



Singapore High Court Can Compel Refusing Party to Execute Document

Chan Chi Cheong (trustee of the will of the testator) v Chan Yun Cheong (trustee of the will of the testator) [2020] SGHC 43 ("Chan")

When one party unreasonably refuses to sign a document, and where the justice of the case so requires, it is possible to apply to Singapore High Court for an order to compel the party who fails or refuses to execute the document to do so.

If the party refuses to comply with such order, the Court can further direct the Registrar of the Supreme Court to execute the document on the party's behalf, thereby negating the need for the party to execute the document on his own.

This case affirms that the Court has the power to ensure the observation of the due process of law, to prevent improper vexation or oppression and to do justice between disputing parties.

Facts

In *Chan*, the trustee of a will trust sought to retire and be discharged as trustee of the testator's will ("**Will**"). He attempted to resign by way of a letter of resignation, in accordance with what he thought was the proper manner of resignation according to Clause 3 of the Will:

"If any of my Trustees disagree with the others or have to attend to other business, he is at liberty to resign and the vacancy thereby created shall be filled accordingly."

He explained that he was resigning because of his old age and a dispute between the trustees relating to certain transactions of the trust.

The other trustees protested against his resignation, citing Section 40 of the Trustees Act, which requires a retiring trustee to ensure that (i) there are at least two remaining trustees or a trust

corporation after his discharge and (ii) the remaining co-trustees or persons empowered to appoint trustees provide consent via a deed.

As a result, the trustee applied to the Court to compel the other trustees to execute the deed of consent.

Decision

Justice Tan Siong Thye held that, on a "*fair reading*" of Clause 3 of the Will, there was no provision for the *method* of resignation. Hence, the default provision for resignation of trustees in Section 40 of the Trustees Act will apply.

Justice Tan noted that it was clear that the other trustees had refused to give their consent to sign the deed of consent.

Justice Tan held that if the Plaintiff could prove, on a balance of probabilities, that the other trustees had withheld their consent unreasonably to frustrate the trustee's desire to resign, then the court had both the statutory and inherent powers to order the other trustees to give their consent.

In the event that the other trustees failed or refused to execute the deed, the court can direct the Registrar of the Supreme Court to execute the deed on the other trustees' behalves.

On the facts, Justice Tan found that the other trustees had refused to consent for self-serving purposes, and there was no basis for any objection. Hence, he ordered the other trustees to execute the deed of consent.

If you would like information on this area of law, please contact:



Danny Quah, Counsel
(danny@providencelawasia.com)

Danny is a commercial litigator with specialist expertise in tax and trust disputes. He recently returned from an attachment with UK "*magic circle*" barristers set Fountain Court Chambers and was previously with the civil tax disputes team of the Inland Revenue Authority of Singapore where he handled high-value, complex tax disputes across all tax types.