

COMMERCIAL LITIGATION

High Court Appoints Interim Administrator to Preserve Status Quo of Disputed Estate

Introduction

Section 20 of the Probate and Administration Act 1934 ("**Section 20**") plays a crucial role in safeguarding an estate's assets during the often protracted and lengthy process of probate litigation. This statutory provision ensures that the status quo is maintained via appointment of an interim administrator, preventing potential mismanagement or asset depletion pending resolution of disputes over the validity of a will or appointment of a permanent administrator. In a landscape where family dynamics and financial stakes can complicate matters, Section 20 serves as a vital tool to protect the interests of all parties involved, reinforcing the principle that the preservation of estate assets is paramount pending a definitive resolution.

The team of Gregory Vijayendran SC and Tomoyuki Lewis Ban of Rajah & Tann Singapore (instructed by Mr Lee Ee Yang, Ms Sara Ng and Mr Darryl Lau of Covenant Chambers LLC) successfully represented a client in an application for an interim administrator pending the outcome of a probate dispute with his relatives. This cross-firm collaboration culminated in a rare, published judicial decision in Singapore regarding interim administration in *XBW v XBZ and another* [2024] SGHCF 30 ("**XBW**").

XBW is instructive on the criteria for a grant of letters of administration pending determination of a probate claim.

Background

In a nutshell, after the Plaintiff's mother passed away on 5 May 2023, the Plaintiff applied for the grant of letters of administration of his mother's estate. However, his relatives claimed to be executrices in a will executed by his mother in 2004, the original of which had allegedly been lost. His relatives filed a separate probate action vide HCF/S 9/2023 ("**Suit 9**") in November 2023 to propound the lost will.

With a view to preserve assets in his mother's estate, the Plaintiff applied for an interim order pursuant to Section 20 for the grant of letters of administration pending the trial of Suit 9. Following the filing of his application, the parties initially reached an agreement on 8 February 2024 to appoint an independent interim administrator. Surprisingly however, the relatives subsequently refused to formalise the agreement. The Plaintiff therefore pressed on with his application.

Given the dearth of local authorities on Section 20, the Plaintiff's solicitors made detailed submissions on how Section 20 is to operate, in particular, the criteria for a grant *pendente lite* (or grant of letters of administration pending determination of a probate claim). The Honourable Justice Choo Han Teck ("**Justice Choo**") accepted the Plaintiff's submissions.

In summary, Section 20 operates to empower an interim administrator to preserve the status quo of a disputed estate and to allow a grant of letters of administration. This is subject to three necessary conditions, namely that the letters of administration must be:

1. granted "pending any probate action";
2. limited so that the administrator shall not be empowered to distribute the estate; and
3. subject to such control by and direction of the Court as the Court thinks fit.

Additionally, the Plaintiff also highlighted to the Court the real risk of dissipation of the Estate's assets by the Deceased's siblings. Justice Choo concurred with the Plaintiff's submissions, noting that the evidence suggested that one of the executrices might have taken a substantial amount of money from the Deceased's estate for undisclosed reasons. Consequently, the court considered it prudent to appoint an interim administrator to maintain the status quo and to ensure that the estate's movables were not improperly moved.

In its coda, Justice Choo recorded a commendation to both sides' Counsel for exemplary submissions that "*were not only clear and to the point, but also well structured.*"

Concluding Remarks

We conclude with two observations on Justice Choo's decision in *XBW*:

1. Although Section 20 does not explicitly require that the estate's assets be in jeopardy for the appointment of an interim administrator, presenting such evidence could strengthen the claimant's hand to persuade the court of the necessity to appoint an interim administrator pending determination of the probate action.
2. The Plaintiff's solicitors also made submissions relying on a leading English treatise of Williams, Mortimer and Sunnucks on Executors, Administrators and Probate (21st Edition) that the object of the grant *pendente lite* is to ensure that the estate of the deceased is managed and preserved for the benefit of those found to be entitled thereto. Practically, such applications are made in connection with the sale, lease or repair of a house. These submissions appear to have found favour with the Honourable Court and are likely to represent the position under Singapore law too.

For any further inquiries, please feel free to contact our team below.

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