returning home from the banks on 7 November 2019, Dr Khoo handed her the POSB Passbook for the POSB Account and the fixed deposit slips for the fixed deposits placed with UOB. He then told her, "[i]t's yours".⁶⁶ However, I note that this was *Patricia's account* of what Dr Khoo had stated. It is unclear what Dr Khoo meant by the word "it", whether he intended this to be a definitive statement of intent, and whether Dr Khoo was even referring to the POSB Passbook, the fixed deposit slips and/or the moneys in the Joint Accounts. I therefore do not give this piece of evidence ("[i]t's yours") considerable weight in the light of the clear and compelling evidence suggesting otherwise (see [59] and [67] below).

54 In my view, the conversion of the Joint Accounts was, by itself, a neutral factor. Whilst this could be consistent with an intention to gift the beneficial

⁶⁵ Patricia's AEIC dated 15 November 2022 at para 80; Defendants' written submissions dated 10 July 2023 at para 94.

⁶⁶ Patricia's AEIC dated 15 November 2022 at para 82.

interest in the Joint Accounts to the co-account holders (*ie*, the Defendants), it could also be equally consistent with Dr Khoo’s intention for the Defendants to assist Dr Khoo in the administration of his medical expenses from the Joint Accounts. To adopt a loose analogy, it would be akin to a person, X, keeping moneys in a safe which can be unlocked by either of two keys. The fact that X hands over one key to Y, in circumstances which suggested that X was aware of his deteriorating health, such that X might not be able to access the safe as readily as before, does not necessarily mean that X intended to *gift* Y the moneys in the safe. Whilst, of course, there is a conceptual difference between moneys in a safe and a bank account (the latter of which is a chose in action), it appears to me that employing a loose proprietary analogy for the purposes of ascertaining X’s state of mind nonetheless accords with the layperson’s view of what he does when he opens a bank account, which for most people, is to store his moneys. This was certainly the case for Dr Khoo, who kept his life savings in the Joint Accounts. In the present case, the latter explanation (*viz*, administrative convenience) was certainly *plausible* and cannot be ruled out in light of Dr Khoo’s cancer diagnosis in October 2019.

55 The Defendants rely on the decision in *Kelvin Lim*, where Chan Seng Onn J, as he then was, found that the deceased (“Bee Bee”) had intended to give the moneys in her joint account to the co-account holder defendant (at [128]–[129]). Chan J gave “considerable weight” to Bee Bee’s “deliberate and considered action” to include the defendant as a joint signatory and to convert her UOB account into a joint account with the defendant on 25 June 2004 (*Kelvin Lim* at [102]). The defendant was Bee Bee’s boyfriend and co-habitant during her lifetime, and the “second love of [Bee Bee’s] life” (*Kelvin Lim* at [1] and [109]). Chan J also considered that the banks’ terms and conditions providing for the right of survivorship, which both the defendant and Bee Bee agreed to, constituted “very strong evidence of what Bee Bee’s true intentions

were, namely that he, the defendant, was to have the money beneficially if he survived her” (*Kelvin Lim* at [80]).

56 However, the outcome in *Kelvin Lim* must be considered in the context of its factual matrix. It is relevant that Bee Bee’s “deliberate and considered action” to convert the joint account on 25 June 2004 was *five years* after her second will was executed, in which Bee Bee had left all her real and personal property to the plaintiff upon her death (*Kelvin Lim* at [29]). The plaintiff was Bee Bee’s nephew, and he gave evidence that Bee Bee had always looked after him as her son. They evidently shared a close relationship as Bee Bee and her ex-husband (“Michael”) did not have any children of their own and she effectively adopted the plaintiff as her godson (*Kelvin Lim* at [5] and [10]). Crucially, Chan J stressed that at the time that Bee Bee executed her second will on 16 November 1999, the defendant had yet to enter her life (*Kelvin Lim* at [29]). However, the personal situation of Bee Bee “changed substantially” after the second will and Chan J was alive to the possibility that, if Bee Bee had a change of intention on how her moneys should be distributed, “changing her will was not the only course open to [Bee Bee] and she could always, for example, make an *inter vivos* gift” (*Kelvin Lim* at [31]). In the circumstances, it must also be borne in mind that Bee Bee did not take any other step *relevant to* her testamentary intention in relation to the joint account *after* the conversion of the said account on 25 June 2004.

57 Two key features of the present case are, therefore, the Material Chronology and the terms of the Codicil. These provide important context to the conversion of the Joint Accounts and make it abundantly clear that Dr Khoo intended for the moneys in the Joint Accounts to form part of his Estate. Whilst I considered the possibility that Dr Khoo could have had a change of intention in November 2019, as submitted by the Defendants, it is highly significant that

the Codicil was executed just 11 days after and, on the Defendants’ own case and evidence, in circumstances where Dr Khoo’s attention had been brought to the material terms and conditions governing the Joint Accounts and what they meant (see [15] above). I therefore turn to consider the terms of the Codicil in greater detail.

The terms of the Codicil

58 A codicil is executed for the purpose of adding to, varying or revoking the provisions of a will that was previously made: *Halsbury’s Laws of Singapore* vol 15 (LexisNexis, 2016 Reissue) at para 190.165. By the Codicil executed on 18 November 2019, Dr Khoo made several amendments to his Will (as set out at [16(a)]–[16(f)] above). Insofar as the distribution of the moneys in the Joint Accounts is concerned, the relevant amendments to the Will are set out at: (a) cl 1.4.2 of the Codicil, to direct that the Cash Gift be taken out “from the total amount of [Dr Khoo’s] fixed deposits” and be paid to Evelyn as a cash gift; and (b) cl 1.4.4 of the Codicil, to update that the business of POSB Siglap Branch had since been taken over by POSB Marine Parade Branch. Significantly, Dr Khoo did not amend the Will *to remove* the inclusion of the Joint Accounts for distribution to his four children in equal shares under Schedule A of his Will.

59 I therefore find that the plain meaning of cl 1.4.2 of the Codicil affirms Dr Khoo’s expressed intention, under cl 5(1) read with Schedule A of the Will, to distribute the moneys in the Joint Accounts to his four children in equal shares. In specifying that the Cash Gift be paid to Evelyn as a gift, it shows that he considered, 11 days after changing the accounts to joint accounts, that the entirety of the \$4,080,000 was his to dispose of. In a similar vein, in the terms of the Codicil, Dr Khoo continued to refer to the moneys in the Joint Accounts

as “**my** total fixed deposits of \$4,080,000.000” and “**my** fixed deposits” [emphasis added in bold italics] (cl 1.4.2 of the Codicil). Therefore, despite the Defendants’ evidence that Dr Khoo was aware of the survivorship clauses in the banks’ terms and conditions governing the Joint Accounts (see [15] and [57] above), the plain meaning of the Codicil and the fact that it was executed only 11 days after the conversion of the Joint Accounts *clearly indicates* that Dr Khoo intended to retain all beneficial interest in the Joint Accounts at the material time.

60 In response to this, counsel for the Defendants places weight on Evelyn’s explanation of the events leading up to the Cash Gift. In early November 2019, in the midst of four private discussions between Patricia and Dr Khoo regarding Dr Khoo’s “testamentary wishes” (the “Four Discussions”),⁶⁷ Patricia informed Evelyn that Dr Khoo intended to make changes to his Will, but that Evelyn did not have to worry as she would be allowed to continue living in the Property until her death. Evelyn replied that she wished to see Dr Khoo’s Will. After obtaining Dr Khoo’s permission to do so, Patricia then showed Evelyn the Will.⁶⁸ Evelyn explained that when she saw that the list of figures in the Will totalling \$4,080,000, she suggested to Dr Khoo that he give her a sum of \$80,000, which he agreed to. At the time, Evelyn had not known that Dr Khoo intended to convert the FD Account into a joint bank account. Relying on these events, counsel for the Defendants submits that Dr Khoo acceding to Evelyn’s “relatively modest” request for \$80,000 was intended to be a symbolic gesture and to make clear to Patricia that whatever

⁶⁷ Patricia’s AEIC dated 15 November 2022 at paras 64–75.

⁶⁸ Patricia’s AEIC dated 15 November 2022 at para 73; Evelyn’s AEIC dated 15 November 2022 at para 75.

plans she may have for the moneys in the Joint Account, at least \$80,000 should be set aside for Evelyn.⁶⁹

61 However, even if I accept this to be the explanation behind the Cash Gift in cl 1.4.2 of the Codicil, it nonetheless contradicts the plain meaning of the terms of the Codicil which Dr Khoo executed (see [59] above). In fact, the organised and meticulous manner in which Dr Khoo handled his affairs, especially in matters concerning his assets and what would become of them after his death, was demonstrated through the Defendants' *own* evidence on the Four Discussions. The Four Discussions, to which only Patricia (out of all the parties) was privy to, also suggest that Dr Khoo had formed the requisite intention to amend his Will several days *before* his act of converting the Joint Accounts on 7 November 2019. These Four Discussions took place between 3 and 6 November 2019. Patricia's evidence is that at the first discussion on 3 November 2019, Dr Khoo told Patricia that he wanted the Property to be kept in the family as he had received it as a gift from his mother. He also told Patricia that he wanted Evelyn to be able to live comfortably in the Property for the rest of her life with Patricia as her primary caregiver. Patricia expressed that she was keen to buy the Property as it was of great sentimental value to her, but she was worried that she might not have sufficient means and funds to purchase it. In response, Dr Khoo then stated that he would "*help* [Patricia]" [emphasis added].⁷⁰

62 What followed was a second discussion on 4 November 2019, in which Dr Khoo instructed Patricia to draft a letter to the trustees/executors of the Will

⁶⁹ Defendants' written submissions dated 10 July 2022 at para 112.

⁷⁰ Patricia's AEIC dated 15 November 2022 at paras 65–66; NE 12 May 2023 at 79 lines 3–8.

(the “Draft Letter”) stating that: (a) he wanted the Property to be sold to Patricia at the average of two valuations; (b) Evelyn be allowed to stay in the Property as long as she wished or until her demise; (c) Dr Khoo only wanted Patricia and Katherine to be the executors of the Will; and (d) Dr Khoo was of sound mind when he made these decisions. Dr Khoo then instructed Patricia to reach out to his lawyer, Mr Ching, to make the following amendments to the Will: (a) to remove Joyce as a joint co-executrix of his Will; and (b) that upon Dr Khoo’s passing, the Property would be sold to Patricia at a price that is the average of two valuations and that Evelyn would be allowed to stay at the Property for as long as she wished or until her demise.⁷¹

63 The third discussion took place on 5 November 2019, during which Patricia sought Dr Khoo’s confirmation of the Draft Letter that she had prepared.⁷²

64 The fourth discussion took place on 6 November 2019, during which Dr Khoo instructed Patricia to tell Mr Ching that he also wanted to specify in the Will that a sum of \$80,000 be taken from the total amount of his fixed deposits in the FD Account and given to Evelyn as a cash gift (*ie*, the Cash Gift). This discussion took place *one day before* Dr Khoo’s conversion of the Joint Accounts on 7 November 2019.

65 It is plain that the subject matter of the Four Discussions can be tracked to the *express* changes that Dr Khoo made to his Will by way of the Codicil, which was eventually executed on 18 November 2019. I make two observations from the Four Discussions. First, the Four Discussions were consistent with

⁷¹ Patricia’s AEIC dated 15 November 2022 at paras 71–72; NE 12 May 2023 at 81 lines 17 to 84 line 8.

⁷² Patricia’s AEIC dated 15 November 2022 at para 74.

Katherine’s evidence that Dr Khoo was an organised man in his affairs.⁷³ There were no ifs and buts, so to speak, especially in matters concerning the distribution of his assets. Dr Khoo took care to instruct Patricia to make the necessary arrangements to carry out the changes in his testamentary wishes, and followed up with her on whether his instructions had been carried out. For instance, at the third discussion on 5 November 2019, Dr Khoo reviewed the wording of the Draft Letter that Patricia had prepared before instructing Patricia to print it out so that he could sign it in the presence of Dr Robert Lim (“Dr Lim”), an oncologist who had been treating Dr Khoo at that time.⁷⁴ At the same discussion, Dr Khoo also reminded Patricia to contact Mr Ching to make the amendments to his Will, now that the Draft Letter expressing his testamentary wishes had been drafted.⁷⁵

66 My second observation, against this backdrop, is that it is striking that such a material change in Dr Khoo’s testamentary intention (*ie*, to gift the entirety of the moneys in the Joint Accounts to the Defendants), if indeed true, was not instructed by Dr Khoo to be recorded in writing. It is significant that Dr Khoo made no mention during the course of the Four Discussions that the moneys in the Joint Accounts should be gifted to the Defendants upon his demise, nor did he exclude the Joint Accounts from the schedule of assets in his Will. There was likewise no mention of these changes by Dr Khoo in his Draft Letter. These facts support the contention that Dr Khoo did not intend to gift the entirety of the moneys in the Joint Accounts to the Defendants.

⁷³ Katherine’s AEIC dated 15 November 2022 at para 19.

⁷⁴ AB at p 532.

⁷⁵ Patricia’s AEIC dated 15 November 2022 at para 74.

67 The Four Discussions indicate that Dr Khoo had already formed the intention to execute the Codicil between 3 and 6 November 2019 (*ie* before he took the step of converting the Joint Accounts on 7 November 2019), and this is consistent with my finding that Dr Khoo did not intend to *gift* the entirety of the moneys in the Joint Accounts to the Defendants upon his demise. I reiterate that Dr Khoo's fourth discussion with Patricia specified *carving out* the Cash Gift of \$80,000 from the moneys in the FD Account. This suggests that, up until 6 November 2019 at the least, Dr Khoo had every intention that the moneys in the FD Account be distributed upon his death in the manner he had stated in the Will. I accept the submission that it is nothing short of incredible that Dr Khoo might have abruptly changed his mind the very next day during the bank visits and decided to *gift* the entirety of the moneys in the Joint Accounts to the Defendants.⁷⁶

68 For completeness, I find that Dr Khoo removing Joyce as an executor of the Will (see cl 1.1 of the Codicil) does not affect the construction of the relevant terms of the Codicil which relate to the moneys in the Joint Accounts. Furthermore, I accept that whilst Dr Khoo may not have wanted Joyce to be an executor, this does not necessarily indicate that he had changed his intention to treat his four children equally in relation to the moneys in the Joint Accounts.

Dr Khoo's subsequent conduct

69 The Defendants accept that a transferor's retention of complete dominion over a jointly-held asset after the transfer supports the conclusion that the transferor transferred the asset for an administrative or some other self-interested purpose, rather than as a gift to the transferee.⁷⁷ This is illustrated by

⁷⁶ Teng Jin's written submissions dated 10 July 2023 at para 52.

⁷⁷ Defendants' written submissions dated 10 July 2023 at para 36.

the factual matrix in *Low Gim Siah* (see [47] above), in which the Court of Appeal found that LKT had retained full and complete dominion over the money in the six joint accounts throughout his life. The evidence showed that LKT made sure that only he could draw on the joint accounts and it was held that the fact of absolute dominion was sufficient to rebut the presumption that LKT intended for LGB to have the money in the joint accounts upon his death (*Low Gim Siah* at [51]).

70 Nonetheless, the Defendants submit that Dr Khoo’s words (namely, the occasion on 7 November 2019 where he handed Patricia the POSB Passbook and fixed deposit slips and stated “[i]t’s yours”) and conduct following the conversion of the Joint Accounts on 7 November 2019 reveal that he did not treat the moneys in the Joint Accounts as belonging solely to him.⁷⁸ Patricia also gave evidence that on other subsequent occasions, whenever the fixed deposits held in the FD Account were due to mature, Dr Khoo and Patricia would jointly attend at UOB to renew the fixed deposits. Each time, Dr Khoo would ask the bank officer to check and confirm that the FD Account was held in the three joint names.⁷⁹ On another occasion, when Dr Khoo received a letter from DBS dated 8 November 2019, informing him about the change in the account mandate for the POSB Account, he noticed that the letter was only addressed to Patricia and himself. He then asked Patricia to confirm with DBS that the POSB Account was jointly held by Dr Khoo and the Defendants, which Patricia did.⁸⁰ Counsel for the Defendants invokes the rule in *Browne v Dunn* (1893) 6 R 67

⁷⁸ Defendants’ Written Submissions dated 10 July 2023 at para 98.

⁷⁹ Patricia’s AEIC dated 15 November 2022 at para 83.

⁸⁰ Patricia’s AEIC dated 15 November 2022 at para 90 and PK-20 (exhibiting the letter from DBS dated 8 November 2019).

and argues that Patricia’s evidence on this “critical piece” of evidence is unchallenged.⁸¹

71 I am of the view, however, that even if I accept Patricia’s evidence of Dr Khoo’s subsequent conduct, it is not sufficient evidence that Dr Khoo had changed his mind in November 2019. The late Dr Khoo, was, by *Patricia’s* own evidence, a careful and meticulous man as to his affairs⁸², and, *when he intended to make changes to his Will*, took pains to instruct Patricia to prepare a Draft Letter and arrange for it to be signed in the presence of his oncologist, *over and above* his concurrent instructions to Mr Ching to draft the Codicil (see [61] and [65] above). Even though the Defendants assert that Dr Khoo was a man of few words, and he may not have always been precise or detailed when *verbalising* his thoughts and wishes,⁸³ it cannot be disputed that the Four Discussions were more than ample evidence demonstrating Dr Khoo’s care in ensuring that the changes in his testamentary wishes would be properly recorded in writing. It is also clear that other than the Property, the moneys in the Joint Accounts formed the most substantial part of Dr Khoo’s assets for distribution upon his death. A change of such magnitude would no doubt have moved Dr Khoo to do more to ensure that it was clear beyond doubt that the moneys in the Joint Accounts were not to be distributed in accordance with the terms of the Will and Codicil.

⁸¹ Defendants’ written submissions dated 10 July 2023 at paras 14-18 and 98.

⁸² Patricia’s AEIC dated 15 November 2022 at para 7.

⁸³ Defendants’ reply submissions dated 31 July 2023 at para 12; Patricia’s AEIC dated 15 November 2022 at para 82.

The possibility that Dr Khoo had added the Defendants as co-account holders for administrative reasons could not be ruled out

72 The Defendants submit that there were various alternative courses of action that Dr Khoo could have undertaken *if* administrative convenience was truly the reason for the conversion of the Joint Accounts in November 2019. For instance, the Defendants contend that Dr Khoo could have simply given Patricia access to his bank accounts by providing her with the relevant PIN numbers, passwords and/or tokens. Alternatively, Dr Khoo could have designated Patricia as an “authorised person” or “authorised signatory” under the relevant terms and conditions governing the Joint Accounts, which would have enabled Patricia to instruct the banks on Dr Khoo’s behalf. They also contend that Evelyn would not have made for a suitable administrator due to her advanced age and mobility issues.⁸⁴

73 In my view, however, the possibility that Dr Khoo had added the Defendants as co-account holders solely for administrative reasons cannot be conclusively ruled out. By November 2019, Dr Khoo was diagnosed with liver cancer. Patricia had by that time assumed the responsibility of being the primary caregiver for both of her parents. It was also Patricia’s evidence that subsequent to the conversion of the Joint Accounts, the funds in the POSB Account had been used to pay for Dr Khoo’s ongoing medical expenses, as well as daily and household expenses incurred by her parents. Patricia deposed that on or around 12 October 2020, a significant sum of \$180,332.88 had been withdrawn from the fixed deposits in anticipation of nine upcoming sessions of cancer treatment for Dr Khoo.⁸⁵ These support the position that Dr Khoo wanted to add the Defendants as co-account holders of the Joint Accounts so that they could help

⁸⁴ Defendants’ written submissions dated 10 July 2023 at paras 115–121.

⁸⁵ Patricia’s AEIC dated 15 November 2022 at para 87.

in the administration of his medical expenses from those accounts, *if necessary*. Certainly, no one could not have foreseen how or to what extent Dr Khoo's health would impact his mobility or physical condition in the months subsequent to his cancer diagnosis. It was entirely within the realm of possibilities that Dr Khoo, being the careful and organised man that he was as to his affairs, wished to ensure that there would be someone able to withdraw the necessary funds from the Joint Accounts to pay for his bills if he was unable to do so himself.

Dr Khoo's relationship with his family members

74 Over the course of the trial, counsel for the parties made certain allegations about the nature and state of the parties' respective relationships with Dr Khoo. Counsel for the Defendants, in particular, devoted extensive submissions to what, broadly put, were allegations that there had been certain incidents which caused Dr Khoo to lose trust in one of his children or the other, although it was clarified that the Defendants were not running the case that Dr Khoo had had a change of mind because of ill-will towards his other children.⁸⁶ It was also claimed that, out of Dr Khoo's four children, Patricia was the closest to her parents (having assumed the responsibility of being their primary caregiver for many years) and that Dr Khoo trusted her greatly as compared to her three siblings. In contrast to the clear and compelling evidence before the court of Dr Khoo's testamentary intention, however, I would observe that these allegations as to the state of the familial relationships seem to be speculative and directed at how the testator *may* have decided. While I accept that the nature and state of the relationship between the transferor and the recipient is at times relevant in ascertaining the former's intention, in this case,

⁸⁶ Defendants' reply submissions dated 31 July 2023 at para 19.

Dr Khoo's intention is clear from the totality of the evidence before the court (see [58]–[67] above).

75 I am also persuaded that Dr Khoo did not consider the nature and state of his relationships with his family members to be *relevant* to how he wanted the moneys in the Joint Accounts to be distributed upon his death. The Plaintiffs' evidence was that Dr Khoo was a father who treated his four children equally and fairly and that he "did not believe in favouritism".⁸⁷ I am alive to the possible dangers of relying solely on the Plaintiffs' evidence as to Dr Khoo's character (which may be self-serving) but, in my view, the clearest and unbiased evidence of this was Dr Khoo's decision to treat Teng Jin the same as his other children in the distribution of his assets set out in Schedule A of the Will, which includes the Joint Accounts (see cl 5 of the Will at [7] above). The Will was executed on 10 August 2012. It is undisputed by the parties (save for Teng Jin himself) that Teng Jin was estranged from Dr Khoo since 2006, about *six years* prior to the Will, owing to certain incidents which had taken place. I accept that Teng Jin had been estranged from the family, and this fact was also confirmed in the evidence of Dr Khoo's sister-in-law, Mdm Vivienne Hong ("Mdm Hong").⁸⁸ Mdm Hong was the only relative that Teng Jin continued to be in contact with *after* his estrangement. Their good relationship is evident; she is the grand-godmother to Teng Jin's son from his second marriage⁸⁹ and she even deposed that "[o]ften, [she] would remind [Dr Khoo] not to strike [Teng Jin] off the inheritance".⁹⁰ She explained during cross-examination that she "did

⁸⁷ Katherine's AEIC dated 15 November 2022 at para 9; Joyce's AEIC dated 15 November 2022 at paras 6 and 8.

⁸⁸ Mdm Vivienne Hong's AEIC dated 27 October 2022 at para 7; NE 11 May 2023 at 22 lines 17-21.

⁸⁹ NE 11 May 2023 at 21 line 22–22 line 2.

⁹⁰ Mdm Vivienne Hong's AEIC dated 27 October 2022 at para 7.

not expect” that Dr Khoo might have struck him off, but she “want[ed] to be proactive too” in ensuring that Teng Jin would get an inheritance despite his estrangement.⁹¹ Although Mdm Hong was unable to confirm with precision the exact date of Teng Jin’s estrangement, she testified that she knew of the estrangement by the time Teng Jin approached her for help over an incident involving his domestic helper and a police report which he believed Patricia had made⁹² (by Patricia and Teng Jin’s evidence, this incident took place in or around July 2008).⁹³ This therefore broadly corroborated the Plaintiffs’ and Defendants’ evidence of Teng Jin’s estrangement from Dr Khoo since 2006 and, in any event, *before* the Will was executed in August 2012. That Dr Khoo still made provision under his Will for Teng Jin to receive an *equal share* in, *inter alia*, the moneys in the Joint Accounts, and further, failed to modify this position by the terms of the Codicil, therefore showed that even if there was estrangement between them, this did not affect Dr Khoo’s intention to benefit his son after his death.

76 In light of the aforesaid, it is unnecessary to consider the various allegations centred on Dr Khoo’s relationship with the parties, which scandalise, rather than assist, in the conclusion to be drawn.

77 For completeness, however, I add that *even if* the Defendants’ case is taken at its highest and Dr Khoo did favour Patricia over his other children, I accept that the right to purchase the Property given to Patricia and/or her own family nominees *and* to do so within a generous time frame (see cl 1.2.1 of the Codicil) was an additional benefit conferred on Patricia that was not afforded to

⁹¹ NE 11 May 2023 at 29 lines 9-18.

⁹² NE 11 May 2023 at 24 lines 5-12 and 26 lines 2-24.

⁹³ Patricia’s AEIC dated 15 November 2022 at paras 35-47; NE 11 May 2023 at 97 lines 19-20 (Teng Jin).

any of Dr Khoo's other children. This would also be consistent with Patricia's evidence that Dr Khoo had told her that he would "help" her to purchase the Property (see [61] above). I understand this term to mean, in the light of the totality of the evidence, that Dr Khoo was referring to the additional benefits given to Patricia and/or her own family nominees under cl 1.2.1 of the Codicil in respect of the Property.

Conclusion

78 In conclusion, I am satisfied that the totality of the evidence shows clearly that Dr Khoo did not intend to gift the beneficial interest in the Joint Accounts to the Defendants at the material time. Bearing the above principles at [40]–[42] in mind, a resulting trust therefore arises in favour of the Estate. It follows that the parties challenging the right of survivorship, *ie*, the Plaintiffs, have discharged the burden of showing a contrary intention.

79 Furthermore, as I have found that there is direct evidence which clearly and adequately reveals the intention of the transferor, it is unnecessary in the circumstances to resort to the presumptions of resulting trust and advancement (see the principles cited at [40(b)], [40(d)] and [42] above). In *Lau Siew Kim*, the Court of Appeal affirmed that the presumptions of resulting trust and advancement are "no more than a long stop to provide the answer when the relevant facts and circumstances fail to yield a solution", and should be treated as "an evidential instrument of last resort where there is no direct evidence as to the intention of the parties" (citing the statements in *Vandervell v Inland Revenue Commissioners* [1967] 2 AC 291 at 313 and *Teo Siew Har v Lee Kuan Yew* [1999] 3 SLR(R) 410 at [29]) (*Lau Siew Kim* at [59]).

80 At the time of Dr Khoo's death, the Defendants therefore hold the moneys in the Joint Accounts on resulting trust for the Estate.

**If the presumption of resulting trust arises in favour of the Estate,
whether a presumption of advancement applies in favour of the
Defendants and rebuts it**

81 In the interests of completeness, I add that even if I am wrong in reaching the above conclusion that there is clear evidence of Dr Khoo’s actual intentions at the material time, I would nonetheless hold that the presumption of resulting trust arises in favour of the Estate and is not rebutted. The parties do not dispute the gratuitous nature of the conversion of the Joint Accounts on 7 November 2019 or that the moneys in the Joint Accounts were solely contributed by Dr Khoo. Whilst the presumption of advancement arises in favour of the Defendants, I would hold that it is rebutted by the clear words of the Will and the Codicil to the contrary, for the same reasons as stated at [58]–[67] above. In any event, I find that Dr Khoo did not consider himself to be morally or legally obliged to provide for Evelyn in any way as seen by the matters stated at [84] below and the presumption of advancement in favour of Evelyn is weak.

**Addenda: The Will and Codicil are silent on how the Property and/or its
sale proceeds should be dealt with if Evelyn chooses to stay on until her
demise**

82 Clause 4(2) of the Will provides that the Property shall be sold, and the sale proceeds distributed equally among Evelyn and the four children only in the event that Evelyn “moves out of [the Property] on her own volition”. Whilst cl 5(1) of the Will provides that Dr Khoo’s residuary estate is to be bequeathed to his four children equally, cl 4(3) of the Will unequivocally states that the Property does not form part of the residuary estate.⁹⁴

⁹⁴ AB at p 19.

83 The Defendants say that it is therefore apparent that the Will and Codicil are far from “wonderful” and “perfect”.⁹⁵ The Defendants also allude that it would be absurd for Evelyn to “stand to receive the least from the Estate in her lifetime”.⁹⁶ Aside from the \$80,000 Cash Gift, Evelyn would receive 20% of the sale proceeds of the Property *only if* she moves out of her own volition. She receives no other share of the residuary estate. The Defendants assert that Evelyn was Dr Khoo’s “beloved wife” and that Dr Khoo knew that she would not be able to afford home-based nursing care and other medical expenses without additional financial support. Whilst she has a civil service card which subsidises the costs of certain medical expenses, the Defendants say that this would be insufficient to cover home-based nursing care.⁹⁷

84 However, apart from this assertion, I am unable to find, on the evidence, that Dr Khoo *intended* to make financial provision for Evelyn upon his death beyond the \$80,000 Cash Gift. On the contrary, Dr Khoo provided by cl 4(1) of his Will that upon his death, Evelyn “can stay in [the Property] until she dies ***on condition that she pays for the upkeep of [the Property] using her own funds***” [emphasis added in bold italics].⁹⁸ This was not modified by the terms of the Codicil. Evelyn also deposed that she receives a monthly pension of \$2,100 and monthly rental income of \$7,000 from a commercial shophouse property which she inherited from her parents.⁹⁹ These suggest to me that Dr Khoo was not concerned about Evelyn’s financial state after his death and did not intend to

⁹⁵ Defendants’ written submissions dated 10 July 2023 at para 110.

⁹⁶ Defendants’ written submissions dated 10 July 2023 at para 135.

⁹⁷ Defendants’ written submissions dated 10 July 2023 at para 131; Evelyn’s AEIC dated 15 November 2022 at para 19.

⁹⁸ AB at p 19.

⁹⁹ Evelyn’s AEIC dated 15 November 2022 at para 19.

make financial provision for Evelyn beyond the \$80,000 Cash Gift which she had specifically requested.

85 As to the question of how the Property and/or its sale proceeds should be dealt with *if* Evelyn chooses to stay on until her demise, I make some brief observations, although I emphasise that this particular issue was not in dispute before me. Dr Khoo was the sole owner of the Property. The Will and Codicil do not deal with the situation where Evelyn chooses not to move out of the Property on her own volition before her demise *and* cl 4(3) of the Will expressly excludes the Property from distribution under the residuary clause. Thus, if Evelyn chooses not to move out of the Property before her demise, there arises a situation of partial intestacy and, upon Evelyn's demise, the Property falls to be distributed according to the Intestate Succession Act (Cap 146, 2013 Rev Ed). It would therefore appear that the trustees of Dr Khoo's Estate continue to hold the Property for as long as Evelyn chooses not to move out of it on her own volition.

Conclusion

86 In this case, sufficient evidence was placed before me and I am able, from the totality of the evidence, to make a factual finding that on the balance of probabilities, Dr Khoo intended to retain all beneficial interest in the Joint Accounts for himself at the material time and, upon his death, for the moneys in the Joint Accounts to be distributed in accordance with the terms of his Will and Codicil. The Defendants therefore hold the moneys in the Joint Accounts on resulting trust in favour of the Estate.

87 Finally, I note that the Plaintiffs have also sought a declaration and asked for certain orders in relation to the Will and Codicil Moneys and the Cash Balance. I do not think it is appropriate for me to make any orders on these

items, as they appear to me to relate to matters involving the administration of the Estate and not the issue of beneficial entitlement to the moneys in the Joint Accounts *per se*. Furthermore, I am satisfied that there is no dispute as to the Cash Balance (see [34] above) as well as the Will and Codicil Moneys, save for the dispute over the moneys in the Joint Accounts. As to the injunction sought by the Plaintiffs, there is no indication of any risk of the Defendants dispersing any of the Will and Codicil Moneys, including the moneys in the Joint Accounts, such as to justify the order. Lastly, as to the amount of interest sought by the Plaintiffs, I am satisfied that as between prayers (e), (f) and (j), it would be more just to grant an order in terms on prayer (e), save for the modification that interest is to be paid on the amount of the moneys in the Joint Accounts instead of the Will and Codicil Money.

88 In conclusion, I allow in part the orders that the Plaintiffs are seeking and dismiss the Counterclaim. Therefore, I make the following orders:

- (a) A declaration that the Defendants hold the balance of the moneys in the Joint Accounts as at the date of Dr Khoo's death on trust for Dr Khoo's Estate and the beneficiaries in the Will and Codicil.
- (b) An order that the Defendants return to the Estate all the documents and material with regard to the moneys in the Joint Accounts that are in the possession, power or control of Patricia.
- (c) An order that the Defendants give an account to the Estate of all moneys in the Joint Accounts as at the date of Dr Khoo's death, and that the Defendants pay to the Estate such amount of the moneys in the Joint Account found to be due to the Estate forthwith.

(d) An order that the Defendants pay to the Estate interest on the amount of the moneys in the Joint Accounts found to be due to the Estate in the amount of interest that would have accrued if such moneys had been left in their respective accounts.

(e) An order that Patricia shall sign and submit the Schedule of Assets in P 226/2021 that includes the Joint Accounts to the FJC within two weeks from the date of this order, and that Patricia shall sign and submit an affidavit verifying the Schedule of Assets to the FJC within one week from the date of the FJC's acceptance of the Schedule of Assets.

89 I will hear parties separately on the question of costs.

Lee Siu Kin
Judge of the High Court

Chung Ting Fai (Chung Ting Fai & Co) for the first and second
plaintiffs;
Marina Chin SC, Alcina Chew and Natalie Ng (Tan Kok Quan
Partnership) for the first and second defendants;
Jaikanth Shankar, Stella Ng Yu Xin and Waverly Seong (Davinder
Singh Chambers LLC) (instructed), Chan Jer Hiang (Chan Jer Hiang
& Co) for the third defendant (by counterclaim).
