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Khoo Jeffrey and others
v
Life Bible-Presbyterian Church and others

[2012] SGCA 37

Court of Appeal — Civil Appeal No 126 of 2010/J
Chao Hick Tin JA, Andrew Phang Boon Leong JA and V K Rajah JA
11 April 2012; 11 May 2012

Charities — Charitable Trusts — Settlement of Scheme for Administration of Trust

25 July 2012

Judgment reserved.

Chao Hick Tin JA (delivering the judgment of the court):

Introduction

1 This is a supplementary judgment for Civil Appeal 126 of 2010/J. The appeal was first heard by us on 3 December 2010 and judgment was delivered on 26 April 2011 (see *Khoo Jeffrey and others v Life Bible-Presbyterian Church and others* [2011] 3 SLR 500 (the “Judgment”). In the Judgment, we held that two parcels of land, 9 and 9A Gilstead Road as well as 10 Gilstead Road (collectively, the “Premises”), were held on trust for the joint benefit of the Far Eastern Bible College (the “College”), of which Dr Jeffrey Khoo, Dr Quek Suan Yew, Dr Prabhudas Koshy, Dr Tow Siang Yeow, Dr Boaz Boon, Wee Hian Kok, Rev Koa Keng Woo, and Rev Stephen Khoo

(“the appellants”) are members, and the Life Bible-Presbyterian Church (the “Church”), the first respondent in this appeal (see the Judgment at [30] and [108]). We also held that the presumed objects of the trust are the objects of the Church and the College as evidenced in their founding constitutions (see the Judgment at [108]-[109]).

2 At [111] of the judgment, we said that we will hear the parties on “the exact orders which are necessary to give effect to the relief claimed by the Appellants” in Suit 278 of 2009, including a scheme (the “Scheme”) as to how the Premises are to be maintained and used by the College and the Church. After an unsuccessful attempt by both parties to mutually agree on the terms of the Scheme, parties appeared before us on 11 April 2012 to make submissions on the terms of the Scheme as well as the course to take to move forward. At that hearing, parties were agreeable to the suggestion of the court that the detailed examination of the question be remitted to a High Court judge for determination. We then directed parties to file their proposed terms of reference for the High Court judge and any objections to the other party’s proposed terms of reference. After considering the parties’ submissions, we now direct that the following shall be the terms of reference

Terms of reference

Background

1 Pursuant to the Court of Appeal’s decision in *Khoo Jeffrey and others v Life Bible-Presbyterian Church and others* [2011] 3 SLR 500 (the “CA Judgment”), the following properties (hereinafter, collectively referred to as the “Premises”) are impressed with a charitable purpose trust for the joint use and benefit of Life Bible-Presbyterian Church (“LBPC”) and Far Eastern Bible College (“FEBC”):

- (a) 9 and 9A Gilstead Road (lot no. TS28-146K with a lot area of 4,851.7 m² held under a 99-year lease expiring on 31 July 2056); and
- (b) 10 Gilstead Road (lot no. TS28-99468K with a lot area of 2,696.6 m² held as an estate in fee simple).

2 As LBPC and FEBC are both independent charitable institutions, separate and distinct from each other, it is necessary that there should be a clear set of rules to govern the respective rights and obligations of LBPC and FEBC in relation to the use/occupation and maintenance of the Premises (“the Scheme”), following the doctrinal differences which have arisen between them and which were set out in the CA Judgment.

Purpose

3 A High Court judge (“the Judge”) will be designated to hear the parties and to draw up the Scheme setting out the respective rights and obligations of LBPC and FEBC in relation to the use/occupation and maintenance of the Premises.

Remit

4 The overall objective of the Scheme shall be to provide for a set of rules to govern the use/occupation and maintenance of the Premises so as to:

- (a) Equitably cater to the present and reasonably foreseeable future needs of LBPC and FEBC without unfairly subordinating the interests of one institution to the interests of the other;

- (b) Fairly apportion the obligations and responsibilities pertaining to the maintenance, upkeep and upgrading of the Premises between LBPC and FEBC;
- (c) Prevent or reduce the incidence of disputes concerning the use/occupation and maintenance of the Premises; and
- (d) Devise a resolution process to determine operational issues that may arise from time to time.

5 In discharge of his/her task hereunder, the Judge is to observe the following points:

- (a) The terms of the agreement entitled “Agreement between the [LBPC] and the [FEBC] on the sharing of the use of the Church and College Property at 9 and 9A Gilstead Road” (“the 1970 Agreement”) could be used as the starting point.
- (b) To determine the appropriate division, the court should take into account the existing needs of LBPC and FEBC as well as their reasonable future needs, bearing in mind that some parts of the Premises are used exclusively/predominantly by one party or the other. For the avoidance of doubt, it ought to be stated that the Court of Appeal does not have any pre-conceived notion of what will be a fair division of the use of the Premises. Neither does it hold that there is a preference for an equal use division.
- (c) Any division of the Premises should only be in terms of usage, not ownership, of the Premises. Any such division should not have regard to the amount of financial contributions made by each party in the acquisition and/or refurbishment of the Premises.

Hearing Process

6 The Judge may, in the discharge of his/her tasks hereunder, direct parties to produce such evidence as may be relevant and necessary in such form as the Judge may deem appropriate. The Judge may also, where necessary, order cross-examination in respect of any evidence that is produced. Furthermore, the Judge may issue such other directions or orders as he/she may think fit or expedient in the circumstances.

7 The following issues shall not be revisited, and evidence thereof shall not be adduced or received:

(a) The financial contribution of each party to the acquisition and/or refurbishment of the Premises;

(b) The findings in the CA Judgment pertaining to the nature and scope of the charitable purpose trust over the Premises.

8 Upon conclusion of the hearing, the Judge shall make his/her order setting out the Scheme.

Appeal

9 Any party who is dissatisfied with the Scheme ordered by the Judge may appeal to the Court of Appeal in the usual way.

Chao Hick Tin
Judge of Appeal

Andrew Phang Boon Leong
Judge of Appeal

V K Rajah
Judge of Appeal

Ang Cheng Hock SC, Tham Wei Chern and Ramesh Kumar (Allen &
Gledhill LLP) for the appellants;
Quek Mong Hua, Yee Swee Yoong Esther and Nicholas Poa (Lee &
Lee) for the respondents.
