

SUPREME COURT OF SINGAPORE

14 October 2019

Case Summary

Singapore International Commercial Court Suit No 4 of 2018
***Sheila Kazzaz and another v Standard Chartered Bank and others* [2019]**
SGHC(I) 15

Decision of Anselmo Reyes IJ

Outcome: SICC dismisses plaintiffs' claims for negligence and misrepresentation against defendant bank and its officers.

Background

1 The first and second plaintiffs, Sheila and Ahmed Kazzaz, are mother and son. They are UK citizens, but have resided in Dubai since 2004. The ASK Group is the Kazzaz family business. It was largely engaged in business in Iraq, including property investments and duty-free retail shops. Ahmed is chairperson of the ASK Group.

2 The first defendant, Standard Chartered Bank ("SCB"), is a UK-incorporated multinational bank with branches in Singapore and the Dubai International Financial Centre ("DIFC"). The Kazzaz family became private banking clients of SCB's DIFC branch ("SCB DIFC") in October 2010. The second defendant, Laurence Black ("Laurence"), was SCB DIFC's Head of Fiduciary Services for Middle East and North Africa until December 2012. The third defendant, Harish Phoolwani ("Harish"), was (and remains) an SCB DIFC Director. He was Ahmed's and Sheila's Relationship Manager until August 2012. The fourth defendant, Naushid Mithani ("Naushid"), was SCB DIFC's Head of Relationship Management and Investment Advisory from May 2010 until March 2011, when he became Head of Private Banking.

3 The plaintiffs allege that the defendants are liable to them for (1) negligent misrepresentation, (2) breaches of the common law duty of care,

and (3) breaches of the DIFC Regulatory Law. The basis of their claims lie in what they say is a property financing arrangement (“PFA”) that the defendants had induced them to enter into. Under the PFA, SCB was to provide or arrange for: (a) a mortgage to fund the purchase of a property in London (“the Westchester Property”), so as to enable the proceeds from the sale of Ducie Court (one of the family’s properties in Manchester) to be used for an investment portfolio, (b) a universal life insurance policy (“the Policy”) with a net death benefit of US\$21.5 million up to the age of 100 to be taken out over Sheila’s life with the aid of financing made available through a loan (“the premium loan”), and (c) offshore trusts and companies to hold assets of the Kazzaz family, including the Westchester Property and the Policy.

4 The plaintiffs principally complained that the defendants had misrepresented that the PFA was a self-funding arrangement in which investments made using the Ducie Court sale proceeds would generate sufficient returns to meet the interest payments arising from the mortgage and premium loan, and that Ahmed would not have to provide further funds as security. They allege that the defendants did not explain the true and full extent of Ahmed’s liabilities in relation to the repayment of the premium loan and various other risks inherent in the PFA, and had classified the plaintiffs as “Professional Clients” without ensuring that they were suitable to be classified as such. Ultimately, the plaintiffs claim that the defendants had failed to ensure that their financial recommendations were suitable for the Kazzaz family.

The Court’s findings

5 The Court found on the evidence that the defendants had obtained information about the Kazzaz family’s wealth and income from Ahmed himself. Although Ahmed did not have precise figures about his net worth and assets, it was likely that he had given the defendants broad-brush figures about his wealth. In this regard, he had forwarded to Harish a licence granted by the Iraqi government to one of the ASK Group’s companies to conduct business in Iraq. The licence contained an undertaking to invest US\$35

million, which would understandably have communicated the impression to the defendants that the Kazzaz family had significant wealth and assets.

6 Contrary to the defendants' arguments that they never proposed a PFA and had instead suggested possible financial solutions from time to time for Ahmed's evolving needs, the Court found that the defendants had in fact put forth such a PFA. The Court found that SCB, through Harish and Laurence, had explained the rationale underlying the various trust structures in the PFA, the possibility of currency risks and margin calls, and interest payment arising from the proposed financing arrangement. In addition, the defendants did not represent to Ahmed that the financial arrangements that SCB would put in place would take care of the Kazzaz family's needs, regardless of how much Ahmed withdrew from the investment portfolio.

7 The Court also found that SCB had adequately explained to Ahmed and Sheila what it meant to become a "Professional Client" of SCB's, and that SCB was justified in classifying them as such. The Court rejected the plaintiffs' complaint that in practice, SCB (whether through Harish or Laurence) would simply put documents before Ahmed for signature without explanation. In fact, it found on the evidence that Harish and Laurence would take pains to deal with points and questions that Ahmed raised from time to time.

Conclusion

8 Given its findings, the Court held that the plaintiffs had failed to establish liability on the part of the defendants. The plaintiffs' claims were dismissed entirely.

This summary is provided to assist in the understanding of the Court's judgment. It is not intended to be a substitute for the reasons of the Court.