
O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

B E T W E E N :

JOSHUA BENJAMIN JEYARETNAM
(Defendant)

Appellant

- and -

LEE KUAN YEW
(Plaintiff)

Respondent

10

CASE FOR THE APPELLANT

RECORD

1. This is an appeal from a judgment dated 5th September 1979 of the Court of Appeal in Singapore (Wee Chong Jin, Chief Justice, and Kulasekaram and D'Cotta JJ.) dismissing an appeal from a judgment dated 9th January 1979 of the High Court of the Republic of Singapore (Chua J.) that the Appellant pay to the Respondent the sum of 130,000-00 Singapore dollars by way of damages for slander, and that the Appellant be restrained and an injunction be granted restraining him from further speaking and publishing of and concerning the Respondent, and of and concerning him in the office of Prime Minister of Singapore, and in relation to his conduct therein, the words mentioned in the Statement of Claim in the action, or any similar slanders upon the Respondent.
- pp.139-140
p.121
2. The Respondent has since 1959 been the Prime Minister of Singapore and he is the Secretary-General of the People's Action Party which has at all material times been the party in government.
- p.3 ll. 10-13

p.3
11 14-20

3. The Appellant is an Advocate and Solicitor and has at all material times been the Secretary-General of the Workers' Party, a political party which contested the Parliamentary General Election held in Singapore on 23rd December 1976. At that election the Appellant and the Respondent were both candidates, although in different constituencies.

p.12
11 21-25

4. At a press conference held by the Respondent on 13th December 1976, in the course of the election campaign, the Respondent criticised a number of his political opponents and, in particular, the Appellant and the policies which he was advocating. During the speech he used the following words which referred (inter alios) to the Appellant "...none of those who proposed to give things away, either by their management of their own parties or even of their own personal fortunes had shown they could accumulate anything." 10

p.3 11 33-45
p.4 11 1-14

5. Shortly afterwards, at an election rally of the Workers' Party held at Fullerton Square, Singapore on 18th December 1976 the Appellant referred in the course of a speech to the Respondent's criticisms and in particular to the words quoted in paragraph 4 above, and then he uttered the words complained of in the Respondent's Statement of Claim: 20

"I'm not very good in the management of my own personal fortune but Mr. Lee Kuan Yew had managed his personal fortune very well. He is the Prime Minister of Singapore. His wife is the senior partner of Lee and Lee and his brother is the Director of several companies, including the Tat Lee Bank in Market Street; the bank which was given a permit with alacrity, banking permit licence when other banks were having difficulties getting their licence, so Mr. Lee Kuan Yew is very adept in managing his own personal fortune but I'm not. I'm a fool for your sake and I tell you this, my dear friends, that if I should become Prime Minister of Singapore, I'm not saying will Mr. Lee Kuan Yew keeps talking as though he is going to remain for the next twenty years. I know it's left to the people; the people will decide who will form the 30

government and then the people in Parliament will decide who will be the Prime Minister; all I'm saying is, if I become Prime Minister, there will be no firm of J.B. Jeyaretnam and Company in Singapore because I wouldn't know how to manage my own personal fortune."

- 10 6. One of the principal contentions of the Appellant, both in his Defence (as amended) and in argument at trial, was that the publication of the words complained of at the election rally on 18th December 1976 were the subject of qualified privilege, since he was answering the Respondent's earlier attack upon his financial capacity, character and reputation which had been made at the press conference on 13th December 1976. The case of the Respondent was that there was no qualified privilege, or, in the alternative, that any such privilege would be defeated by the Appellant's malice. p.12 11 31-43
p.40
p.64 11 41
p.15 11 12-20
11 24-41
p.16 11 1-15
- 20 7. At trial Chua J. rejected the Appellant's plea and held that he was not entitled to the protection of qualified privilege. He also held that in speaking the words complained of the Appellant was actuated by express malice. He went on to reject the other grounds of defence relief upon, and held that the Respondent was entitled to succeed and that the appropriate figure for damages was 130,000-00 Singapore dollars. p.113 11 4-22
p.114 11 19-54
p.115 11 1-2
p.114 11 36-38
p.120 11 37
- 30 8. By Notice of Appeal dated 8th February 1979 the Appellant appealed to the Court of Appeal in Singapore, and the matter came on for hearing before Wee Chong Jin, Chief Justice, and Kulasekaram and D'Cotta JJ. who delivered their judgment on 5th September 1979. After considering the facts, and accepting that the Appellant was one of the political opponents whom the Respondent had criticised during the press conference of 13th December 1976, the members of the Court of Appeal went on to consider (inter alia) the defence of qualified privilege and the plea of malice, and they came to the conclusion that Chua J. was right in both respects. p.122
p.128 11 37-38
pp 132-133

p.133 11 3-4 9. As to qualified privilege, the Court of Appeal said that the words complained of amounted to a counter-attack on the part of the Appellant which exceeded the bounds of legitimate defence against what they described as the Respondent's "charge of incompetence" during his press conference of 13th December 1976.

p.132 1 42

p.133 1 8 10. As to malice, the Court of Appeal rejected the Appellant's submission, made through his Counsel, that there was no evidence to support the plea and held that it was "entirely devoid of merit". The Court took the view that it had been open to Chua J. on the evidence to hold that the Appellant published the words without any honest belief in their truth. 10

p.133 1 18

p.137 11 45-49 11. The Court of Appeal also upheld the sum of damages awarded by Chua J. (130,000-00 Singapore dollars) and rejected the submission that the Learned Judge had misdirected himself on that issue and also they expressed the view that the sum represented reasonable compensation in the circumstances.

12. The Appellant respectfully submits that the Courts in Singapore, both at first instance and on appeal, erred: 20

(i) in ruling as a matter of law that the occasion of the Appellant's publication of the words complained of, at the rally on 18th December 1976, did not attract qualified privilege;

(ii) in holding that the Appellant had exceeded the legitimate bounds of a reply to the Respondent's criticisms of his opponents four days previously, and a proper application of the test set out by Lord Diplock in Horrocks v Lowe (1975) A.C. 135, 151 D-H would have led to the contrary conclusion; 30

- 10 (iii) in holding that there was any evidence on which to find that the Appellant's publication was actuated by express malice, in the light of the principles enunciated by Lord Diplock in Horrocks v Lowe (1975) A.C. 135;
- (iv) as to the amount of damages (130,000-00 Singapore dollars), which was wholly unreasonable and excessive in the light of (a) the circumstances of the publication, (b) the fact that the Appellant's remarks were nowhere reported in the press and (c) the lack of any indication either in the election results or elsewhere that the Respondent's reputation had in any way been damaged by the publication of the words complained of.
- 20

13. The Appellant respectfully submits that the judgment of the Court of Appeal in Singapore dated 5th September 1979 was wrong and ought to be reversed, and that this appeal ought to be allowed with costs, for the following principal reasons:

R E A S O N S

- 30 1. BECAUSE the occasion of the Appellant's publication of the words complained of on 18th December 1976 was protected by qualified privilege, in that he was responding to the criticisms of the Respondent made at his press conference on 13th December 1976, during the same General Election campaign.
2. BECAUSE there was no evidence for the conclusion of Chua J. that the Appellant was actuated by express malice.

3. BECAUSE the damages awarded (130,000-00 Singapore dollars) were in any event wholly unreasonable and excessive.

DAVID EADY

IN THE PRIVY COUNCIL

ON APPEAL
FROM THE COURT OF APPEAL IN SINGAPORE

BETWEEN :

JOSHUA BENJAMIN JEYARETNAM
(Defendant)

Appellant

- and -

LEE KUAN YEW
(Plaintiff)

Respondent

CASE FOR THE APPELLANT

Ward Bowie
Clement House
99 Aldwych
London WC2B 4JF
Solicitors for the Appellant