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High Court Holds That Bankrupt Dissipated Assets to Family Members With Intention to Defraud Creditors

*Wang Xiaopu v Koh Mui Lee
and others [2023] SGHC 73*

6 April 2023

LEGAL UPDATE

In this Update

On 29 March 2023, the High Court held that Dr Goh Seng Heng, who founded the PPP Laser Clinic chain, moved millions in assets to his family members with the intent to defraud his creditors.

Our update discusses the decision of *Wang Xiaopu v Koh Mui Lee and others* [2023] SGHC 73.

Chairman Jimmy Yim SC, Associate Director Grace Morgan, Senior Associate Chloe Ajit and Associates Samuel Wittberger and Nikhil Angappan successfully represented Mdm Wang Xiaopu in this matter.

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BACKGROUND

In 2015, our client Mdm Wang, a PRC businesswoman, commenced proceedings against Dr Goh Seng Heng, a then-famous aesthetic doctor, for fraudulent misrepresentation over the sale of his company's shares to her.

In December 2019, Mdm Wang successfully obtained judgment against Dr Goh for a full return of her investment, plus substantial interest, and costs. The total judgment sum payable by Dr Goh to Mdm Wang exceeded S\$40 million.

Dr Goh failed to repay any part of this sum and instead voluntarily obtained a bankruptcy order in March 2020.

In July 2020, Mdm Wang commenced proceedings against the wife, son, and daughter of Dr Goh, alleging that he had transferred his assets to them to evade creditors. The alleged transfers included placing millions of dollars in the OCBC account of his son, Jeremy Goh. Jeremy Goh is also a medical doctor.

THE HIGH COURT'S DECISION

On 29 March 2023, the High Court ruled in favour of Mdm Wang's case that Dr Goh had moved millions in assets to evade creditors. At the time he moved these assets, there was no judgment against him. These transfers of property were held to be void under S 73B of the Conveyancing Law and Property Act ("**CLPA**"), which states that every conveyance of property made with the intention to defraud creditors shall be voidable.

KEYPOINT

The High Court declared that there was sufficient evidence to show that these transactions were carried out with the intent to defraud creditors. They were therefore void and of no effect pursuant to s 73B of the CLPA.

The decision of the High Court on each of the impugned transfers by Dr Goh to his family members is set out in the table below:

Impugned transactions	Decision of the High Court
Transfer of Dr Goh's joint tenancy interest in his matrimonial home (" 36 Cove Way ") to his wife for S\$5,250,000 in 2019.	Transfer is void and of no effect; Dr Goh remains the joint interest owner of 36 Cove Way. The High Court ordered Dr Goh to refund the sum of S\$5,250,000, though it is unclear how Dr Goh will do so given that he is now a bankrupt.
Purchase of penthouse in the Seascape condominium in his son's name for S\$5,800,000 in 2015.	Transfer of monies for the Seascape purchase in the son's name is void and of no effect; the son is to sell Seascape within 3 months and pay 50% of the monies from the sale to the Official Assignee (" OA "). The remaining 50% is to be paid to Dr Goh's wife, given that the monies used to purchase the Seascape were the joint monies of Dr Goh and his wife.
Purchase of penthouse in the Berth by the Cove condominium in his daughter's name for S\$4,880,000 in 2014.	The daughter holds the Berth property on trust for Dr Goh and his wife. The daughter is to sell Berth within 3 months and pay 50% of the monies from the sale to the OA. The remaining 50% is to be paid to Dr Goh's wife, given that the monies used to purchase the Seascape were the joint monies of Dr Goh and his wife.
Transfer of S\$1,873,320.63 to his son's OCBC account in 2016.	Transfer was made with the intent to defraud Dr Goh's creditors. The son is to pay the OA the sum of S\$1,873,320.63 within 7 days from the date of judgment.
Dr Goh's loans to the family yacht companies: novation of loans to his wife in 2017.	Novation of loans is void and of no effect. Although no express order has been made, on Mdm Wang's case, the amount to be repaid by Dr Goh's

Impugned transactions	Decision of the High Court
	wife to the OA is in the region of S\$3.2 million.
Transfer of Dr Goh's shares in the family yacht company to his wife in 2017.	Transfer of shares is void and of no effect.

COMMENTARY

This is a ground-breaking decision in Singapore, as the impugned transactions occurred long before Mdm Wang had obtained judgment against Dr Goh in December 2019, when Dr Goh did not have creditors at that time.

Nonetheless, the High Court reviewed the evidence comprehensively, and held, against a careful scrutiny of the evidence, that Dr Goh engaged in “*conduct of systematically dissipating his assets to his family members*”.

We successfully established Dr Goh's intent to defraud his creditors through investigations, multiple discovery requests, a search order, and skilful cross-examination of the defendants at trial.

Justice Lee described the defendants' testimony as “*inconsistent*”, having “*no ring of truth*” and “*smack[ing] of prevarication*”.

This decision will hopefully encourage more creditors to come forward to assert their rights in asset recovery against debtors and their associates. This decision should also serve as a stark reminder to debtors and their associates that attempts to defraud creditors will not be viewed lightly by the law.

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