

Yong Teck Foo

... Applicant

AND

Wong Mei Hsiang

... Respondent

**(High Court of Brunei Darussalam)
(Originating Summons No. 52 of 2024)**

Muhammed Faisal Bin PDJLD Kol (B) DSP Haji Kefli, J.C

Date of Judgment: 8th March, 2025.

Headnote: Civil procedure – application by respondent to strike out ex-parte eviction order – application granted – ex-parte order set aside

Mr Lt.Col.(R) Hj Harif Bin Hj Ibrahim of Messrs Lt Col (Rtd) Harif Ibrahim for Applicant.

Mr Eugene Loh Jit Kuan and Mr Anlan Hee Tze Know of Messrs Yusof Halim & Partners for Respondent.

Case cited:

Karaha Bodas Co LLC v Pertamina Energy Trading Ltd [2005] SGCA 47

Statutes:

Rules of the Supreme Court, Order 6 Rule 3 and Order 7 Rules 3(2) and 7(2)

Order 29 Rules 1(2) & (3) of the Rules of Supreme Court

JUDGMENT

Muhammed Faisal, J.C.:

I Introduction

In an application made by the Respondent and heard on 20th February 2025, it was agreed by parties that I shall give a quick and short decision without giving my full reasoning which was to come later.

On 22nd February 2025 I delivered my decision granting the application of the Respondent, Wang Mei Hsiang. I ordered the following:-

1. That the *ex-parte* order dated 5th February, 2025 be set aside and damage caused to the respondent as a result of the *ex-parte* order and/or the Applicant's actions, be assessed and paid by the Applicant to the Respondent;
2. That this *ex-parte* originating summons be set aside;
3. That the cause of the application above to be paid by the Applicant to the Respondent forthwith on a full indemnity basis, cost to be taxed if not agreed.

I now give the reasons for my decision.

II Background

The matter before this court concerns an application by the Respondent, Wang Mei Hsiang, to set aside an ex-parte eviction order granted on 22 January 2025 in favor of the Applicant, Yong Teck Foo. The eviction order required the Respondent to vacate the property located at No. 42, Spg 265-266, Jalan Jerudong, Kg Jerudong, Mukim Sengkurong, Brunei Darussalam.

The Applicant is the son of the Respondent's late husband, Yong Siong Hai. The property in question, however, is registered under the Applicant's daughter, Yong Suk Hui, who is currently residing in Melbourne, Australia. The Respondent, a Taiwanese national, was married to the late Yong Siong Hai and had been residing in the property since 2002. The Applicant applied for and obtained an ex-parte order for the eviction of the Respondent, asserting that the property rightfully belonged to his daughter and that the Respondent had no further right to remain following her husband's passing.

The Respondent contends that the ex-parte order was wrongfully granted on two principal grounds: (i) the Applicant lacked locus standi to file the application, and (ii) there was no legal basis for an ex-parte order in these circumstances. She submits that the order was made in breach of natural justice, as she was not given an opportunity to be heard, and that the matter ought to have been commenced by way of a writ action given the substantial factual disputes involved.

III Background and Procedural History

The following chronology of events is relevant:

- a. 21 August 2024 – The Applicant filed an ex-parte originating summons together with an affidavit in support.
- b. 22 January 2025 – The High Court granted the ex-parte eviction order.
- c. 6 February 2025 – The order was served on the Respondent, requiring her to vacate the property by 13 February 2025.
- d. 13 February 2025 – The Respondent filed an urgent summons in chambers to set aside the ex-parte order.
- e. 14 February 2025 – The Respondent moved out of the property, but contends that this was under protest and due to the coercive effect of the order.

IV Issues for Determination

The primary issues for determination are:

- a. Whether the Applicant had locus standi to bring the ex-parte application.
- b. Whether there was a legal basis for granting the *ex-parte* order.

V Discussion

Locus Standi of the Applicant

The general principle of locus standi requires that an applicant must have a direct legal interest in the relief sought. In the present case, the registered owner of the property is not the Applicant, but his daughter, Yong Suk Hui. The Applicant has asserted that he acted with his daughter's authority, but no affidavit from the daughter was tendered confirming this authority.

The case of *Karaha Bodas Co LLC v Pertamina Energy Trading Ltd* [2005] SGCA 47 underscores that legal standing cannot be conferred merely by authorisation; rather, the applicant must have a direct proprietary or legal interest in the subject matter¹. Here, the Applicant's interest is derivative and does not confer legal standing to initiate possession proceedings in his own name.

The *Rules of the Supreme Court, Order 6 Rule 3 and Order 7 Rules 3(2) and 7(2)*, further support the principle that an applicant must be the proper legal party to bring a claim. As the registered owner is not a party to these proceedings, it follows that the Applicant has no standing, rendering the ex-parte order void ab initio.

In view of the above, the ex-parte order must be set aside on this ground alone.

No Legal Basis for Ex-Parte Order

The Applicant sought and obtained an ex-parte order without statutory authority to do so. *Order 29 Rules 1(2) & (3) of the Rules of Supreme Court* permit ex-parte relief only where urgency is clearly demonstrated. The Applicant did not establish any compelling urgency beyond stating that the Respondent had not vacated the property.

Ex-parte orders should only be granted in exceptional circumstances, particularly where irreparable harm may occur. It should be granted in response to extreme situations and in circumstances when an immediate temporary order is necessary. No such urgency was evident here. The property owner (the Applicant's daughter) is residing in Australia, and there was no imminent risk to the property requiring immediate action.

Further, under Order 5 Rule 4 of the Rules of Supreme Court, cases involving substantial factual disputes must proceed by writ action rather than originating summons. Given that the Respondent had lived in the property since 2002, and there were unresolved disputes regarding her rights, the matter ought to have been commenced by a writ action allowing for a full hearing.

VI Conclusion and Orders

Having considered the facts and submissions, I find that:

- a. The Applicant lacked *locus standi* to bring the ex-parte application, as he was not the legal owner and had not demonstrated direct legal standing.
- b. The ex-parte order was improperly granted, as there was no statutory or procedural basis for it, nor any urgency justifying its issuance.
- c. Given the above findings, all other arguments raised by the Respondent are rendered moot.

¹ See paragraphs 15 & 19 of *Karaha Bodas Co LLC v Pertamina Energy Trading Ltd* [2005] SGCA 47

These are the complete and written reasons for my previous ruling.

MUHAMMED FAISAL BIN PDJLD KOL (B) DSP HAJI KEFLI
Judicial Commissioner