

Zhang De Long v Tea Yeok Kian
[2012] SGHC 62

Case Number : Suit No 568 of 2011 (Registrar's Appeal No 39 of 2012)
Decision Date : 21 March 2012
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Leslie Yeo Choon Hsien (Sterling Law Corporation) for appellant/defendant; Ng Hweelon (Legal Clinic LLC) for respondent/plaintiff
Parties : Zhang De Long — Tea Yeok Kian

Civil Procedure – Striking Out

21 March 2012

Choo Han Teck J:

1 This was an appeal by the defendant against the assistant registrar's dismissal of his application to strike out the plaintiff's statement of claim. The defendant's application was made on the ground that the claim disclosed no reasonable cause of Action; was scandalous, frivolous or vexatious; and was an abuse of the process of the court.

2 The plaintiff pleaded that he loaned the defendant "NT\$9,300,000 or US\$303,056 at the agreed exchange rate of US\$1 to NT30.75". He further pleaded that the defendant was to repay the loan with interest at the rate of 1.2% per month. The plaintiff pleaded that on the defendant's instructions he remitted US\$292,146 being the principal sum (less three months interest at US\$10,910.00) to the account of Sim Ai Ling. The plaintiff averred that the defendant failed to repay the loan by 18 June 2011 as agreed. The plaintiff thus claimed payment of the principal sum and the interest thereon.

3 Mr Leslie Yeo, ("Mr Yeo") counsel for the defendant, submitted a forceful argument pointing to all that was wrong with the plaintiff's case and asserting that there appeared to be serious problems for the plaintiff so far as proving his case was concerned. Indeed, the thrust of the defendant's case before the assistant registrar and this court on appeal was that the evidence shows that the plaintiff's pleadings was wrong. For example, Mr Yeo argued that the evidence shows that the payor was not the plaintiff and the defendant was not the recipient either.

4 While pleadings should not be an extravagant display of law, evidence and unnecessary facts, they must have the basic assertions of fact to sustain a cause of action. The statement of claim here only barely fulfils this essential requirement. If Mr Yeo is right, it appears that he would have little difficulty having the plaintiff's claim dismissed without having the defendant submitting his case at trial.

5 The plaintiff had been warned by Mr Yeo, the assistant registrar, and myself that his pleadings may require amendment, unless he is able to find convincing evidence to prove that which he had pleaded and to explain why some evidence presently adduced by way of affidavit by Mr Yeo seem to show the unlikelihood of the plaintiff's claim.

6 Perhaps the defendant does not wish to endure discovery and interrogatories that might

disclose documents and lead to the plaintiff's case being proved when it might not have been as presently pleaded. But that is an unwarranted fear without merit. Discovery and interrogatories must still be connected to the claim as pleaded. If the pleadings are insufficient, there may be sufficient reason for the defendant to resist a "fishing exercise" in discovery.

7 I was thus of the view that as poorly drafted as it appears, the statement of claim does disclose a reasonable cause of Action even though the plaintiff may not have sufficient evidence to prove his case — but that is for the trial judge to determine. Furthermore, this Action is not time barred, and there is little to be gained all round by striking it out at this point only for the plaintiff to commence a new Action with improved pleadings. The defendant's application to strike out was, in my view, properly dismissed. His appeal before me was likewise dismissed.

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