

O N A P P E A L

FROM THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

B E T W E E N :

TAN CHOON CHYE

Appellant

- and -

SINGAPORE SOCIETY OF ACCOUNTANTS

Respondents

C A S E F O R T H E R E S P O N D E N T S

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1. This is an appeal from the judgment dated 6th November 1979 of the Court of Appeal of the Republic of Singapore (F.A. Chua. Choor Singh and A.P. Rajah JJ) dismissing the Appeal of the Appellant from the judgment of the Honourable the Chief Justice Wee Chong Jin dated 27th March 1979.

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QUESTIONS

2. The substantial questions in law raised by this Appeal are:-

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- a) whether there was a formal complaint under Section 33(1) of the Accountants Act, Cap 212, against the Appellant.
- b) whether, in the absence of relevant statutory rules relating to disciplinary proceedings which the Council of the Respondents is empowered to make under Section 8 of the said Act, the Disciplinary Committee had power to hear the complaint
- c) whether the charge against the Appellant was bad on grounds of duplicity.
- d) whether at the material times the Appellant was acting in a professional capacity.

FACTS

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3. Sometime in October 1971 one Wan Ming Sing, a Project Officer with the Economic Development Board of Singapore had a meeting with the Appellant at the G H Cafe. The Appellant stated that he was acting for a party making an application for a

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- manufacturer's licence in Singapore and that he was acting in his capacity as the Public Accountant. He indicated that there would be consideration if the application was favourably processed. Later, the Appellant submitted on behalf of M/s. Yoong Wah Industry Co. Pte Ltd an application under the Control of Manufacturers' Act. The application was approved. The approval was dated 4th December 1971.
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4. After the approval was given, the Appellant handed to Wan a sum of \$25,000-00 as consideration from one Mr. Lou Chih Chung. Mr. Lou Chih Chung had earlier, on the request of the Appellant, given the Appellant a sum of \$50,000-00 as entertainment expenses. The \$50,000-00 was obtained by Lou from a cash cheque. The cheque was dated 6th December 1971. 10
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5. Subsequently this matter was investigated by the Corrupt Practices Investigation Bureau. On the 3rd January 1975 the Appellant gave a statement to the said Bureau admitting that he was the carrier of a bribe to the said Wan Ming Sing. The statement was marked "D". On the 26th December 1975 the said Wan Ming Sing was charged in Court for an offence under the Prevention of Corruption Act. He pleaded guilty and was sentenced to one year's imprisonment and to pay a penalty of \$50,000-00. The Notes of the Proceedings constitute Exhibit C. 20
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6. On the 1st April 1976 the Director of the Corrupt Practices Investigation Bureau wrote to the Registrar of the Respondents enclosing a summary of essential facts and charges and related documents.
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7. On the 28th June 1977 the Registrar of the Respondents wrote to the Appellant enclosing the present charge against him.
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8. On the 26th July 1977 the charge was mentioned to the Respondents' Disciplinary Committee and between the 13th and 14th September 1977 it was heard by that committee.
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9. On the 22nd September 1977 the Committee found the charge against the Appellant proved and also that he had been guilty of grave impropriety in a professional respect. It ordered that the Appellant's name be removed from the Register of Accountants. The grounds of decision were given on the 30th November 1977. 30
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10. Against the said Order the Appellant appealed to the High Court on the 12th October 1977. The Petition was filed 27th December 1977. The Appeal was heard before the Honourable the Chief Justice on the 14th February 1979 and was dismissed on the 27th March 1979.
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11. Against the said decision the Appellant appealed to the Court of Appeal on the 26th April 1979. The Appeal was heard on the 6th November 1979. The Appellant's submissions were:- 40
- a) that the Learned Judge had erred in construing the words "formal complaint".
  - b) that the Learned Judge was wrong in holding that in the absence of relevant rules for which the Act provides the rules of natural justice would govern the procedure and
  - c) that the charge was bad for duplicity.
12. It was submitted on behalf of the Respondents that:-
- a) The words "formal complaint" must be read in accordance with their

ordinary meaning namely a statement of grievance or injury and that no particular format is required.

- b) the rules of natural justice must apply in the absence of relevant statutory rules and that the absence of such rules does not preclude the Disciplinary Committee from proceeding.
- c) even if there were duplicity, it did not prejudice the Appellant as he had ample notice of the charge against him and that he knew what matters the charge against him embraced.
- d) At the material times the Appellant was acting in a professional capacity.

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13. The Appeal was dismissed on the 6th November 1979 with costs. The judgment was delivered by Mr. Justice Chua on behalf of the Court of Appeal.

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14. On the 25th February 1980 the Court of Appeal granted leave to the Appellant to appeal to the Judicial Committee of Her Majesty's Privy Council against the said decision of the Court of Appeal.

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15. The Respondents submit that the judgment of the Court of Appeal is right and should be upheld for the following among other

REASONS

16. Section 33(1) and (2) of the Accountants Act does not require a complaint against a member of the Society to be in any particular form. It is discretionary on the part of the Registrar as to whether a Statutory Declaration should be made in support. The only requirement is that the formal complaint must be in writing; which requirement has been complied with.

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17. In the absence of relevant statutory provisions by the Council relating to disciplinary proceedings the ordinary rules of natural justice must prevail to give effect to the provisions, inter alia, of sections 33 and 34 of the Accountants Act.

18. The Appellant has been given adequate notice of the charge against him and has had a fair opportunity of answering it.

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19. There was no violation of any principle of law or of procedure or any miscarriage of justice.

20. It is not denied that the said transaction was corrupt and that the Appellant, as a Public Accountant, allowed himself to be the vehicle of a corrupt transaction.

21. At the material times the Appellant was acting in a professional capacity.

22. And upon the grounds stated in the judgment of the Court of Appeal.

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MICHAEL KEMPSTER

ALAN WONG HOI PING

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

ON APPEAL FROM THE COURT OF APPEAL OF  
THE REPUBLIC OF SINGAPORE

B E T W E E N :

TAN CHOON CHYE

Appellant

and

SINGAPORE SOCIETY OF ACCOUNTANTS

Respondents

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CASE FOR THE RESPONDENTS

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