

Wong Swee Hor v Tan Jip Seng and others
[2014] SGHC 263

Case Number : Suit No 902 of 2012/B
Decision Date : 16 December 2014
Tribunal/Court : High Court
Coram : Woo Bih Li J
Counsel Name(s) : See Tow Soo Ling and Edwin Chia (Colin Ng & Partners LLP) for the plaintiff;
Sean Lim Thian Siong and Gong Chin Nam (Hin Tat Augustine & Partners) for the
1st to 9th defendants; The 10th defendant in person.
Parties : Wong Swee Hor — Tan Jip Seng and others

Probate & Administration – Intestate Succession

Family Law – Marriage – Customary Marriage

Evidence – Admissibility of Evidence

16 December 2014

Woo Bih Li J:

Introduction

1 The proceedings before me concerned the estate of the late Mr Tan Bung Thee (“Mr Tan”), who died intestate on 27 February 2011. During his lifetime, Mr Tan had eleven children with three women: (a) the 1st to 5th defendants are his children with Mdm Du Chao Wan (“Mdm Du”); (b) the 6th to 10th defendants with Mdm Owyang Wan (“Mdm Owyang”); and (c) a daughter with the plaintiff, Mdm Wong Swee Hor (“Mdm Wong”). The two mothers of the defendants passed away in the late 1980s. After Mr Tan’s death, the 1st to 9th defendants claimed that Mdm Wong was never Mr Tan’s legitimate wife and that she and her daughter were therefore not beneficiaries to Mr Tan’s estate under the Intestate Succession Act (Cap 146, 1985 Rev Ed). Mdm Wong commenced this action and sought *inter alia* a declaration that she is Mr Tan’s lawful wife. In the course of this action, the 1st to 5th defendants counterclaimed and sought a declaration that their mother was lawfully married to Mr Tan and that they are the legitimate children of Mr Tan under the Intestate Succession Act.

2 After considering the evidence and submissions, I allowed Mdm Wong’s claim with costs. I also allowed the 1st to 5th defendants’ counterclaim with costs. I set out my reasons below.

Family Background

3 The late Mr Tan started his business from humble beginnings; he owned a stall selling pork at Silat Road in the 1950s. [\[note: 1\]](#) Mr Tan subsequently expanded his business to the operation of petrol stations in Singapore. Mr Tan also had a tin mining business in Malaysia. Due to his contributions to society, he was once awarded the Public Service Star Award from the President. [\[note: 2\]](#)

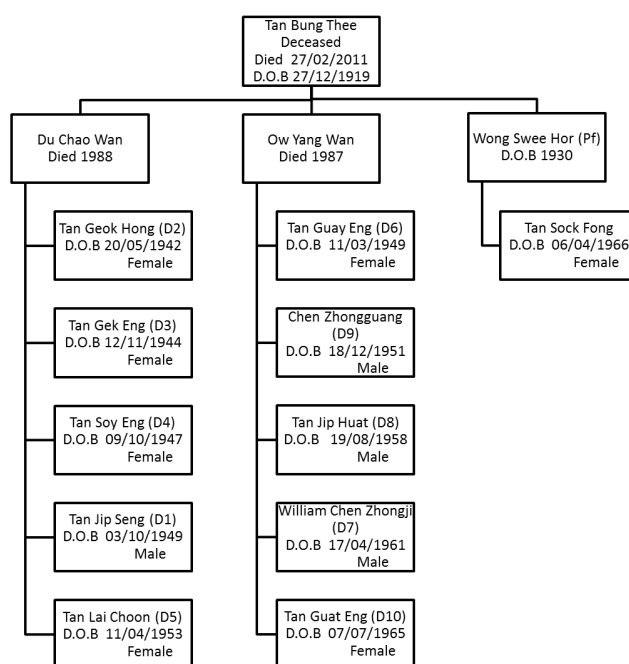
4 The late Mr Tan's mother was one Mdm Phua Siew Mei ("Mdm Phua"). [\[note: 3\]](#) Mr Tan had two elder brothers. Mr Tan's nephew is Tan Ah Leng, [\[note: 4\]](#) also known as "Fan She" or "Fan Xu" (which means "sweet potato" in English) to the family members. [\[note: 5\]](#)

5 The 1st to 5th defendants were born between 1942 and 1953. It was the 1st to 5th defendants' case that Mdm Du lawfully married Mr Tan in 1942 under Chinese customary rites. Mdm Du had two other children from an earlier marriage, namely, Tan Ah Tong and Tan Ah Kee, deceased. Mdm Du died in 1988. [\[note: 6\]](#)

6 The 6th to 10th defendants were born between 1949 and 1965. It was not disputed that Mr Tan lawfully married Mdm Owyang under Chinese customary rites prior to 1961. Mdm Owyang died in 1987. [\[note: 7\]](#) The marriage certificate [\[note: 8\]](#) between Mr Tan and Mdm Owyang sets out the exact date of their marriage to be 10 August 1947.

7 Mr Tan had one daughter, Tan Sock Fong ("Sock Fong"), with Mdm Wong. Sock Fong was born on 6 April 1966. [\[note: 9\]](#) It was Mdm Wong's case that she lawfully married Mr Tan in 1957 under Chinese customary rites.

8 For clarity, a graphical representation of Mr Tan's family (with particulars of the individuals such as sex, date of birth and, where applicable, date of death) is set out below:



9 In the 1950s/1960s, Mdm Du and her children resided at 219-1 Silat Road. [\[note: 10\]](#) At that time, Mdm Owyang and her children lived at 83 Silat Road, along with Mdm Phua who lived there until she passed away on 23 October 1962. [\[note: 11\]](#)

10 Mdm Wong was born in China. She came to Singapore with her parents in 1937. Her parents rented a room in a house in Chinatown. She started working when she was 13 years of age after her father passed away.

11 From in or around 1951, Mdm Wong and her mother resided at 481 Silat Road. Mdm Wong said

she married Mr Tan on 11 January 1957 of the lunar calendar or 10 February 1957 of the Gregorian calendar. The wedding dinner was held at 481 Silat Road. There were two tables of guests. After the marriage, Mdm Wong rented a room in the Redhill Estate ("Redhill Flat") [\[note: 12\]](#) and stayed there for around ten years. During that time, her mother continued to live at 481 Silat Road. [\[note: 13\]](#) Mdm Wong moved back to 481 (renumbered 481A) Silat Road after Sock Fong was born in 1966. [\[note: 14\]](#) The three Silat Road households were within walking distance from one another. [\[note: 15\]](#)

12 In the late 1960s or early 1970s, the government acquired most of the land at Silat Road. [\[note: 16\]](#) As a result of the land acquisition:

- (a) Mdm Du and her children relocated to 27 Blair Road;
- (b) Mdm Owyang and her children relocated to 55 Blair Road; and
- (c) Mdm Wong moved into a flat at Indus Road ("Indus Road Flat"). In or around 1976, she subsequently moved into a flat at Block 65 Tiong Poh Road #03-38C Singapore 160065 ("Tiong Bahru Flat"). She presently resides at the Tiong Bahru Flat. [\[note: 17\]](#)

A tabulation of the residences of Mdm Du, Mdm Owyang and Mdm Wong is set out below:

	1942	1947	1951	1957	1963/1964	1966	Late 1960s/early 1970s	1976
Du Chao Wan	<u>219-1 Silat Road</u>						Silat Road was acquired and redeveloped by the Government	Moved to <u>27 Blair Road</u>
Owyang Wan	-	<u>83 Silat Road</u>						Moved to <u>55 Blair Road</u> (subsequently sold)
Wong Swee Hor (Mdm Wong)	<u>Chinatown</u>	<u>481 Silat Road</u>	Rented a room at <u>Redhill</u>	Tan Sock Fong was born. Later moved back to <u>481A Silat Road</u>		Moved to flat at <u>Indus Road</u>		Moved to flat at <u>Tiong Bahru</u>

13 After the acquisition of Silat Road, Mr Tan moved to Block 14 Spottiswoode Park Road #16-15 Singapore 088641 ("Dragon Mansion") in the early 1970s. Mr Tan lived at Dragon Mansion up to his death on 27 February 2011. Dragon Mansion is an asset of Mr Tan's estate.

Claim and counterclaim

14 Mdm Wong sought the following orders/reliefs: [\[note: 18\]](#)

- (a) A declaration that Mdm Wong is the lawful wife of Mr Tan;
- (b) A grant to her of Letters of Administration of Mr Tan's estate and for Mdm Wong to be named as the sole administrator;
- (c) A declaration that the 1st to 5th defendants have no right to apply for a Grant of Letters of Administration;
- (d) An inquiry of the assets of Mr Tan's estate, including all assets outside of Singapore;
- (e) An order that the 1st defendant and any of the defendants who has intermeddled with the estate to account to Mdm Wong for the sums received by him or them that represent income or proceeds of the assets belonging to Mr Tan; and

(f) An account of all sums received by the 1st defendant and any of the defendants who had intermeddled with the estate representing income or proceeds of the assets belonging to Mr Tan.

15 In this action, Mdm Wong also asserted that the late Mdm Du was not Mr Tan's legitimate wife and that the 1st to 5th defendants are therefore not his beneficiaries. [\[note: 19\]](#) Hence, just before the trial, the 1st to 5th defendants were given leave to include a counterclaim, seeking a declaration that their mother, Mdm Du, was lawfully married to Mr Tan [\[note: 20\]](#) and that they are the legitimate children of Mr Tan within the meaning of the Intestate Succession Act.

16 On the 5th day of trial, Mdm Wong agreed to withdraw all the statements contained in paras 11 to 15 of her Statement of Claim alleging that the 1st defendant had intermeddled with Mr Tan's estate and also the reliefs set out in [14(d)] to [14(f)] thereof. [\[note: 21\]](#) I need not say more on Mdm Wong's "intermeddling" claim except that her withdrawal of such allegations does not necessarily preclude her from raising such allegations again.

The 10th defendant and Sock Fong

17 Not all the Defendants shared the same position. The 1st to 9th defendants filed a common defence asserting that Mdm Wong is not lawfully married to Mr Tan. [\[note: 22\]](#) The 10th defendant did not enter an appearance and/or file a Defence in this action. However, eventually she attended trial as Mdm Wong's witness and gave evidence on behalf of Mdm Wong. In contrast from her siblings, the 10th defendant accepted that Mdm Wong is a lawful wife of Mr Tan. [\[note: 23\]](#)

18 Therefore, the only parties contesting Mdm Wong's claim in the trial before me were the the 1st to 9th defendants. Unless otherwise stated hereinafter, when I refer to the "Defendants" in this judgment, I refer only to those nine parties.

19 Although Sock Fong is not a party to this action, she agreed through her solicitors that she will abide by the decision of this court with regard to the 1st to 5th defendants' counterclaim. [\[note: 24\]](#) She gave evidence about Mr Tan's daily visits to see Mdm Wong in the afternoon before Mr Tan became too weak to visit Mdm Wong. She also gave evidence about what was done at Mr Tan's wake.

The witnesses

20 Apart from Mdm Wong herself, Sock Fong and the 10th defendant (as stated in [17] above), the following witnesses gave evidence for Mdm Wong:

- (a) Foong Ah Lui ("Mdm Foong"). At the material time, she was a close family friend of Mdm Wong. She gave evidence that she attended the wedding dinner between Mr Tan and Mdm Wong.
- (b) Foo Fong Liang Edward. At the material time, he was a close friend of Sock Fong. He attended Mr Tan's wake on 1 March 2011.
- (c) Sylvester Wong Hock Ping. At the material time, he was an ex-colleague and close friend of Sock Fong. He attended Mr Tan's wake on all three days from 1 March to 3 March 2011.
- (d) Chong Lai Fun Katherine. At the material time, she was Sock Fong's childhood friend and

former neighbour at Silat Road. She gave evidence about seeing Mr Tan at the flat at Tiong Bahru when she visited Sock Fong. She attended Mr Tan's wake on 1 March 2011.

(e) Tan Chin Tuan and Tan Chin Wee Godwin. Both Tan Chin Tuan and Tan Chin Wee Godwin are sons of the 1st defendant. They gave evidence that they drove Mr Tan to visit Mdm Wong and pick Mr Tan up thereafter from her Tiong Bahru flat before Mr Tan became too weak to visit Mdm Wong.

21 The following witnesses testified on behalf of the Defendants:

(a) All the Defendants save for the 4th and 5th defendants who elected not to give evidence at trial.

(b) Tan Ah Leng. Tan Ah Leng is Mr Tan's nephew. He said he was living a few doors away from 481A Silat Road where Mdm Wong was staying. He had no recollection of a wedding dinner held at 481A Silat Road.

(c) Tan Ah Tong. As stated in [5] above, Tan Ah Tong is Mdm Du's son from an earlier marriage. He was the one in charge of writing the Chinese characters of the names of Mr Tan's relatives for Mr Tan's obituary. His evidence was on how Mdm Wong's name came to be included in Mr Tan's obituary as his wife.

Issues before this court

22 The following two main issues were before me:

- (a) whether Mdm Wong is Mr Tan's lawful wife; and
- (b) whether Mdm Du was Mr Tan's lawful wife.

For ease of reference, I shall refer to them as "Mdm Wong's status issue" and "Mdm Du's status issue" respectively.

The applicable law

The law on Intestate Succession

23 Section 7 of the Intestate Succession Act reads:

Rules for distribution

7. In effecting such distribution, the following rules shall be observed:

Rule 1

If an intestate dies leaving a surviving spouse, no issue and no parent, the spouse shall be entitled to the whole of the estate.

Rule 2

If an intestate dies leaving a surviving spouse and issue, the spouse shall be entitled to one-half of the estate.

Rule 3

Subject to the rights of the surviving spouse, if any, the estate (both as to the undistributed portion and the reversionary interest) of an intestate who leaves issue shall be distributed by equal portions per stirpes to and amongst the children of the person dying intestate and such persons as legally represent those children, in case any of those children be then dead.

...

24 Section 3 of the Intestate Succession Act interprets "child" to mean a legitimate child and includes any child adopted by virtue of an order of court under any written law for the time being in force. The word "issue" includes children and the descendants of deceased children.

The law on Chinese customary marriages and monogamous marriages

25 Section 181 of the Women's Charter (Cap 353, 2009 Rev Ed) reads:

Marriages solemnized before 15th September 1961 deemed to be registered under this Act

181.—(1) Nothing in this Act shall affect the validity of any marriage solemnized under any law, religion, custom or usage prior to 15th September 1961.

(2) Such marriages, if valid under the law, religion, custom or usage under which they were solemnized, shall be deemed to be registered under the provisions of this Act.

(3) Every such marriage, unless void under the law, religion, custom or usage under which it was solemnized, shall continue until dissolved —

(a) by the death of one of the parties;

(b) by order of a court of competent jurisdiction; or

(c) by a declaration made by a court of competent jurisdiction that the marriage is null and void.

26 Section 4(1) of the Women's Charter states:

Every person who on 15th September 1961 is lawfully married under any law, religion, custom or usage to one or more spouses shall be incapable during the continuance of that marriage or marriages of contracting a valid marriage under any law, religion, custom or usage with any person other than such spouse or spouses.

27 Section 5(1) and (2) of the Women's Charter states:

5.—(1) Every marriage contracted in Singapore or elsewhere in contravention of section 4 shall be void.

(2) If any male person lawfully married under any law, religion, custom or usage shall, during the continuance of that marriage contract a union with a woman, that woman shall have no right of succession or inheritance on the death intestate of such male person.

28 Mr Tan was already married to Mdm Owyang before the cut-off date of 15 September 1961. It was common ground that if he did marry Mdm Wong, this was after he had married Mdm Owyang. Therefore, Mdm Wong had to prove that she was lawfully married to Mr Tan *under the law, religion, custom or usage* prior to the cut-off date otherwise her marriage to Mr Tan would be void. On the other hand, the 1st to 5th defendants asserted that Mdm Du had married Mr Tan even before his marriage to Mdm Owyang. They too had to prove Mdm Du's marriage to Mr Tan. Towards this end, we turn to the common law on Chinese customary marriages as it stood before 15 September 1961.

29 Prior to 15 September 1961, the law and Chinese custom allowed a man to marry more than one woman. A man could marry one wife known as the "primary" or the "principal" wife or "tsai" and, at the same time, have any number of other women as concubines known as "secondary" wives or "tsips".

30 The legal requirements for proving a Chinese secondary marriage were enunciated in *Re Lee Gee Chong deceased; Tay Geok Yap & ors v Tan Lian Cheow* [1965] 1 MLJ 102 ("*Re Lee Gee Chong*"), an authority delivered when Singapore was still part of the federation of Malaysia. In that case, an appeal from the High Court of Singapore went before the Federal Court of Malaysia. The respondent in the appeal had moved the High Court to revoke the Letters of Administration granted to the principal wife of the deceased and her son. The respondent had claimed to be a secondary wife of the deceased. The High Court held at 105 that:

... what had to be proved to prove a Chinese secondary marriage was this: it is only necessary to prove (1) a common intention to form a permanent union as husband and secondary wife and (2) the formation of the union by the man taking the woman as his secondary wife and the woman taking the man as her husband.

31 The High Court also noted, at 103, that the Privy Council had decided in *Cheong Thye Pin v Tan Ah Loy* [1920] AC 369 that, although some sort of ceremony is usual when a secondary wife is taken, a ceremony is not essential to constitute a secondary wife.

32 The Federal Court unanimously dismissed the appeal on the ground that the trial judge had set out the law correctly.

33 In *Ching Kwong Kuen v Soh Siew Yoke* [1981–1982] SLR(R) 347, FA Chua J cited at [16] with approval the dicta of Murray-Aynsley CJ in *In the Estate of Yeow Kian Kee, deceased; Er Gek Cheng v Ho Ying Seng* [1949] MLJ 171 at 173:

... What must be proved in order to discharge that burden? In most cases there is some sort of a ceremony, and there is recognition of the t'sip as a member of the husband's family. But this is evidentiary only. It is not essential to the acquisition of the status of t'sip. A formal contract in writing would be conclusive. If the parties were to live as such publicly so as to acquire the reputation of being man and t'sip that would also be evidence that the status had been acquired. On the other hand, I do not consider that mere cohabitation for a considerable period would by itself be sufficient evidence.

The parties' cases

34 The allegations surrounding Mr Tan's respective relationships with Mdm Wong and Mdm Du were hotly disputed by the parties. I therefore begin by setting out below the respective allegations on Mdm Wong's status. Thereafter, I will set out the respective allegations on Mdm Du's status.

Mdm Wong's status issue

Mdm Wong's case on the facts

Mdm Wong's background

35 Mdm Wong was born in China in 1930. She came to Singapore with her parents in 1937. They rented a room in one of the houses in Chinatown. [\[note: 25\]](#) Mdm Wong started working when she was 13 years old after her father passed away in the Second World War.

36 In 1950, Mdm Wong, who was 20 years old then, started working for Eng Aun Tong (which was owned by Haw Par Brothers International Limited) as a factory packer. She was employed there for close to 21 years. She quit that job to care for Sock Fong in 1971, who was around five years old then.

37 Mdm Wong met Mr Tan in late 1949. After seeing each other for two years, Mr Tan bought an attap house at 481 Silat Road. Mr Tan, Mdm Wong and her mother started *living* together in the house sometime in 1951. [\[note: 26\]](#) I should qualify that the word "living" in this context does not mean that Mr Tan spent nights at 481 Silat Road.

Wedding dinner on 11 January 1957 (lunar calendar)

38 Sometime in 1956, Mdm Phua had told Mr Tan to give Mdm Wong status as a member of the family. Mr Tan had given Mdm Wong an *ang bao* (red packet) containing \$400 to pass to her mother to prepare for the wedding. Mdm Wong's mother spent a part of this money to pay for traditional weddings cakes which she distributed to Mdm Wong's relatives and friends. [\[note: 27\]](#)

39 The wedding dinner, hosted by Mdm Wong's mother, was held on 11 January 1957 (on the lunar calendar) or 10 February 1957 (on the Gregorian calendar) at 481 Silat Road. Mdm Wong's mother attended the wedding dinner. There were two tables of guests comprising relatives and neighbours. [\[note: 28\]](#) Mdm Foong attended this wedding dinner together with her parents. Mdm Foong and her parents were close family friends of Mdm Wong and her mother. Mdm Foong was about to turn 12 years old that year. She could recall that the wedding dinner took place on 11 January 1957 (on the lunar calendar) because her younger sister was born a day after. [\[note: 29\]](#)

Wedding tea ceremony and ancestral prayers

40 Mdm Wong set up a matrimonial home with Mr Tan in a rented room at the Redhill Flat just before the marriage and moved in after the marriage. Mr Tan brought Mdm Phua to the Redhill Flat sometime after the wedding dinner, where both Mr Tan and Mdm Wong served tea to Mdm Phua. [\[note: 30\]](#)

41 Mdm Wong was instructed by Mdm Phua to visit her at 83 Silat Road. A few days after the tea ceremony, Mdm Wong duly visited Mdm Phua at 83 Silat Road. During the visit, she was instructed by Mdm Phua to pray to Mr Tan's family ancestors and several deities, including the tablet for Mr Tan's

late father and late eldest brother. [\[note: 31\]](#)

42 As the tablet of Mdm Wong's late father was placed at Mdm Foong's house, Mdm Wong also went to Mdm Foong's house, about a month after her marriage, to pay respect to her late father and to pray to her father that she had married Mr Tan. [\[note: 32\]](#)

43 Mdm Foong overheard Mdm Wong telling Mdm Foong's mother that Mdm Wong had served tea to Mdm Phua as part of Chinese customary rites. Mdm Foong also overheard that Mdm Wong prayed to Mr Tan's ancestors and deities at Mdm Phua's home. [\[note: 33\]](#)

Mr Tan provided for and treated Mdm Wong as his wife

44 As stated above, Mr Tan bought the house at 481 Silat Road in which Mdm Wong and Mdm Wong's mother resided.

45 Mdm Wong was wholly dependent on Mr Tan for her daily and medical expenses ever since she stopped working to take care of Sock Fong in 1971. Sock Fong was only five years old at that time. [\[note: 34\]](#)

46 Mr Tan would usually spend time with Mdm Wong every day. It was his typical routine. He would spend the afternoons at Mdm Wong's home (whether it was at 481 Silat Road, the Redhill Flat, the Indus Road Flat or the Tiong Bahru Flat, as the case may be) and Mdm Wong would cook lunch for Mr Tan. Mr Tan would usually leave at 4pm each day. Mr Tan continued to spend time with Mdm Wong even after Sock Fong moved out of the Tiong Bahru Flat in 1996. [\[note: 35\]](#) Despite becoming too weak to travel by himself in his later years, Mr Tan would be fetched to the Tiong Bahru Flat by the 1st defendant's sons, or the 7th defendant or the 8th defendant, and continued his routine of spending time with Mdm Wong up to the month of his death. [\[note: 36\]](#)

Mdm Wong had a close relationship with Mdm Phua

47 Mdm Wong took care of Mdm Phua when the latter fell very ill sometime in 1958. Mdm Wong took a month's leave from work to help look after Mdm Phua. Mdm Wong did so out of filial piety as she regarded Mdm Phua as her mother-in-law. [\[note: 37\]](#)

48 When Mdm Phua passed away in 1962, Mdm Wong helped prepare Mdm Phua's body for the burial. Mdm Wong helped to put on the burial clothes on Mdm Phua's body and combed Mdm Phua's hair. Mdm Wong helped to sew the traditional mourning clothes worn by the rest of the family at Mdm Phua's wake, which was held at Mdm Owyang's house for about one week. Mdm Wong wore the traditional mourning clothes at the wake and participated in the funeral procession as Mdm Phua's daughter-in-law. [\[note: 38\]](#)

The inscription on Mdm Phua's tombstone

49 Mdm Wong relied on an original photograph of Mdm Phua's tombstone to assert that her name was inscribed on Mdm Phua's tombstone as a daughter-in-law of Mdm Phua. [\[note: 39\]](#) Mdm Wong would go to the graveyard to pay her respects to Mdm Phua together with Mr Tan, Mdm Owyang and the Defendants.

Mr Tan attended the wake of Mdm Wong's mother

50 Mdm Wong's mother, Mdm Chow Whay Heng, passed away on 6 November 1975 (on the lunar calendar) or 8 December 1975 (on the Gregorian calendar). Mdm Wong tendered her mother's death extract and it showed that the date of death was 8 December 1975. [\[note: 40\]](#) This date coincided with Mr Tan's birthday on the lunar calendar in 1975. As such, she asked Mr Tan not to attend her mother's wake on the first day as it was against Cantonese customs. [\[note: 41\]](#) Mr Tan attended the wake the next afternoon on 7 November 1975 (on the lunar calendar). As Mr Tan had to attend to his pork business on 8 November 1975 (on the lunar calendar), the 9th defendant was sent to attend the funeral procession on behalf of Mr Tan.

The 6th to 10th defendants regarded Mdm Wong as Mr Tan's wife

51 When the Defendants got married, Mdm Wong would be invited for the tea ceremonies and weddings. She did not attend the weddings of the 1st to 5th defendants. As she was closer to Mdm Owyang, she attended the tea ceremonies and some of the weddings of the 6th to 10th defendants. [\[note: 42\]](#)

52 The 10th defendant had served tea to Mdm Wong during her wedding in 1989 because she recognised Mdm Wong as her late father's wife. [\[note: 43\]](#) The 6th to 9th defendants also served tea to Mdm Wong during their wedding ceremonies. They said that they served tea to Mdm Wong on Mr Tan's instructions. The 6th, 8th and 9th defendants confirmed that Mdm Wong was served tea during their respective weddings while she was seated next to Mr Tan, Mdm Du and Mdm Owyang in a row. [\[note: 44\]](#)

53 On Mr Tan's birthdays, Mr Tan, Mdm Wong, the 6th to 10th defendants and their families would usually be at Mdm Wong's home for steamboat. If there were no special occasions, they would gather at her home for a simple meal or steamboat. They would also have dinners in restaurants. [\[note: 45\]](#)

54 Mdm Wong was taking care of the 8th defendant's older son until he was five or six years old. The 8th defendant would leave his son with Mdm Wong at her home from Mondays to Saturdays and would pick his son up after he finished work. If the 8th defendant was not able to pick the son up due to work commitments, the son would spend the night at Mdm Wong's place. [\[note: 46\]](#)

55 Mr Tan and Mdm Wong would go on overseas holidays together with the 6th defendant, the 8th defendant and his family and/or with Sock Fong. [\[note: 47\]](#) Mdm Wong tendered photographs to prove the matters stated above. [\[note: 48\]](#)

56 Mdm Owyang recognised Mdm Wong as Mr Tan's wife because:

- (a) Mdm Wong was at 83 Silat Road (where Mdm Owyang resided) to take care of Mdm Phua when the latter fell ill in the late 1950s;
- (b) Mdm Wong would go to 83 Silat Road to help with the cooking during "big occasion or small occasion" and "family occasion, gathering";
- (c) Mdm Wong went along with Mdm Owyang and Mr Tan to the graveyard to pay respects to Mdm Phua;
- (d) Mdm Wong was served tea at the weddings of Mdm Owyang's children; and

(e) Mdm Owyang sent the 9th defendant to represent Mr Tan at Mdm Wong's mother's funeral.

The evidence of the 10th defendant

57 The 10th defendant initially adopted a neutral stance. She was not represented by any solicitor and was not initially expected to give evidence for either side. Eventually she gave evidence for Mdm Wong. She said that her mother, *ie*, Mdm Owyang had told her that Mr Tan had three wives. She was very disappointed that after Mr Tan passed away, none of her siblings agreed that Mdm Wong was one of Mr Tan's wives when they had regarded her as such during family gatherings when Mr Tan was alive. [\[note: 49\]](#)

The niche application

58 Sometime in January 1995, Mr Tan was informed by the relevant government authorities that Mdm Phua's grave would be exhumed. Mr Tan decided to send the exhumed remains for cremation and he wanted to find a suitable location to place Mdm Phua's urn. [\[note: 50\]](#)

59 Mdm Wong and Mr Tan thereafter went around looking for a suitable location. She decided to go to *Kwong Wei Siew Peck San Theng* to assess the suitability of that location and they were accompanied by two of Mr Tan's relatives. Those relatives were also looking for a suitable location to store the urns of their late relatives. [\[note: 51\]](#) Mdm Wong and Mr Tan eventually decided to store the urns at *Kwong Wei Siew Peck San Theng*. Mr Tan instructed the 7th defendant to make payment for the niches.

60 The 7th defendant made payment, on behalf of Mr Tan, for seven niches in total: (a) four for Mdm Phua, Mdm Owyang, Mr Tan and Mdm Wong; and (b) three other niches meant for Mr Tan's relatives. [\[note: 52\]](#) Mr Tan's act of purchasing four niches which were meant for Mdm Phua, Mdm Owyang, Mr Tan and Mdm Wong showed that Mr Tan recognised Mdm Wong as one of his lawful wives. [\[note: 53\]](#) Mdm Wong also relied on the niche application form [\[note: 54\]](#) in which she was, like Mdm Owyang, described as a "mother" to the applicant, the 7th defendant.

Plaintiff was present at Mr Tan's deathbed and wake

61 On the day before Mr Tan passed away, Mdm Wong was at the hospital for most of the day and stayed overnight to watch over Mr Tan. He passed away on 27 February 2011. Mdm Wong, Sock Fong, the 10th defendant and the Defendants (except the 5th defendant) were at Mr Tan's deathbed. [\[note: 55\]](#)

62 Mr Tan's wake was held over three days at Dragon Mansion's car park: 28 February, 1 and 2 March 2011. The coffin was sent off in a hearse to Mandai Crematorium and Columbarium Complex on 3 March 2011. [\[note: 56\]](#)

63 At the wake, Mdm Wong did not wear traditional mourning clothes as she was told she could not do so under Chinese funeral customs. None of Mr Tan's eleven children were in traditional mourning clothes. They were all dressed in white t-shirt and black pants. They participated in the funeral rites at Mr Tan's wake. [\[note: 57\]](#) As Mdm Wong knew that she need not participate in the funeral rites under Chinese customs, she spent most of her time during the wake folding joss paper into the shape of "gold ingots" or chatting with the people who attended the wake. She asked the guests if they wanted drinks and desserts. Mdm Wong had also burnt joss sticks and paid respects to

Mr Tan. [\[note: 58\]](#)

Mdm Wong listed as Mr Tan's wife in his obituary

64 In the morning of 28 February 2011, Mdm Wong received a call from the 7th defendant asking for Mdm Wong's full name (in Chinese) to be included in Mr Tan's obituary. Mdm Wong provided the 7th defendant with Chinese characters for her name. [\[note: 59\]](#) Mdm Wong relied on the obituary [\[note: 60\]](#) which listed Mdm Wong's name as one of the wives of the late Mr Tan.

Meetings in April 2012

65 The 1st defendant and his wife, Mdm Ng Moi Heo, visited Mdm Wong and Sock Fong at the Tiong Bahru Flat in mid-April 2012. I will refer to this meeting as the "mid-April 2012 meeting" as the parties were unable to agree on whether this meeting was held on 13 April 2012 or 15 April 2012. The exact date of this meeting was immaterial.

66 During the mid-April 2012 meeting, the 1st defendant asked Mdm Wong to produce a copy of her marriage certificate with Mr Tan. As Mdm Wong had gone through a Chinese customary marriage with Mr Tan, she did not have any marriage certificate. The 1st defendant asserted that because Mdm Wong was not able to produce such a certificate, she was not Mr Tan's lawful wife. He also asserted that as Sock Fong was born after 1961, she was not Mr Tan's legitimate daughter. The 1st defendant then told Mdm Wong and Sock Fong that they were both not legally entitled to a share of Mr Tan's estate. The 1st defendant's wife went on to say that if they were not satisfied that this was the legal position, they should seek legal advice. [\[note: 61\]](#)

67 Mdm Wong was shocked and heartbroken that the 1st defendant refused to acknowledge her as Mr Tan's lawful wife and Sock Fong as Mr Tan's legitimate daughter. In the circumstances, Mdm Wong sought legal advice and her solicitors sent a letter dated 19 April 2012 to the 1st defendant to refute the 1st defendant's assertions. [\[note: 62\]](#)

68 A family meeting was held on 22 April 2012 at 27 Blair Road in which the 1st to 10th defendants, the 1st defendant's wife and Sock Fong were present, but not Mdm Wong. Sock Fong attended this meeting on Mdm Wong's behalf. At this meeting, the 1st defendant represented to the other Defendants who were present that Mdm Wong and Sock Fong were not legally entitled to a share of Mr Tan's estate. The 1st defendant however offered Mdm Wong and Sock Fong a share each from Mr Tan's estate out of goodwill. The 1st defendant also represented to the Defendants and Sock Fong that fiscal penalties would be imposed by the purchasers of the *en bloc* sale of Dragon Mansion if there was any further delay to completion of the *en bloc* sale. The 1st defendant also stated that he would apply to be appointed as an administrator of Mr Tan's estate. [\[note: 63\]](#)

69 Pursuant to Mdm Wong's instructions, Mdm Wong's solicitors sent a letter dated 24 April 2012 to again record Mdm Wong's objections to the 1st defendant's statements made at the family meeting and to formally object to the 1st defendant being appointed as administrator. It was proposed that an independent administrator be appointed instead. [\[note: 64\]](#)

Subsequent correspondence between the parties' solicitors

70 By a letter dated 30 April 2012, the 1st defendant's solicitors replied to Mdm Wong's solicitors stating that they were instructed that Mdm Wong was not married to Mr Tan under any Chinese customary rites and that no ceremony was performed. They further stated that Mdm Wong could not

be deemed to be Mr Tan's legitimate spouse under the Women's Charter. The 1st defendant's solicitors also provided, on a without prejudice basis, copies of the correspondence between their firm, M/s Hin Tat Augustine & Partners, and the solicitors for the sale committee for the en bloc sale, De Souza Lim & Goh LLP. [\[note: 65\]](#)

71 There was further correspondence between De Souza Lim & Goh LLP and Mdm Wong's solicitors including letters to Mdm Wong's solicitors dated 4 May 2012 and 10 May 2012 where it became clear that there would be no penalty imposed on Mr Tan's estate as the sale committee had decided to apply to the Strata Titles Board for a member of the collective sales committee to sign the requisite transfer documents on behalf of Mr Tan's estate. [\[note: 66\]](#)

72 It is not necessary to set out the evidence of other witnesses for Mdm Wong for reasons which will become apparent later.

73 It was Mdm Wong's case that she was married to Mr Tan in 1957 as his secondary wife. Mr Tan's conduct was consistent with the intention of Mdm Wong and Mr Tan to form a permanent union as husband and wife. [\[note: 67\]](#) Mdm Wong asserted that under the applicable law, Mdm Wong is recognised as a secondary wife and is entitled to a share of Mr Tan's estate. [\[note: 68\]](#)

74 It was Mdm Wong's case that Mdm Owyang was the principal wife as Mdm Owyang married Mr Tan in August 1947 (before Mdm Wong's marriage to Mr Tan) and the marriage rites of Mdm Owyang performed satisfied the requirements of a marriage of a principal wife. Mdm Wong cited a passage from *Principles of Family Law in Singapore* (Butterworths Asia, 1997) at p 88 by Prof Leong Wai Kum to show that the rites of marriage to the principal wife under traditional Chinese custom were elaborate. [\[note: 69\]](#)

75 Mdm Wong relied on Mdm Owyang's marriage certificate which showed that Mdm Owyang's marriage satisfied most of such requirements. [\[note: 70\]](#) The marriage certificate states the date of the marriage to be 10 August 1947.

76 As Mdm Wong was already married to Mr Tan prior to the cut-off date of 15 September 1961, Mdm Wong asserted that her marriage to Mr Tan was deemed registered and preserved under s 181 of the Women's Charter. [\[note: 71\]](#)

77 As Mr Tan's secondary wife, and thus lawful wife, Mdm Wong claimed that she was entitled to one-half of Mr Tan's estate as the surviving spouse. Her daughter, Sock Fong, would also accordingly be entitled to a share of the other half of Mr Tan's estate.

78 As the only surviving spouse of Mr Tan, Mdm Wong said she had the right to apply for Grant of Letters of Administration of Mr Tan's estate under s 18 of the Probate and Administration Act (Cap 251, Rev Ed 1985).

The Defendants' case on the facts

79 As may be gleaned from the graphical representation at [8] above, by 1957, the year of Mdm Wong's alleged marriage to Mr Tan, the 1st to 5th defendants had already been born with the oldest being the 2nd defendant, 15 years old at that time, and the youngest being the 5th defendant, who was four years old then. The 6th, 9th and 8th defendants had also been born but their ages at that time ranged from one to eight years. The 7th and 10th defendants were not born then. Obviously, for

those Defendants who were infants or not born at the material time, they had no personal knowledge of any of the material disputed events and offered no admissible evidence on those events. Be that as it may, the Defendants' position was that they were not aware or told about Mr Tan's marriage to Mdm Wong. However, the Defendants' conduct *vis-à-vis* Mdm Wong would be relevant, and indeed significant, as I will elaborate later.

80 The common defence advanced by the Defendants was a denial that Mr Tan was ever lawfully married to Mdm Wong. I set out below the Defendants' position on the various key aspects of Mdm Wong's case.

The alleged wedding dinner, tea ceremony and ancestral prayers

81 In essence, the Defendants denied the events leading up to Mdm Wong's wedding dinner and what transpired at the wedding as alleged by Mdm Wong above. The Defendants also denied that the tea ceremony and the ancestral prayers as alleged by Mdm Wong at [40] to [42] above ever occurred.

82 The Defendants highlighted several gaps and inconsistencies in Mdm Wong's evidence. As regards the evidence of Mdm Foong, the Defendants urged caution in accepting her evidence as she was not credible and she was biased.

83 The Defendants said that even if there was a dinner on 11 January 1957, it would have been likely that it was a Chinese New Year dinner because according to Mdm Foong's evidence:

- (a) only Mdm Wong's mother's family and friends were invited to this dinner; and
- (b) Mr Tan and Mdm Wong were wearing new clothes which were more in line with a Chinese New Year dinner.

84 Mr Tan's nephew, Tan Ah Leng, gave evidence on behalf of the Defendants that he was, at the material time, living along the same row of houses as Mdm Wong and her mother. According to him, they were only a few doors away and he deposed that there was no wedding dinner or celebration held at 481 Silat Road in 1957. [\[note: 72\]](#) The Defendants further asserted that Mr Tan was a prominent person in a closely knitted community or *kampung* and had Mr Tan married Mdm Wong in 1957, everyone would have known about it. [\[note: 73\]](#)

85 As stated at [41] above, Mdm Wong said that, during the visit at 83 Silat Road, she was instructed by Mdm Phua to pray to Mr Tan's family ancestors and several deities, including the tablet for Mr Tan's late father and late eldest brother. The 3rd defendant disputed this as according to her, there were no ancestors or deities kept at 83 Silat Road. She claimed that Mr Tan's only ancestor tablet was for Mdm Phua after she passed away. [\[note: 74\]](#)

The alleged secret affair

86 It was the Defendants' case that Mr Tan was having an affair with Mdm Wong and wanted to keep this affair a secret. [\[note: 75\]](#)

87 In the 1st defendant's affidavit of evidence-in-chief ("AEIC"), he stated that the late Mdm Du resented Mdm Wong. Whenever Mdm Wong walked past their house, Mdm Wong would dash across the road so as to avoid Mdm Du [\[note: 76\]](#).

88 The Defendants asserted that there was no evidence that Mr Tan supported or provided maintenance to Mdm Wong from 1957 to 1971. The Defendants disputed the fact that Mr Tan had “lived” with Mdm Wong. [\[note: 77\]](#)

89 Mdm Wong was engaged by Mr Tan as a maid to take care of Mdm Phua in the late 1950s till Mdm Phua passed away. In the 3rd defendant’s AEIC, she stated that she was asked by Mr Tan to pay Mdm Wong a sum of \$35 every month. [\[note: 78\]](#) The Defendants stated that this was consistent with Mdm Wong’s own evidence that she continued to do part time work every night. [\[note: 79\]](#)

90 The fact that Mdm Wong and Mr Tan rented a room at the Redhill Flat suggested that there was no intention on their part to have a permanent home to start a family.

91 Mdm Wong purchased the Tiong Bahru Flat without any contribution by Mr Tan [\[note: 80\]](#).

92 In the 1st defendant’s AEIC, he stated that after Mdm Phua passed away, Mdm Wong was tasked to take him, the 5th and 9th defendants for tuition in the evenings and they would meet at Mdm Wong’s home at Silat Road. Mr Tan would come at 9pm after tuition to bring them home but when tuition ended early, the 1st defendant would go look for Mr Tan and he would find Mr Tan with Mdm Wong at the Redhill Flat. Mr Tan started this arrangement so that they could have an affair at the Redhill Flat in secret. Mdm Phua passed away in October 1962 and the affair started in around 1963 or 1964 which would explain why Sock Fong was born in 1966. [\[note: 81\]](#)

93 Although the 6th, 8th and 9th defendants agreed that they had served tea to Mdm Wong during a tea ceremony to mark their respective weddings and that she was seated next to Mr Tan, Mdm Du and Mdm Owyang in a row, these three defendants aligned themselves with the rest of the Defendants who disputed that Mdm Wong was Mr Tan’s wife.

94 Indeed, even though the 8th defendant also admitted in cross-examination that he had regarded Mdm Wong as Mr Tan’s wife, [\[note: 82\]](#) he continued to align himself with the formal position of the other Defendants.

The funerals

95 The 1st, 2nd and 3rd defendants stated, in their AEICs, that Mdm Wong did not take part in any of the funeral rites during Mdm Phua’s funeral in the early 1960s. [\[note: 83\]](#)

96 As for the wake of Mdm Wong’s mother, Mdm Wong asserted that she asked Mr Tan not to attend her mother’s wake on the first day as it was against Cantonese customs (see [50] above). Mdm Wong also asserted that Mr Tan attended the wake the next afternoon on 7 November 1975 (of the lunar calendar) and sent the 9th defendant to attend the funeral procession on his behalf on 8 November 1975 because he had to attend to his pork business on 8 November 1975. The Defendants disputed this and the 9th defendant stated, in his AEIC, that Mr Tan did not even attend Mdm Wong’s mother’s funeral which he should have done were he married to Mdm Wong. [\[note: 84\]](#)

Photograph of Mdm Phua’s tombstone

97 Although the Defendants accepted the authenticity of the photograph of Mdm Phua’s tombstone, they disputed strenuously two points about the tombstone. First, the 1st and 3rd defendants disputed that the Chinese characters, which Mdm Wong said were characters of her

name, were found on the tombstone. Secondly, these two defendants alleged that in any event those Chinese characters were not the characters of Mdm Wong's name.

The niche application

98 In his AEIC, the 7th defendant said that Mr Tan called him one day to go down to *Kwong Wei Siew Peck San Theng* to pay for a niche to store his urn. Mr Tan told him that everything had been arranged and that he merely had to make a trip down there, show his identity card and make payment. Mr Tan handed the 7th defendant the cash and reminded him to collect the receipt on his behalf. [\[note: 85\]](#) The 7th defendant clarified during cross-examination that he collected the money from Mr Tan at Mdm Wong's Tiong Bahru Flat. [\[note: 86\]](#)

99 The 7th defendant said that he knew that Mdm Wong was the one who made the arrangements as Mdm Wong is Cantonese and *Kwong Wei Siew Peck San Theng* is a Cantonese columbarium. The 7th defendant said that Mr Tan would never have arranged for his urn to be placed in a Cantonese columbarium as he was Hokkien and furthermore, Mr Tan was very superstitious and adverse to death related matters. The 7th defendant recalled that while he was at the columbarium, he heard one of the staff telephone Mdm Wong to check on the particulars to be inserted on the application form. He signed the application form, paid and took the receipt and left. The 7th defendant said in his AEIC that he was not bothered about what was written on the application form. He elaborated in cross-examination that he did not notice what was written on the application form. When he returned to Mdm Wong's Tiong Bahru Flat, he handed the receipt and a copy of the application form to Mr Tan. The 7th defendant suspected that Mr Tan had handed the receipt and the form over to Mdm Wong. [\[note: 87\]](#)

Income Tax Notices of Assessment

100 The Defendants submitted that in the Income Tax Notice of Assessment for 1988 and for 1989, Mr Tan had been granted personal relief from tax of \$1,000 for a wife. After Mdm Du passed away in 1988, subsequent Income Tax Notices of Assessment for Mr Tan for the Years of Assessment for 1993 and for 1998 showed that he was not granted such a relief. This change suggested that Mr Tan had claimed tax relief for a wife in respect of Mdm Du only when Mdm Du was alive and that he did not claim for such a relief for Mdm Wong as his wife as she was still alive for the Years of Assessment for 1993 and for 1998. Therefore, Mr Tan did not accept Mdm Wong as his wife.

101 Furthermore, in a Form IR8A being a Return of Employee's Remuneration for Mdm Wong for the year ending 31 December 1971, there was a box stating "If the employee is a married woman, state the husband's full name ...". An entry of "NA" was inserted in the box. This return of Mdm Wong's income was apparently issued by Mdm Wong's employer Haw Par Brothers International Ltd. Therefore, the Defendants submitted that this document was also evidence that Mdm Wong was not married at all.

102 I will deal with the argument about the Form 1R8A for Mdm Wong very quickly. The Defendants' submission thereon was based on a selective consideration of the form in question. While it was true that "NA" had been inserted in that box, there was also another box in the form with the heading "Marital Status". The word "Married" was inserted under that heading. It was rather naughty of the Defendants to refer to information in one box which was favourable to them and to disregard information in another box in the same form which was favourable to Mdm Wong. Bearing in mind the inconsistent entries and the fact that no one from Haw Par Brothers International Ltd came to give evidence and the fact that Mdm Wong was not asked any question about the reason for the

inconsistent entries, I was of the view that no weight should be given to the entries in this form.

103 I will elaborate later in respect of the Income Tax Notices of Assessment for Mr Tan which the Defendants relied on.

Mr Tan's obituary

104 It was the Defendants' case that Mdm Wong was the one who provided her name as a wife of the late Mr Tan for purposes of Mr Tan's obituary.

105 According to Tan Ah Tong, on the first day of Mr Tan's wake, the undertaker arranged for a representative from a Chinese newspaper to attend to them for the purposes of placing an obituary in the newspaper. When the representative came, Tan Ah Tong was asked by the 1st defendant to help write down the names of the relatives and next-of-kin for the obituary because he was familiar with the Chinese characters of the names in the family. Tan Ah Tong stated that, as he was writing out the names, Mdm Wong asked the newspaper representative to write down her name as one of Mr Tan's wives and she also requested for Sock Fong's name to be included as one of Mr Tan's children. Tan Ah Tong stated that he did not know that Mdm Wong was a wife of Mr Tan but he knew that Mr Tan had had a relationship with Mdm Wong and had a child with her. He did not wish to create a scene by questioning her out of respect for the late Mr Tan. He reasoned that he had also included his own name as one of Mr Tan's sons even though he was not related by blood because he had always considered Mr Tan as his father. [\[note: 88\]](#)

Meetings in April 2012

106 After Mr Tan's first death anniversary, the 1st defendant sought legal advice and learnt that Mdm Wong had to be legally married as a wife under the Women's Charter to be entitled to any part of the estate. In his AEIC, the 1st defendant stated that, during the mid-April 2012 meeting, he met Mdm Wong and Sock Fong and asked Mdm Wong whether she had any proof that she was legally married to Mr Tan. According to the 1st defendant, Mdm Wong informed him that she did not have any certificate of marriage and when he asked her whether she had undergone any Chinese customary marriage ceremony like the tea ceremony or wedding dinner, Mdm Wong told him that she had not. The 1st defendant then told them that they were not entitled to a share of the estate unless the beneficiaries consented. The 1st defendant also said that he would try to persuade the other beneficiaries to agree to give them an equal share and according to the 1st defendant, they both agreed. [\[note: 89\]](#)

107 I should pause here to state that Mdm Wong strenuously disputed the 1st defendant's version and maintained her position as stated in [66] above.

108 According to the 1st defendant, he subsequently called for a family meeting on 22 April 2012 at 27 Blair Road so that he could ask the other beneficiaries whether they were agreeable to give Mdm Wong, Sock Fong and Tan Ah Tong each an equal share of the estate. The 1st defendant also wanted to update the other Defendants on the *en bloc* sale and the grant of letters of administration. The 1st defendant said that he informed everyone at the meeting that Mdm Wong must be legally married to Mr Tan for her to be entitled to a share of Mr Tan's estate. He also informed all parties present that when he met Mdm Wong earlier, she could not produce any certificate or proof of the marriage and that she had *admitted* that she had not undergone any Chinese customary marriage ceremony with Mr Tan. [\[note: 90\]](#)

Other minor disputes

109 The Defendants also disputed some minor aspects of Mdm Wong's case which I need not elaborate on.

The Defendants' case

110 The Defendants' case may be summarised as follows:

(a) Mr Tan had engaged Mdm Wong in the 1950s as a maid to take care of Mdm Phua. Mr Tan started having an extramarital affair with Mdm Wong at the Redhill Flat and Sock Fong is an illegitimate child born from that relationship.

(b) Mr Tan never lawfully married Mdm Wong under Chinese customary rites or at all. If he did, the marriage was after the cut-off date and was invalid. Therefore, both Mdm Wong and Sock Fong are not entitled to a share in Mr Tan's estate or entitled to apply for a Grant of Letters of Administration to administer Mr Tan's estate.

Mdm Du's status issue

111 As it was the 1st to 5th defendants' burden to prove that Mdm Du was lawfully married to Mr Tan, I set out first their version of the facts before dealing with Mdm Wong's version.

The 1st to 5th defendants' case on the facts

112 The 1st to 5th defendants contended that the late Mr Tan and Mdm Du had undergone a Chinese customary marriage in 1942 and were therefore validly and legally married under s 181(1) of the Women's Charter.

113 Tan Ah Tong testified that he was around seven or eight years when his mother, Mdm Du, married Mr Tan in 1942 during the Japanese Occupation. He could not however recall the exact date or month. Tan Ah Tong recalled that he and his sister were present at the wedding and he witnessed the customary marriage tea ceremony held at 219-1 Silat Road, where Mdm Du served tea to Mdm Phua and that both Mr Tan and Mdm Du served tea to Mdm Du's three brothers. This was followed by a wedding dinner in the evening. Tan Ah Tong distinctly remembered the occasion because it was then that the late Mr Tan had declared that he accepted his sister and him as his own children. After the marriage, they lived as a family at 219-1 Silat Road. [\[note: 91\]](#)

114 Following this marriage, the 1st to 5th defendants were born in 1949, 1942, 1944, 1947 and 1953 respectively. According to the 1st to 5th defendants, Mr Tan and Mdm Du lived together as husband and wife at 219-1 Silat Road along with the 1st to 5th defendants.

115 The 1st to 5th defendants also relied on the following documents:

(a) Mdm Du's Certificate of Registration of Death; [\[note: 92\]](#)

(b) Condolences and obituaries published in the newspapers when Mdm Du passed away in 1988; [\[note: 93\]](#)

(c) A letter dated 9 October 1992 purportedly from Mr Tan to the Property Tax Branch, Inland Revenue Authority of Singapore ("IRAS"); [\[note: 94\]](#)

(d) Certain Income Tax Notice of Assessment statements issued by IRAS to the late Mr Tan; [\[note: 95\]](#) and

(e) A letter dated 16 May 2012 from Mdm Wong's solicitors to the 1st defendant's solicitors.

The 1st to 5th defendants' case

116 Accordingly, the 1st to 5th defendants alleged that they are Mr Tan's legitimate children. It was also their case that Mdm Wong knew all along that Mdm Du was one of Mr Tan's lawful wives. However, Mdm Wong decided to deny that the late Mdm Du was lawfully married to Mr Tan out of spite [\[note: 96\]](#) because the 1st to 5th defendants did not accept that she was also lawfully married to Mr Tan.

Mdm Wong's case on the facts

117 I should mention that as Mdm Wong only met Mr Tan in late 1949 [\[note: 97\]](#), she had no personal knowledge of the alleged wedding ceremony between Mdm Du and Mr Tan. Nevertheless, Mdm Wong denied that there was ever a tea ceremony or wedding dinner between Mr Tan and Mdm Du. Not surprisingly, Mdm Wong sought to show that Tan Ah Tong was not a credible witness and highlighted several gaps and inconsistencies in his evidence.

118 In her AEIC, Mdm Wong deposed that Mdm Phua had told Mdm Wong that she never regarded Mdm Du as her daughter-in-law and did not approve of Mdm Du's relationship with Mr Tan. According to Mdm Wong, Mdm Phua said that she did not want to share someone else's daughter-in-law (as Mdm Du was previously married to another man). Mdm Wong claimed that Mdm Du and Mr Tan simply decided to live together during the Second World War. Mdm Wong further deposed that Mdm Phua did not allow the 1st to 5th defendants to address Mr Tan as "father" and could only address him as "uncle". [\[note: 98\]](#)

Observations of the material witnesses and their evidence

119 I state my observations on the material witnesses and their evidence.

Mdm Wong

120 I found Mdm Wong an unreliable witness. First, Mdm Wong did herself no favours during cross-examination when she demonstrated that she was unfamiliar with her own case and eventually had to withdraw her intermeddling claim against the 1st defendant. Her answers were often confused and incoherent. [\[note: 99\]](#)

121 As stated earlier, the Defendants highlighted certain gaps and inconsistencies in Mdm Wong's evidence. For example, in respect of the alleged tea ceremony, the Defendants questioned why Mdm Wong did not mention in her AEIC or at trial whether there were any witnesses at this wedding tea ceremony. The Defendants also said that there was no evidence that Mdm Wong had served tea to Mdm Owyang whom Mdm Wong asserted she knew at the time to be Mr Tan's first wife.

122 In respect of the wedding dinner on 11 January 1957, Mdm Wong confirmed that the dinner was only attended by her relatives and friends. [\[note: 100\]](#) Mdm Wong thereafter gave evidence that Mdm Phua was invited to attend the wedding dinner but declined to attend. [\[note: 101\]](#) When asked

why she did not mention this in her AEIC, Mdm Wong changed her position and gave yet another confusing answer. [\[note: 102\]](#)

Q: Mdm Wong, this part of your evidence where you said that you did ask Tan Bung Thee's mother to attend this dinner and she declined, this is not mentioned in your affidavit, correct?

A: I did not ask her to come. She came on her own. She wanted to see her daughter-in-law.

Q: Sorry. Now you are saying that she came for the dinner?

A: She came for the dinner.

Q: On the 11th of January 1957 of the lunar calendar?

A: No. It's not the---on that day. It's a few days later.

123 Furthermore, if indeed what Mdm Wong claimed was true in that Mdm Phua had suggested a formal wedding to give Mdm Wong status as a member of the family, Mdm Phua and her family members would have attended the wedding dinner and would have held a wedding tea ceremony at 83 Silat Road where Mdm Phua was residing with Mdm Owyang.

124 I need not set out other examples of contradictions in Mdm Wong's evidence. Furthermore, much of her oral evidence about the time she spent with Mr Tan or vice versa was equivocal. It could mean that she was his wife or his mistress as contended by the Defendants.

125 I considered allowing Mdm Wong a certain degree of latitude regarding her contradictions given her age which was around 83 years old at the time of the trial. However, I could not ignore her unreliable responses in her evidence.

Mdm Foong

126 Mdm Wong relied on Mdm Foong's evidence to corroborate her evidence of the alleged wedding dinner and tea ceremony. The Defendants urged me not to accept Mdm Foong's evidence for the following reasons: [\[note: 103\]](#)

(a) Mdm Foong had admitted during cross-examination that she had never attended any wedding dinner before 10 February 1957 or any time thereafter. [\[note: 104\]](#) Given that she was 12 years old at that time and in the absence of having attended any previous wedding dinners, it was highly unlikely that Mdm Foong would be able to appreciate whether the dinner on 10 February 1957 was a wedding dinner. Indeed, at one point in time during cross-examination, Mdm Foong said that the dinner she had attended was to celebrate the Lunar New Year.

(b) Mdm Foong claimed that she overheard Mdm Wong's mother telling Mdm Foong's mother to attend the wedding dinner one month before 11 January 1957. [\[note: 105\]](#) Mdm Foong testified that she overheard Mdm Wong telling Mdm Foong's mother that Mdm Wong had served tea to Mdm Phua as part of Chinese customary rites. Mdm Foong also gave evidence that she overheard that Mdm Wong prayed to Mr Tan's ancestors and deities at Mdm Phua's home. [\[note: 106\]](#) The Defendants contended that it was far-fetched that she could remember such conversations that took place more than 50 years ago.

(c) Mdm Foong was clearly a close family friend of Mdm Wong and her evidence was not objective and could not be safely relied upon.

127 While Mdm Foong said that she could remember the occasion of Mdm Wong's wedding dinner because it was just one day before the birthday of her own sister Foong Ah Ying, I had doubts as to whether she had truly placed importance on the occasion of the alleged dinner given her young age at the time and the lapse of time. Furthermore, if she had truly placed importance on that occasion, she would not have contradicted herself by saying it was a dinner to celebrate the Lunar New Year in cross-examination.

128 Accordingly, I found it unsafe to give weight to Mdm Foong's evidence about the alleged wedding dinner.

The 10th defendant

129 The 10th defendant's evidence carried much weight. It was not in her interest to give evidence in favour of Mdm Wong as she would get a smaller share of Mr Tan's estate if Mdm Wong is a lawful wife of Mr Tan.

The 1st and 3rd defendants

130 The main witnesses for the Defendants, namely, the 1st and 3rd defendants, were highly unsatisfactory witnesses especially in respect of certain inscriptions on Mdm Phua's tombstone.

131 At the first tranche of the trial which commenced on 24 September 2013, the photograph of Mdm Phua's tombstone was referred to during the cross-examination of Mdm Wong. At that time, the Defendants challenged the authenticity of the photograph. [\[note: 107\]](#) On the fourth day of trial (27 September 2013), the Defendants changed their minds and confirmed through their counsel that they accepted the authenticity of the photograph. However, during the second tranche of the trial in November 2013, the 1st and 3rd defendants took the position that certain Chinese characters on the tombstone which Mdm Wong said were of her name were not inscribed on the tombstone at all, contrary to what was shown in the photograph.

132 For instance, the 1st defendant said: [\[note: 108\]](#)

A: Because you look at the colour of the---the painting of the wordings, it's completely different. The other three daughter-in-law was completely fade off, and her name was---is highlighted out. And it's an act of God, her name was not correctly written here.

Q: What do you mean "act of God"?

A: Didn't---he make a mistake, you see. Her name was not---wasn't there. It's, er, different name from her name.

133 He also said:

Q: So when this tombstone---or rather, like, I put it another way. You have also said yesterday that you have visited with your family to pay respect to your grandmother during the *qingming* which is the festival for ancestor worship.

A: Yes.

Q: Right. So you would have seen on the tombstone the four names of your grandmother's daughters-in-law, correct?

A: No, I only saw three names.

Q: Right. So when did you start to see the fourth name?

A: Only with this copy.

The 3rd defendant's evidence was similar: [\[note: 109\]](#)

Q: What is your position as to when the Chinese characters appeared on the tombstone?

Court: Which Chinese characters is it?

See Tow: In yellow, sorry.

A: When? I've never seen it. When I went to pay respects, it wasn't there.

Q: I know. I'm asking you: Do you have any position as to when these Chinese characters appear on the tombstone?

A: I only see it now.

134 When the 1st and 3rd defendants were alleging that the Chinese characters which Mdm Wong was relying on did not in fact appear on the tombstone although these characters appear in the photograph of the tombstone, they were in effect saying that the photograph had been doctored. This was contrary to their earlier acceptance of the authenticity of the photograph. I was of the view that it was not open to them to allege that the Chinese characters in question were non-existent.

135 Indeed, counsel for the Defendants did not question Mdm Wong about the photograph. His reason was a technical one, that is, that although Mdm Wong had exhibited the photograph in her supplementary AEIC, that AEIC did not specifically assert that the Chinese characters in question were characters of Mdm Wong's name. Technically, the Defendants' counsel was correct about the absence of such a specific assertion. I add that this was probably due to an inadvertent omission by Mdm Wong's solicitors because the very purpose of exhibiting the photograph was obvious. That is why initially the Defendants were challenging its authenticity only to accept the authenticity on the fourth day of trial.

136 In my view, the real reason why counsel for the Defendants did not ask Mdm Wong any question about the photograph was that more damage was likely to be done to the Defendants' case if Mdm Wong was asked about the photograph.

137 In any event, the Defendants' counsel did not challenge Mdm Wong about the authenticity of the photograph and, indeed, he could not as the Defendants had by then accepted its authenticity.

138 Furthermore, when the 8th defendant's attention was drawn to the photograph, he did not assert that the Chinese characters in question were non-existent. Indeed, he accepted that they were characters of Mdm Wong's name. As stated above, he himself regarded Mdm Wong as Mr Tan's wife even though he continued to align himself with the position of the rest of the Defendants.

139 I add that the suggestion that Mdm Wong had doctored or would use a doctored photograph was shocking. While she was not a satisfactory witness, there was nothing to suggest that she would commit fraud. Those defendants who suggested that the photograph had been doctored were themselves giving false evidence. In my view, the Chinese characters did appear on the tombstone and they did appear right from the time the tombstone was first erected. I will say more later about the time the tombstone was first erected.

140 However, the 1st and 3rd defendants also asserted that of the three Chinese characters which were supposed to be of Mdm Wong's name, the third one did not reflect Mdm Wong's name. I need not go into details about their explanation on the meaning of the third character for the reasons stated below.

141 The inscriptions on Mdm Phua's tombstone identified various persons as her daughters-in-law. The Chinese character for daughter-in-law was inscribed on the tombstone and four names were inscribed under that character. There was no dispute about the Chinese characters for three of the persons. These characters referred to Mdm Owyang, Mdm Du and the wife of another son of Mdm Phua. The contentious point was whether the characters of a fourth name were characters of Mdm Wong's name.

142 Although the 1st and 3rd defendants suggested that the third character of the Chinese characters in question did not refer to Mdm Wong, there was also some discrepancy in the Chinese characters of the name of their own mother, Mdm Du on the tombstone. The Chinese characters of Mdm Du's name on the tombstone were not the same as those of her name as stated in an obituary for Mr Tan many years later when he passed away. This illustrated to me that different Chinese characters may have been used in the past to identify Mdm Wong and Mdm Du.

143 Furthermore, it will be re-called that the 8th defendant did not assert that the Chinese characters in question were not of Mdm Wong's name when his attention was drawn to the photograph during cross-examination.

144 Importantly, if the Chinese characters in question did not refer to Mdm Wong, who then did they refer to? Who was the fourth daughter-in-law of Mdm Phua, if it was not Mdm Wong? Neither the 1st nor the 3rd defendant identified any other person. All they did was to deny that the Chinese characters in question were of Mdm Wong's name.

The 7th defendant

145 As mentioned earlier, the 7th defendant gave evidence that after he paid for the niches, he returned to Mdm Wong's Tiong Bahru Flat and handed the receipt and a copy of the application form to Mr Tan. However, it was the 1st defendant's evidence that the 7th defendant gave him a photocopy of the niche application form after Mr Tan's death so that they could store Mr Tan's urn at *Kwong Wei Siew Peck San Theng*. Yet, the 7th defendant testified that he did not retain any copy of the niche application form and the last he had seen the form was when he handed the form and the receipt to Mr Tan in 1995. [\[note: 110\]](#) The 1st and 7th defendant had contradicted one another.

146 As regards the 7th defendant's evidence that Mr Tan would never have arranged for his urn to be placed in a Cantonese columbarium as he was Hokkien, the 7th defendant was suggesting that Mdm Wong had manoeuvred the situation as by then both Mdm Owyang and Mdm Du had passed away. The suggestion was that she had unduly influenced Mr Tan to place not only his urn but those of Mdm Phua, Mdm Owyang and Mdm Wong at this Cantonese columbarium. However, eventually the 7th defendant retreated from this suggestion. There was no evidence that Mr Tan had ever

succumbed to any undue influence from any of his wives. In any event, according to the 1st defendant, Mr Tan's urn of ashes was in fact eventually placed by the family in *Kwong Wei Siew Peck San Theng*. [\[note: 111\]](#) In my view, this was done because the Defendants knew that that was his genuine wish.

Tan Ah Tong and Tan Ah Leng

147 Tan Ah Tong's evidence was important to the Defendants' case in two aspects: first, to explain why Mdm Wong was listed as one of Mr Tan's wives in Mr Tan's obituary; and secondly, he claimed to have witnessed Mdm Du's Chinese customary marriage with Mr Tan in 1942.

148 In his AEIC, Tan Ah Tong said that he was asked by the 1st defendant to help write down the names of the relatives and next-of-kin for the obituary because he was familiar with the Chinese characters of the names in the family. Tan Ah Tong stated that, as he was writing out the names, Mdm Wong asked the newspaper representative to write down her name as one of Mr Tan's wives and she also requested Sock Fong's name to be included as one of Mr Tan's children. [\[note: 112\]](#)

149 During cross-examination, Tan Ah Tong elaborated that there was nothing wrong in allowing Mdm Wong to be named as a wife of Mr Tan even though she was not in fact Mr Tan's wife: [\[note: 113\]](#) He said:

- A: As a Chinese, it's nothing wrong to have more wife. Since she claimed to be his wife, let's be it.
- Court: Are you saying that it's okay with you for her to claim to be his wife when in fact she is not his wife at that time?
- Witness: I didn't have any objection.
- Court: So, it's okay with you, right?
- Witness: It was okay since Tan Bung Thee already died.
- Court: Next question. So, if another woman comes and says she is Tan Bung Thee's wife also okay because Tan Bung Thee has died?
- Witness: Yes.

150 As regards Mdm Du's Chinese customary marriage with Mr Tan, Tan Ah Tong stated during cross-examination that the Chinese customary marriage between Mdm Du and Mr Tan in 1942 happened before the 2nd defendant was born (in May 1942). Yet, he could not tell that Mdm Du was heavily pregnant at the time of the alleged marriage. His answers to that line of questions were confused and incoherent. [\[note: 114\]](#) More importantly, Tan Ah Tong was born in 1934. [\[note: 115\]](#) He was at the time of the alleged wedding, merely eight years old. It was doubtful that he could remember a wedding dinner between Mdm Du and Mr Tan and that it was in 1942 unless he had some special reason for remembering the occasion.

151 As for Tan Ah Leng, he gave evidence that he was, at the material time, living along the same row of houses and only a few doors away from 481 Silat Road. He deposed that there was no wedding dinner or celebration (between Mdm Wong and Mr Tan) held at 481 Silat Road in 1957. [\[note: 116\]](#) However, during cross-examination, he stated that he moved to a location near 481 Silat Road when

he was 21 or 22 years old. As Tan Ah Leng was born in 1943, the year he moved would be 1964 or 1965. Therefore, he would not have been staying near 481 Silat Road in 1957 and he would not have personal knowledge whether there was a wedding dinner at those premises in 1957.

The 8th defendant

152 As for the 8th defendant, I have mentioned that he had admitted that he regarded Mdm Wong as Mr Tan's wife even though his formal position was aligned with that of the rest of the Defendants.

153 After being posed questions on the photograph of Mdm Phua's tombstone, the 8th defendant accepted that Mdm Wong's name was inscribed as a daughter-in-law of Mdm Phua. Similarly, when he was asked questions about the niche application form, the 8th defendant agreed that Mr Tan had bought the niche for Mdm Wong and that as Mr Tan had accepted Mdm Wong as his wife, the 8th defendant would also accept her as Mr Tan's wife. [\[note: 117\]](#)

154 I found the 8th defendant to be a reluctant witness who was torn between his loyalties to the rest of the Defendants and his affection for Mdm Wong who had helped to take care of his children. However, when the documentary evidence was placed before him, he was truthful in his answers.

Conclusion on the material witnesses and their evidence

155 Given that all the key events of this case occurred more than 50 years ago and given the historical animosity (in particular, between Mdm Du and Mdm Wong) which became evident at trial, it is not surprising that the witnesses for the two camps gave widely diverging accounts of these events as well as on the point whether Mdm Wong had been accepted as Mr Tan's wife.

156 However, the evidence of the following tilted in favour of Mdm Wong's case on her status issue:

- (a) The 10th defendant who said that Mdm Wong had been accepted as Mr Tan's wife even though it was against her financial interest to say so.
- (b) The 8th defendant who agreed that Mr Tan had accepted Mdm Wong as his wife even though the 8th defendant's formal position was aligned with that of the other Defendants.
- (c) The 6th, 8th and 9th defendants who agreed that they had served tea to Mdm Wong to mark their respective weddings and Mdm Wong was seated next to Mr Tan and Mdm Du and Mdm Owyang in a row when this was done. This suggested that Mdm Wong had a formal and respected status at the same level as Mdm Du and Mdm Owyang. It was undisputed that Mdm Owyang was a wife of Mr Tan and, as I shall elaborate later, Mdm Du was also his wife. I add that the Defendants' argument (see [86] above) that Mr Tan was trying to keep his affair with Mdm Wong a secret was contrary to the facts. He was open about his relationship with Mdm Wong.

157 In any event, there was other evidence some of which had high probative value while others did not. Fortunately, for Mdm Wong, the evidence which had high probative value supported her case.

Is Mdm Wong the lawful wife of Mr Tan?

The Income Tax Notice of Assessment Forms

158 As mentioned above, the Defendants relied on certain Income Tax Notices of Assessment for Mr Tan in which wife relief was granted for some years but not for other years.

159 The Defendants submitted that as the abovementioned Notices were records made by a public officer in discharge of official duty and pursuant to s 37 of the Evidence Act (Cap 97) ("EA"), these forms were therefore admissible on Mdm Wong's status issue. They further contended that these are public documents under s 76(a)(iii) of the EA. [\[note: 118\]](#)

160 The Defendants might well be right to assert that the Notices are public records or documents. However, such evidence was, in my view, one or two steps removed from the issue before me. Income Tax Notices of Assessment are issued to a tax payer from the relevant regulatory authority *after* the tax payer has filed his Income Tax return. The obvious questions which arose here were what Mr Tan was claiming for. First, it was established during cross-examination that Mr Tan was illiterate in the English language. His Income Tax return would have in all likelihood been submitted in English as that was the working language. There was no evidence as to who he instructed to prepare his returns or the instructions he gave. There was no evidence as to why he was not given wife relief in later years even though Mdm Wong was still alive.

161 I was of the view that the Notices were not evidence against Mdm Wong's contention that she was one of his wives.

The niche application form

162 I turn next to the niche application form [\[note: 119\]](#). The parties' respective accounts have been set out above.

163 It was unclear whether the 7th defendant read the details on the application form which described Mdm Wong as mother of the applicant, *ie*, the 7th defendant. He said that he did not.

164 It was also unclear whether Mr Tan could read Chinese and would have understood the Chinese contents. I will say more about this later. Even if he could, it was unclear whether he read the details on the application form when the 7th defendant handed the application form to him.

165 However, the 1st defendant said he had received a photocopy of the application form from the 7th defendant. It was likely that the 1st defendant would have read the details on the form since he had asked for a copy of it. He would have noticed that Mdm Wong was described as mother of the applicant who was the 7th defendant. Yet, there was no evidence that he had queried the description of Mdm Wong as mother of the 7th defendant. This suggested that the 1st defendant knew that Mdm Wong had been accepted as the wife of Mr Tan and hence he did not query why she was described as the 7th defendant's mother.

166 Furthermore, there was the fact that Mr Tan had instructed that four niches be acquired in the same columbarium for Mdm Phua, Mdm Owyang, Mdm Wong and himself. In my view, it was unlikely that he would have included Mdm Wong if he regarded her only as a mistress and not his wife. The fact of Mdm Wong's inclusion supported her contention that she was his wife.

The Obituary

167 Another documentary piece of evidence was Mr Tan's obituary [\[note: 120\]](#) which listed Mdm Wong's name as one of the three wives of the late Mr Tan (along with both Mdm Du and Mdm

Owyang). Mdm Wong said that she had provided the Chinese characters of her name to the 7th defendant at his request for insertion in the obituary. The 7th defendant denied this. Tan Ah Tong said Mdm Wong herself provided her Chinese characters to the newspaper representative. Notwithstanding the different versions, it was clear that Tan Ah Tong did not object to the inclusion of Mdm Wong's name in the obituary as one of Mr Tan's wives. I did not accept his reason that he did not object because there was nothing wrong to allow it to be said that Mr Tan had more wives. That was an illogical explanation which he gave out of desperation. In my view, he did not object because he knew that Mdm Wong had been accepted as one of Mr Tan's wives.

168 Furthermore, it was noteworthy that Tan Ah Tong confirmed during cross-examination that after the obituary was published, none of the Defendants objected to Mdm Wong being referred to as Mr Tan's wife in the obituary. [\[note: 121\]](#)

169 Indeed, none of the Defendants suggested that he or she was unaware of the contents of the obituary or that he or she had queried or protested about the inclusion of Mdm Wong's name as one of Mr Tan's wives. In my view, the reason was obvious. They all knew that Mr Tan had accepted Mdm Wong as his wife.

Photograph of the tombstone

170 I have mentioned above that I accepted the authenticity of the photograph of the tombstone of Mdm Phua and that Mdm Wong was named on the tombstone as one of four daughters-in-law on the tombstone. However, the question arose whether the inscriptions on the tombstone were admissible in evidence to establish directly Mdm Wong's relationship with Mr Tan. Mdm Wong relied on s 32(1)(e) and (f) of the EA to submit that the inscriptions were admissible in evidence. I set out below s 32(1)(e) and (f):

Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant

32.—(1) Subject to subsections (2) and (3), statements of relevant facts made by a person (whether orally, in a document or otherwise), are themselves relevant facts in the following cases:

...

or relates to existence of relationship;

(e) when the statement relates to the existence of any relationship by blood, marriage or adoption between persons as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised;

or is made in will or deed relating to family affairs;

(f) when the statement relates to the existence of any relationship by blood, marriage or adoption between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree or upon any *tombstone*, family portrait or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised;

...

[emphasis added]

171 I should mention that the previous s 32 was renumbered as s 32(1) in 2012. Some new sub-provisions were included but s 32(1)(e) and (f) themselves are not new. However, the opening paragraph of the previous s 32 was deleted and is no longer a requirement in order for s 32(1)(e) and (f) to apply. I need not say any more about that requirement since it is no longer applicable for s 32(1)(e) and (f).

172 I will deal with s 32(1)(f) first. The key question was whether tombstone evidence is admissible under this provision only if it is used to prove a relationship between persons who are both deceased or it is admissible to prove a relationship between persons where only one of them is deceased.

173 Mdm Wong relied on English cases to submit that the inscriptions on the tombstone were admissible under s 32(1)(f) and s 32(1)(e) as well. However, those cases appeared to apply the common law rules of evidence. Section 2(2) of the EA states that, "All rules of evidence not contained in any written law, so far as such rules are inconsistent with any of the provisions of this Act, are repealed". Mdm Wong did not elaborate as to how those English cases would apply in the light of s 2(2).

174 Mdm Wong also relied on the Indian case of *Hakam Singh (Dead) v Kehar Singh (Dead)* Regular Second Appeal No 730 of 1981 (30 May 2009) ("*Hakam Singh*") decided by the High Court of Punjab and Haryana. In that case, the court said:

... oral or unsigned statements cannot be summarily discarded and may, in a given situation, be considered relevant, provided however, that they fulfill the ingredients of "relevancy" set out under Chapter-II of the Indian Evidence Act and in view of the facts of the present case the ingredients of Sections 32(5), (6) and 50 of the evidence Act.

175 I did not think that the above passage offered much assistance to Mdm Wong. It was not sufficient for Mdm Wong to suggest that a statement may be admissible in certain circumstances even if the maker of the statement is unknown. Mdm Wong still had to satisfy the requirements of the relevant provision in the EA. The facts in *Hakam Singh* were quite different from those before me. There was nothing in that case that suggested that inscriptions on a tombstone could be admitted under s 32(1)(f) to establish the relationship between Mr Tan and Mdm Wong when Mdm Wong was still alive.

176 Mdm Wong also relied on the local case of *Seow Beng Hay v Seow Soon Quee & anor* [1933] 1 MLJ 111 ("*Seow Beng Hay*"). In that case, the plaintiff was trying to prove that he was the great-grandson of Seow Im Swee on the basis that he was the grandson of Seow Swee Peng who was the son of Seow Im Swee. The plaintiff relied on the tombstone of Seow Swee Peng to establish that he was the grandson of this deceased person. The trial judge was of the view that he was entitled to rely on the tombstone. The Court of Appeal agreed.

177 The Court of Appeal referred to s 32(6) of Ordinance No 53 (Evidence) which is the equivalent of s 32(1)(f) EA. The Court of Appeal observed at 112 that as Seow Soon Teck, the plaintiff's father, was dead, that provision:

... would seem to govern the case and to allow the evidence to be given. Even if it were not proved who erected the stone, the evidence would still be admissible, for publicity, as it is said,

supplies the defect of proof who erected. (*Monkton v. Attorney General* (1831) 39 English Reports, 350 at 357, and *Davis v. Lowndes* (1783), 134 English Reports 978 at page 1002).

178 I was of the view that perhaps the Court of Appeal ought not to have relied on English cases for a similar reason as stated above. There was in the Evidence Ordinance an equivalent of s 2(2) of the EA which repealed all rules of evidence not contained in any written law. Secondly the Court of Appeal appeared to assume that so long as one of the persons (whose relationship was in question) had passed away that was sufficient to trigger the provision in question. Apparently, there was no argument that the provision would apply only if both persons had passed away. On the facts in that case, it may be that in any event, it was not necessary for the plaintiff there to use that provision to establish his relationship with his grandfather but to use it to establish the relationship between his grandfather and his father, both of whom were deceased, and then to establish his own relationship with his father from other evidence.

179 Therefore, I was of the view that *Seow Beng Hay* did not assist Mdm Wong to rely on s 32(1)(f).

180 Mdm Wong also relied on *Wong Kai Woon alias Wong Kai Boon and another v Wong Kong Hom alias Ng Kong Hom and others* [2000] SGHC 176 ("*Wong Kai Woon*"). She submitted that Chan Seng Onn JC (as he then was) had relied on various evidence, including the inscription on a tombstone which was admitted under s 32(f) of the Evidence Act (Cap 97, 1997 Rev Ed), to conclude that a claimant was a lawful grandson of a testator Wong Yoon Fee and thus entitled to a share of the testator's estate. Section 32(f) is the predecessor of s 32(1)(f).

181 In *Wong Kai Boon*, the testator had several sons. Chan JC had concluded in an earlier decision that all the lawful natural sons of the testator's ten sons and an adopted son would acquire an interest in the residuary estate of the testator. One of the biological sons of the testator was Wong Khin Yong ("Khin Yong"). He had married a wife in Singapore. A question arose as to whether he married another woman, Liao, in China with whom he had a son Huang Kaiyuan ("Kaiyuan"). Both Kaiyuan and Liao had died. Claims were filed on behalf of the estate of Kaiyuan and Liao by Huang Luexian ("Luexian") who claimed to be an adopted grandson of Khin Yong. Luexian relied on inscriptions of a tombstone of the testator in China.

182 At [141], Chan JC said:

Both Kaiyuan and Luexian's names were inscribed on the tombstone as the testator's grandson and great-grandson respectively. Again, these inscriptions are admissible under S 32 (f) of the Evidence Act as evidence to prove a family relationship.

183 It will be remembered that the testator and Kaiyuan had both already passed away by the time of the trial. Therefore the fact that Chan JC relied on s 32(f) did not assist Mdm Wong who was still living at the time of the trial before me. However, Luexian was still alive at the time of the trial before Chan JC. It seemed to me that, like the Court of Appeal in *Seow Beng Hay*, Chan JC had assumed that s 32(f) was applicable for Luexian too so long as the testator had passed away. Again, apparently, there was no argument that the provision would apply only if both the testator and Luexian had passed away. Luexian should still have to establish that he was an adopted grandson of Liao and of Khin Yong. Indeed, Chan JC did not declare Luexian's alleged adoption to be valid under the laws of China as it was not an issue before him. Therefore his remarks in [141] of his judgment about Luexian being the testator's great-grandson from the inscription on the testator's tombstone was at best *obiter dictum*.

184 Therefore, I was of the view that *Wong Kai Boon* also did not assist Mdm Wong on the application of s 32(1)(f).

185 A passage from the leading text of *Sir John Woodroffe & Syed Amir Ali's Law of Evidence* vol 2 (V Kesava Rao ed) (LexisNexis Butterworths Wadhwa Nagpur, 18th Ed, 2009) ("*Woodroffe & Amir Ali*") at pp 2087–2088 on the equivalent provision in the Indian Evidence Act is instructive:

... The statement declared relevant by cl 5 is a statement relating to the existence of any relationship between persons living or dead, as to whose relationship the person making the statement had special means of knowledge such as the statement of deceased relatives, servants and dependents of the family. *The statement mentioned in cl 6 is a statement relating to the existence of relationship between deceased persons only. The last clause does not embrace the case of a statement of relationship between a deceased person and a living person.* ... [emphasis added]

186 The Defendants relied on similar passages from other leading textbooks such as *Butterworths' Annotated Statutes of Singapore* vol 5 (Evidence) (Jeffrey Pinsler gen ed) (Butterworths Asia, 1997 Issue) and Jeffrey Pinsler, *Evidence and the Litigation Process* (LexisNexis, 4th Ed, 2013). [\[note: 122\]](#)

187 The Defendants also cited Tan Lee Meng J's decision in *Lim Weipin and another v Lim Boh Chuan and others* [2010] 3 SLR 423 ("*Lim Weipin*"). In that case, the plaintiff relied on the inscriptions on the deceased's mother's tombstone to prove that the plaintiff was the deceased's adopted son. It is pertinent to set out the relevant paragraphs of that decision:

54 As for LHC's mother's tombstone ("the tombstone") in China, LW claims that the fact that his name appears on the tombstone shows that he is related to LHC. What is engraved on a tombstone depends on the instructions given to the engraver by the person who ordered its erection. LW stated in his AEIC at para 29 that he was "solely in charge" of the erection of the tombstone. If this is so, there is nothing to stop him from instructing the engraver to add his name onto the tombstone. As such, the fact that his name is found on the tombstone cannot, without more, prove that he is LHC's adopted son.

55 In the plaintiff's closing submissions, reliance was placed on s 32(f) of the EA for the admission of the inscriptions on the tombstone as evidence. The reliance on s 32(f) of the EA is misplaced for the simple reason that it concerns statements regarding the "relationship by blood marriage or adoption *between persons deceased*". As LW is claiming that he is related to the late LHC, s 32(f) of the EA is irrelevant.

[emphasis in original]

The above passage did imply that the provision was available only when both persons were deceased.

188 In my view, the literal reading of s 32(1)(f) suggests that it applies to establish a relationship when the relationship is of persons who are both deceased.

189 However, it did not appear logical to me to restrict the application of s 32(1)(f) to such a situation. While one may argue that as Mdm Wong is alive she should be in the position to give the best evidence about her relationship with Mr Tan, it does not follow that a person who is alive will necessarily give the best evidence. For example, through old age and the lapse of time, a plaintiff may not be able to recollect the evidence. Secondly, what if the plaintiff were so ill that she was not able to give evidence? It seems incongruous that if she were very ill and not able to give evidence,

she would still not be able to rely on s 32(1)(f) because she is still alive but if she had passed away, her estate could rely on s 32(1)(f). On another example, it also seems incongruous that if she had passed away before she gave evidence, her estate could arguably rely on s 32(1)(f) but not if she passed away after the trial ended.

190 The above brief discussion suggests that s 32(1)(f) ought not to be so restricted. The evidence should be admissible leaving the court to decide what weight to give it. If it is not admissible in the first place, then the evidence is taken out of the court's hands and the court has no discretion whether to give any weight to it. Ironically, the tombstone evidence might be the best evidence which would have been put out of the reach of the court if it were inadmissible.

191 Nevertheless, it did appear to me that the reference to "deceased persons" was not an accident of drafting and that the provision is restricted in the manner discussed. Section 32(1)(f) is an exception to the hearsay rule and the concern appears to have been to restrict rather than to expand the exception.

192 That does not mean that a living person can never avail himself of s 32(1)(f). A living person may use the provision to establish a relationship between, say, his grandfather and his father, if both are deceased, and then use other evidence to establish his own relationship with his father to show that he is in fact the grandson of the grandfather.

193 Accordingly, the inscriptions on Mdm Phua's tombstone were not admissible under s 32(1)(f). However, as the restrictive scope may result in injustice, this provision, which was not amended in the recent 2012 amendments, should be reviewed.

194 I will now deal with s 32(1)(e). Under that provision, the person making the statement must have had special means of knowledge on the relationship in question.

195 In *Hakam Singh*, the court was of the view that the Indian equivalent of s 32(1)(e) and (f), as well as s 52 of the EA which I will come to later, were all applicable. However, as I stated above, the facts in that case were quite different from those before me. In that case, one of the parties wanted to rely on an unsigned document, Exhibit D-14, which contained a pedigree table to establish a certain relationship. That document was appended with a signed list of documents, Exhibit D-10, which was filed in an earlier suit by identifiable persons.

196 In the case before me, the identity of the engraver of the tombstone was unknown. Neither was the identity of the person who gave instructions to the engraver known. Mdm Wong relied on s 32(2) of the EA which states as follows:

(2) For the purposes of paragraph (a), (c), (d), (e), (f), (g), (h), (i) or (j) of subsection (1), where a person makes an oral statement to or in the hearing of another person who, at the request of the maker of the statement, puts it (or the substance of it) into writing at the time or reasonably soon afterwards, thereby producing a corresponding statement in a document, the statement in the document shall be treated for the purposes of those paragraphs as the statement of the maker of the oral statement.

197 In my view, s 32(2) did not assist Mdm Wong because, as stated above, the identity of the person who gave the instructions to the engraver was not known. Mdm Wong was trying to establish that the person who gave the instructions to the engraver would have been a person who had special means of knowledge within the meaning of s 32(1)(e). However, the problem for Mdm Wong was that Mdm Wong was assuming or wanted the court to assume that such a person was a relative of Mdm

Phua or Mdm Phua's family who was close enough to qualify as a person who had special means of knowledge. I could not assume that. The person who had given instructions to the engraver could have been a friend of a friend of the family and it was not known how that person came to acquire the information he was giving to the engraver. Furthermore, if such an assumption could be made readily then, s 32(1)(f) would be unnecessary in so far as the reference to a statement on a tombstone is concerned.

198 Therefore, in my view, s 32(1)(e) of the EA did not assist Mdm Wong.

199 I come now to a third provision, *ie*, s 52 of the EA, which Mdm Wong omitted to rely on initially. Section 52 states:

Opinion on relationship when relevant

52.—(1) When the court has to form an opinion as to the relationship of one person to another, the opinion expressed by conduct as to the existence of such relationship of any person who as a member of the family or otherwise has special means of knowledge on the subject is a relevant fact.

(2) Such opinion shall not be sufficient to prove a marriage in prosecutions under section 494 or 495 of the Penal Code (Cap. 224).

[51/2007 wef 01/02/2008]

Illustration

(a) The question is whether *A* and *B* were married.

The fact that they were usually received and treated by their friends as husband and wife is relevant.

(b) The question is whether *A* was a legitimate son of *B*.

The fact that *A* was always treated as such by members of the family is relevant.

200 There was a minor amendment to s 52(2) of the EA made in 2008. As part of the related and consequential amendments to the Penal Code (Cap 224, 1985 Rev Ed), the reference to s 498 of the Penal Code was deleted. For present purposes, the amendment in 2008 is immaterial.

201 Section 52(1) of the EA is similar to s 50 of the Indian Evidence Act (Act No 1 of 1872).

202 The requirements of s 50 of the Indian Evidence Act are set out in *Woodroffe & Amir Ali* at p 2774:

The essential requirements of s 50 are:

(a) there must be a case where the court has to form an opinion as to the relationship of one person to another;

(b) in such a case, the opinion expressed by conduct is a relevant fact; and

(c) the person whose opinion expressed by conduct is relevant must be a member of the family or otherwise he must have special means of knowledge of the particular subject of relationship[. W]here none of the witnesses examined is a member of the family nor has any special means of knowledge on the particular subject of relationship, the testimony of such witnesses does not fall within the ambit of s 50, and the court cannot form an opinion as to the relationship on the testimony of such witnesses.

Where the opinion of relationship is expressed by conduct, the belief or conviction must manifest itself in conduct or outward behaviour, which indicates existence of belief or opinion. Where the opinion is based on hearsay and not on any belief or conviction, it is not admissible.

203 The learned authors also noted at p 2771:

Section 50 does not obviously control s 32(5), which operates in its own field. Thus, if a piece of evidence is admissible under s 32(5), the same need not be rendered admissible by s 50 also.

204 In other words, in the Singapore context, s 32(1)(e) and s 52 of the EA are mutually exclusive and are independent of each other.

205 I should mention that evidence of the conduct of relatives was referred to in *Hakam Singh*, *Seow Beng Hay* and *Wong Kai Woon*.

206 As mentioned above, the obituary of Mr Tan was already evidence that Mdm Wong was regarded as Mr Tan's wife. The inscriptions on the tombstone were more important evidence, if admissible, because they were close to the cut-off date in the Women's Charter. As stated above, the inscriptions were not admissible in evidence directly under s 32(1)(f) or (e) to establish Mdm Wong's relationship with Mr Tan. However, the conduct of Mr Tan and Mr Tan's family in response to the inscriptions on the tombstone could be admissible on the question of her relationship with Mr Tan.

207 There was evidence that Mr Tan and members of his family went to pay their respects to Mdm Phua by visiting her grave from time to time.

208 Unfortunately for Mdm Wong, her counsel did not focus on the question whether Mr Tan could read the Chinese inscriptions on the tombstone. Hence, the evidence as to whether Mr Tan could read the Chinese inscriptions was unclear. For example, the Defendants said that Mr Tan was illiterate but did not elaborate as to what this meant. Mdm Wong herself did not say explicitly that Mr Tan could read the Chinese inscriptions on the tombstone. In the light of this omission, her counsel drew my attention to a photograph in which Mr Tan was shown reading a newspaper in the Chinese language. However, para 39 of Mdm Wong's AEIC said that when Sock Fong was still schooling, Sock Fong would read the Chinese newspapers to Mr Tan after she came back home. This could mean that she did so because Mr Tan could not read Chinese. Indeed, Sock Fong said in cross-examination that when she came back from school, she read the Chinese newspapers to Mr Tan because he wanted to know about the happenings and "he doesn't write or read". [\[note: 123\]](#) This contradicted counsel's argument that Mr Tan could read Chinese. Perhaps he could not read Chinese in his earlier years and subsequently he learned to do so. However, as mentioned above, the evidence was not clear and the burden was on Mdm Wong to establish that he could read Chinese at some point of time and that he could read the Chinese inscriptions on the tombstone before the grave was exhumed.

209 Fortunately for Mdm Wong, there was evidence that some of the Defendants could read the inscriptions on the tombstone when they went to pay their respects to Mdm Phua.

210 The main witness for the Defendants was the 1st defendant. He confirmed that he had gone to Mdm Phua's grave to pay his respects to her. [\[note: 124\]](#) So did the 3rd defendant. [\[note: 125\]](#) It was clear from their evidence that both of them could read Chinese and the inscriptions on the tombstone. It will be re-called that they had said, firstly, that the Chinese characters in question did not appear on the tombstone and, secondly, that those characters were not of Mdm Wong's name. I concluded that those characters did appear on the tombstone and they were of Mdm Wong's name.

211 It was clear to me that the 1st and 3rd defendants had read the Chinese characters in question and knew that Mdm Wong was described on the tombstone as one of the four daughters-in-law of Mdm Phua. They must have known that Mdm Wong was described as a daughter-in-law because she had been accepted as the wife of Mr Tan. If indeed they believed that Mdm Wong had not been accepted as Mr Tan's wife, they would surely have told their own mother about the discrepancy. There is no evidence that they ever did or that they or anyone else ever queried the inscriptions on the tombstone.

212 As for the 8th defendant, he too said that he had been to Mdm Phua's grave to pay his respects to her. [\[note: 126\]](#) However, as stated above, he did not take the same tack as the 1st and 3rd defendants. He did not deny that the Chinese characters in question appeared on the tombstone. Neither did he suggest that they were not of Mdm Wong's name. On the contrary, he accepted their existence on the tombstone and that she had been described as Mdm Phua's daughter-in-law. He accepted that Mr Tan had regarded Mdm Wong as his wife. [\[note: 127\]](#)

213 It was clear to me that at least some children of Mdm Du knew of the inscriptions on the tombstone and that they did not protest or query about Mdm Wong being described as Mdm Phua's daughter-in-law. Even if it could be said that these children were afraid to ask Mr Tan why Mdm Wong was described as Mdm Phua's daughter-in-law, they would surely have asked or informed their own mother about the inscriptions when she was alive if she was unaware about them and if they genuinely believed that Mdm Wong was not married to Mr Tan. There was no evidence that they had done so or about Mdm Du's reaction on the inscriptions. In my view the absence of such evidence was because they had accepted that Mdm Wong was Mr Tan's wife. The conduct of these children expressed an opinion that Mr Tan and Mdm Wong were husband and wife.

214 Most of the Defendants' submissions on s 52 of the EA [\[note: 128\]](#) focused on the conduct of Mr Tan or the parties on other aspects which were disputed or equivocal rather than the conduct of the parties *vis-à-vis* Mdm Phua's tombstone or Mr Tan's obituary. For example, the Defendants asserted that Mr Tan did not provide any maintenance to Mdm Wong prior to 1971.

215 I was of the view that the parties' conduct in respect of Mdm Phua's tombstone and Mr Tan's obituary carried more weight for reasons which I have stated above and which I elaborate below.

216 Mr Tan's obituary spoke for itself. Mdm Wong was described as a wife of Mr Tan. If the Defendants did not question or object to such a description without a satisfactory explanation, then their silence spoke volumes. Likewise in respect of the inscriptions on Mdm Phua's tombstone, once I concluded that the Chinese characters in question did exist and were of Mdm Wong's name and that at least some of the Defendants were aware of the same, the Defendants' silence would suggest their belief that their father accepted Mdm Wong as his wife. Indeed the inscriptions on the tombstone were even more important than the obituary because of the close proximity between the time the tombstone was erected and the cut-off date.

217 Mdm Phua died on 23 October 1962 of the lunar calendar year. The 1st defendant said that the

tombstone was built in 1963. While it was possible that Mdm Wong had been accepted as Mr Tan's wife after the cut-off date (of 15 September 1961) but before Mdm Phua's death, no one suggested that this was indeed the case on the facts. I was of the view that given the close timing, it was more likely that Mdm Wong had been accepted as Mr Tan's wife before the cut-off date. She was accepted as such because the family knew that he had intended to and did take her as his wife.

Conclusion on Mdm Wong's status issue

218 After considering all the evidence in totality, I found, on a balance of probabilities, that Mdm Wong is Mr Tan's lawful wife.

Was Mdm Du the lawful wife of Mr Tan?

Mdm Wong's concessions during cross-examination

219 Mdm Wong made several telling concessions during cross-examination in respect of Mdm Du's status issue.

220 As regards the Defendants' contention that Mr Tan was known to everyone to be the husband of the late Mdm Du, Mdm Wong agreed with this contention during cross-examination. [\[note: 129\]](#)

221 I should also mention that the 6th to 9th defendants and the 10th defendant had never denied that Mdm Du was one of Mr Tan's wives.

222 Mdm Wong also accepted that Mdm Du was known to all of Mr Tan's friends and associates as Mr Tan's wife when she was referred to the condolences and obituaries published in the newspapers when Mdm Du passed away in 1988. [\[note: 130\]](#)

223 In my view, another compelling piece of evidence in favour of the 1st to 5th defendant's case in respect of Mdm Du's status issue was contained in a letter dated 16 May 2012 from Mdm Wong's solicitors. [\[note: 131\]](#) The relevant paragraphs of the said letter are reproduced as follows:

2. Our clients disagree with your contention in paragraph 2 of the said letter, where your client alleged that [Mdm Wong] was not married to [Mr Tan] under any Chinese customary rites. ... *Amongst other rites, we are instructed that both [Mr Tan] and [Mdm Wong] had served tea to [Mdm Phua]. More importantly, [Mdm Phua] recognized [Mdm Wong] as one of the three wives of [Mr Tan].* In the circumstances, [Mdm Wong] is one of the lawful wives of [Mr Tan].

3. *We are instructed that [Mdm Du] had gone through the same Chinese customary rites with [Mr Tan].* If your client insists that [Mdm Wong] was not married to [Mr Tan] under any Chinese customary rites, [Mdm Du's] marriage to [Mr Tan] would similarly not be recognised under the Women's Charter (Cap. 353, 2009 Rev Ed). [The 1st to 5th defendants] would then not be recognised as legitimate children of [Mr Tan], and would have no interest in [Mr Tan's] estate.

[emphasis added]

224 The letter was clearly an acknowledgement by Mdm Wong through her solicitors that Mdm Du was Mr Tan's wife. Furthermore, on the first day of trial, counsel for the Defendants asked Mdm Wong during cross-examination who the other two wives of Mr Tan were. Mdm Wong said: [\[note: 132\]](#)

Q: Right. So this is your lawyer's letter. Now if you look at paragraph 2, at the last second sentence of paragraph 2, I'll just read it and maybe then Mdm Interpreter, you interpret it to her. It says:

[Reads] "More importantly, the Deceased mother recognised Mdm Wong as one of the three wives of the Deceased."

Right. So your lawyer is saying that you are actually one of the three wives of Tan Bung Thee, correct?

A: Yes, correct.

Q: Right. And who are the other two wives?

A: Owyang---Owyang Wan, Tow(?) Chow Wan.

225 Mdm Wong confirmed her response to me after I sought a clarification on her answers: [\[note: 133\]](#)

Court: All right. You are now telling me that Mr Tan Bung Thee had three wives, is that right?

Witness: Correct.

Court: Who are the three?

Witness: Owyang Wan, Du Chao Wan, myself.

226 On the fourth day of trial, after counsel for the Defendants had put the case to Mdm Wong that Mdm Du and Mr Tan had undergone a Chinese customary marriage before 15th of September 1961, I sought clarification on her answers and she subsequently confirmed that by 1943, Mdm Du was married to Mr Tan: [\[note: 134\]](#)

Court: So that means does she agree that by 1943, Mdm Du Chao Wan was married to Tan Bung Thee?

Witness: Agree.

227 Apart from the documents already mentioned above, the 1st to 5th defendants also relied on the following documents:

(a) Mdm Du's Certificate of Registration of Death; [\[note: 135\]](#)

(b) The letter dated 9 October 1992 purportedly from Mr Tan to the Property Tax Branch, IRAS; [\[note: 136\]](#) and

(c) The same Income Tax Notice of Assessment statements issued by IRAS to the late Mr Tan, referred to in [100] above.

228 The 1st to 5th defendants said that Mdm Du's Certificate of Registration of Death indicates her marital status as "married". They contended that the letter dated 9 October 1992 showed that Mdm Du was Mr Tan's first wife and Mdm Owyang as his second wife. They also relied on the Income Tax Notice of Assessment statements mentioned above to show that Mdm Du was Mr Tan's wife.

229 The above three sets of documents would appear to be of low evidential value. For instance, Mdm Du's Certificate of Registration of Death did state that she was married but the information was provided by the 1st defendant who did not have personal knowledge of her status. As for the Income Tax Notice of Assessment statements, I have already given my reasons in [160] above. The same reasons may well apply to the letter dated 9 October 1992 which was signed by Mr Tan to claim a concessionary rate of property tax for 27 Blair Road on the basis that it was occupied by Mdm Du, his first wife, and some of her children and grandchildren. The 1st defendant admitted during cross-examination that he did not have any evidence that Mr Tan understood that letter as he was illiterate in English. [\[note: 137\]](#) Furthermore, although that letter referred to Mdm Du as Mr Tan's first wife, she had already passed away on 29 June 1988, more than four years before the date of that letter. The accuracy of that letter was therefore questionable.

230 In any event, the other evidence I have referred to above was more than enough to establish that Mdm Du was married to Mr Tan and that this was before the cut-off date.

231 Finally, the tombstone evidence comes into play again. It was not disputed that under the subject of daughters-in-law, Chinese characters of Mdm Du's name were also inscribed on Mdm Phua's tombstone. Unlike Mdm Wong, Mdm Du had already passed away by the time of the trial. Therefore, s 32(1)(f) of the EA would apply to admit the inscriptions on the tombstone as direct evidence of the relationship between Mr Tan and Mdm Wong, both of whom were deceased persons.

232 In addition, s 52 of the EA would apply also in that there was no evidence of any query or objection to the description of Mdm Du as Mdm Phua's daughter-in-law.

233 I would point out that the 1st to 5th defendants did not rely on the tombstone inscriptions to establish Mdm Du's relationship with Mr Tan. That was unsurprising because they did not want Mdm Wong to rely on the tombstone inscriptions in the first place. Nevertheless, for the reasons stated above, I was of the view that I should take into account such evidence in respect of their counterclaim.

234 In the circumstances, I found, on a balance of probabilities, that Mdm Du was Mr Tan's lawful wife.

Conclusion

235 In conclusion, I allowed Mdm Wong's claim and declared that Mdm Wong is the lawful wife of Mr Tan.

236 I also allowed the 1st to 5th defendants' counterclaim and declared that their mother, Mdm Du, was the lawful wife of Mr Tan. I also declared that the 1st to 5th defendants are the legitimate children of Mr Tan under the Intestate Succession Act.

237 Prayers (ii) and (iii) of Mdm Wong's claim (referred to at [14(b)] and [14(c)] above) were in respect of the grant of letters of administration. Specifically, she wanted to be granted letters of administration for the estate of Mr Tan and to be named as the sole administrator. She also wanted a declaration that the 1st to 5th defendants have no right to apply for a grant of letters of

administration for Mr Tan's estate.

238 It was obvious to me that even though Mdm Wong was declared to be the lawful wife of Mr Tan, she was not an appropriate person to be appointed administrator because of her age and her capabilities. I suggested to counsel for each side to be realistic about who should be the administrator(s) and left it to them to try and resolve this amicably first. Accordingly, I also did not think I should yet address the question whether the 1st to 5th defendants should be precluded from applying for a grant of letter of administration for Mr Tan's estate.

239 I granted Mdm Wong costs of her claim and the 1st to 5th defendants their costs of their counterclaim. The former amount was much more than the latter amount because most of the factual dispute was in respect of Mdm Wong's status issue.

[\[note: 1\]](#) Notes of Evidence ("NE") 24/09/2013 p 13 lines 28–30; Agreed Bundle ("AB") 549–566

[\[note: 2\]](#) NE 12/11/2013 pp 30–33

[\[note: 3\]](#) PCS at [22]; Bundle of Affidavits of Evidence-in-Chief ("BAEIC") 5 at [16].

[\[note: 4\]](#) BAEIC 278 at [1].

[\[note: 5\]](#) NE 24/09/2013 p 24 lines 20–28; Exhibit D1

[\[note: 6\]](#) Plaintiff's Closing Submissions dated 16/07/2014 ("PCS") at [6]; Defendants' Closing Submissions dated 16/07/2014 ("DCS") at [2]

[\[note: 7\]](#) PCS at [7]; DCS at [3]

[\[note: 8\]](#) Supplementary Bundle of Affidavits of Evidence-in-Chief ("SBAEIC") pp 75–76

[\[note: 9\]](#) PCS at [8]; DCS at [4]

[\[note: 10\]](#) NE 12/11/2013 p 34 lines 9–12

[\[note: 11\]](#) BAEIC 7–8 at [28]

[\[note: 12\]](#) BAEIC 7 at [27]

[\[note: 13\]](#) NE 26/09/2013 p 6 lines 31–32

[\[note: 14\]](#) NE 26/09/2013 p 13 lines 3–5

[\[note: 15\]](#) Exhibit P13

[\[note: 16\]](#) BAEIC 120 at [12]

[\[note: 17\]](#) NE 26/09/2013 p 13 lines 6–17

[\[note: 18\]](#) Setting Down Bundle ("SDB") at pp 10–11

[\[note: 19\]](#) SDB 44 at [3]: Reply & Defence to Counterclaim (Amendment No. 1) dated 30 September 2013

[\[note: 20\]](#) By way of Summons No. 4877 of 2013 filed on 17 September 2013. SDB pp 41–42: Defence & Counterclaim (Amendment No.1) dated 24 September 2013 at pp 5–6

[\[note: 21\]](#) NE 1/10/2013 p 15 lines 21–32; p 16 lines 1–2; p 20 lines 11–32; and p 21 lines 1–20

[\[note: 22\]](#) SDB pp 37–42

[\[note: 23\]](#) SBAEIC 65 at [6]

[\[note: 24\]](#) PCS at [9]

[\[note: 25\]](#) BAEIC 3 at [10]

[\[note: 26\]](#) BAEIC 5 at [17]–[18]

[\[note: 27\]](#) BAEIC 6 at [21] & [23]

[\[note: 28\]](#) BAEIC 6 at [24]–[25]

[\[note: 29\]](#) BAEIC 115 at [7]–[8]

[\[note: 30\]](#) BAEIC 7 at [28]; NE 26/09/2013 p 6 lines 7–14

[\[note: 31\]](#) BAEIC 8 at [29]

[\[note: 32\]](#) BAEIC 7 at [26]

[\[note: 33\]](#) BAEIC 115 at [9]

[\[note: 34\]](#) BAEIC 8 at [30]; BAEIC 95 at [8]

[\[note: 35\]](#) BAEIC 10 at [39]; SBAEIC 44 at [3]; SBAEIC 57 at [5].

[\[note: 36\]](#) SBAEIC 45 at [4]–[6]

[\[note: 37\]](#) NE 26/09/2013 p 17 lines 5–16

[\[note: 38\]](#) SBAEIC 9 at [27]

[\[note: 39\]](#) Exhibit P2; A copy thereof at Plaintiff's Bundle of Documents ("PBD") 32 & 33 (English translation)

[\[note: 40\]](#) Exhibit P7

[\[note: 41\]](#) NE 26/09/2013 p 20 lines 1–p 21 line 11

[\[note: 42\]](#) SBAEIC 9 at [28] & [29]

[\[note: 43\]](#) SBAEIC 66 at [12]; SBAEIC 21

[\[note: 44\]](#) NE 08/07/2014 p 79 lines 14–21; NE 09/07/2014 p 12 lines 2–11; NE 08/07/2014 p 59 lines 14–30

[\[note: 45\]](#) SBAEIC 10 at [30]

[\[note: 46\]](#) SBAEIC 10 at [31]

[\[note: 47\]](#) SBAEIC 10 at [32]

[\[note: 48\]](#) SBAEIC 23–42

[\[note: 49\]](#) NE 2 Oct 2013 pp 57–58

[\[note: 50\]](#) BAEIC 20 at [73]

[\[note: 51\]](#) NE 26/09/2013 p 34 line 17– p 35 line 13

[\[note: 52\]](#) NE 08/07/2014 p 31 line 12–p 32 line 17

[\[note: 53\]](#) BAEIC 20 at [73]

[\[note: 54\]](#) Exhibit P10, AB 38 and AB 39A

[\[note: 55\]](#) SBAEIC 6 at [13]

[\[note: 56\]](#) SBAEIC 7 at [20]

[\[note: 57\]](#) SBAEIC 7 at [21]

[\[note: 58\]](#) SBAEIC 8 at [23]

[\[note: 59\]](#) SBAEIC 7 at [19]

[\[note: 60\]](#) AB 48–50; and P9

[\[note: 61\]](#) BAEIC 14 at [53]–[55]

[\[note: 62\]](#) AB 245–246; BAEIC 16 at [60]

[\[note: 63\]](#) BAEIC 16 at [62]; BAEIC 100 at [26]–[31]

[\[note: 64\]](#) AB 254; BAEIC 17 at [63]

[\[note: 65\]](#) AB 257–268; BAEIC 17 at [64]

[\[note: 66\]](#) AB 271–276; AB 304; BAEIC 18 at [65]

[\[note: 67\]](#) PCS at [89]

[\[note: 68\]](#) PCS at [86]

[\[note: 69\]](#) Plaintiff’s Bundle of Authorities (Vol. 2), Tab 6; PCS at [13]–[16]

[\[note: 70\]](#) SBAEIC pp 75–76

[\[note: 71\]](#) PCS at [90]–[91]

[\[note: 72\]](#) BAEIC 279 at [4]–[6]

[\[note: 73\]](#) BAEIC 119 at [10]; BAEIC 279 at [6]

[\[note: 74\]](#) BAEIC 254 at [6]

[\[note: 75\]](#) Defendant’s closing submissions at para 118

[\[note: 76\]](#) BAEIC 120 at [11]

[\[note: 77\]](#) NE 12/11/2013 p 39 lines 1–27

[\[note: 78\]](#) BAEIC 254 at [4]

[\[note: 79\]](#) BAEIC 5 at [15]

[\[note: 80\]](#) NE 26/09/2013 p 13 lines 24–27

[\[note: 81\]](#) BAEIC 119 at [8]–[9]; DCS at [133]–[134]

[\[note: 82\]](#) NE 9 Jul 2014 p 11

[\[note: 83\]](#) BAEIC 119 at [7]; BAEIC 251 at [5]; and BAEIC 254 at [7]

[\[note: 84\]](#) BAEIC 276 at [4]

[\[note: 85\]](#) BAEIC 264 at [7]

[\[note: 86\]](#) NE 08/07/2014 p 40 lines 8–21

[\[note: 87\]](#) BAEIC 264 at [8] & [9]; Exhibit P10, AB 38 and AB 39A

[\[note: 88\]](#) BAEIC 283 at [10] & [11]

[\[note: 89\]](#) BAEIC 122 at [19]–[20]

[\[note: 90\]](#) BAEIC 123 at [22] & 124 at [25]

[\[note: 91\]](#) BAEIC 282 at [3]–[6]

[\[note: 92\]](#) AB 4

[\[note: 93\]](#) AB 7–35

[\[note: 94\]](#) DBD 9–11

[\[note: 95\]](#) Defendants’ Bundle of Documents (“DBD”) 4–8 & 12–17

[\[note: 96\]](#) DCS at [186]

[\[note: 97\]](#) *Ibid.* at [37]

[\[note: 98\]](#) BAEIC 9 at [36]–[38]

[\[note: 99\]](#) NE 1/10/2013 pp 7–10

[\[note: 100\]](#) NE 25/09/2013 p 36 lines 13–16

[\[note: 101\]](#) NE 25/09/2013 p 38 lines 20–25

[\[note: 102\]](#) NE 25/09/2013 p 39 lines 5–13

[\[note: 103\]](#) DCS at [49]–[67]

[\[note: 104\]](#) NE 12/11/2013 p 14 lines 15–17

[\[note: 105\]](#) NE 12/11/2013 p 16 lines 2–24

[\[note: 106\]](#) BAEIC 115 at [9]

[\[note: 107\]](#) NE 24/09/2013 at p 13 lines 1–5

[\[note: 108\]](#) NE 13/11/2013 p 20 line 25–p 21 line 1

[\[note: 109\]](#) NE 19/11/2013 p 30 lines 20–27

[\[note: 110\]](#) NE 08/07/2014 p 24 line 30–p 25 line 21

[\[note: 111\]](#) NE 13/11/2013 p 114 lines 23–30

[\[note: 112\]](#) BAEIC 283 at [10]–[12]

[\[note: 113\]](#) NE 04/07/2014 p 56 lines 24–32

[\[note: 114\]](#) NE 04/07/2014 p 28 line 17–p 29 line 28

[\[note: 115\]](#) BAEIC 281 at [1]

[\[note: 116\]](#) BAEIC 279 at [4]–[6]

[\[note: 117\]](#) NE 09/07/2014 p 22 lines 6–25

[\[note: 118\]](#) DCS at [136]–[138]

[\[note: 119\]](#) Exhibit P10, AB 38 and AB 39A

[\[note: 120\]](#) AB 48–50; and P9

[\[note: 121\]](#) NE 04/07/2014 p 57 lines 20–32

[\[note: 122\]](#) 2SDBA at Tabs A & B

[\[note: 123\]](#) NE 3/11/2013 p 8 lines 8 to 11

[\[note: 124\]](#) NE 12/11/2013 pp 81–82

[\[note: 125\]](#) NE 19/11/2013 p 10

[\[note: 126\]](#) NE 9/7/2014 p 15

[\[note: 127\]](#) NE 9/7/2014 pp 15–16

[\[note: 128\]](#) Defendants' Submission on the Application of s 52 dated 27/08/2014

[\[note: 129\]](#) NE 25/09/2013 p 18 lines 8–14

[\[note: 130\]](#) AB 7–35; NE 25/09/2013 p 18 lines 23–30

[\[note: 131\]](#) AB 306–307

[\[note: 132\]](#) NE 24/09/2013 p 37 lines 11–20

[\[note: 133\]](#) NE 24/09/2013 p 40 lines 2–6

[\[note: 134\]](#) NE 27/09/2013 p 56 lines 30–32

[\[note: 135\]](#) AB 4

[\[note: 136\]](#) DBD 9–11

[\[note: 137\]](#) NE 14/11/2013 p 6 lines 23–29

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