Legal Update

Does cognitive decline automatically invalidate a will?

YHJ v YHK and others [2026] SGHCF 28

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Cognitive decline, suspicious circumstances, and drafting mistakes do not necessarily invalidate a will.

In a recent decision in *YHJ v YHK and others* [2026] SGHCF 28, the General Division of the High Court (Family Division) upheld the final will of a 92-year-old testator on the basis that he knew and approved the contents of his will, was not acting under undue influence, and had testamentary capacity. This was notwithstanding the fact that the testator had been diagnosed with Parkinson's disease with cognitive decline, and had experienced memory loss, hallucinations and delusions.

The decision is important because it illustrates how the court assesses testamentary capacity of an individual. While cognitive decline is one of the factors the court takes into consideration in determining the testamentary capacity of a person, it is not determinative, and the court would look at all of the four elements of testamentary capacity previously set out in *Chee Mu Lin Muriel v Chee Ka Lin Caroline* [2010] 4 SLR 373 ("**Muriel**"), as well as the evidence as a whole, before coming to a decision.

The court also noted that suspicious circumstances would not necessarily defeat a will, and that an assessment of all the facts needs to be considered. The court also emphasized that undue influence in probate requires coercion, and not mere persuasion.

Facts

The Deceased was the patriarch of the family. He amassed a sizeable fortune and owned 11 properties. He was married to his wife ("**M**"), and had three biological children with her, consisting of his elder daughter, son (the "**Plaintiff**"), as well as younger daughter (the "**2nd Defendant**"), and one adopted son (the "**3rd Defendant**"). The elder daughter also had two children from her first marriage, an elder son ("**GS1**") and younger son (the "**1st Defendant**").

Before the execution of the final will, the Deceased had been diagnosed with Parkinson's disease with cognitive decline, and had experienced episodes of memory loss, hallucinations and delusions.

The Deceased had executed five wills, with the last will executed when he was 92 years old, less than 3 months before his death.

The final will stated, amongst others, that the devises to the 1st Defendant and GS1 in respect of Property L and Property D, both at Jalan Mutiara, would be swapped. Under the Deceased's previous will, the 1st Defendant was to receive Property L, which was solely owned by the Deceased, and GS1 was to receive Property D, which was held by the Deceased with M as joint tenants. However, under the Deceased's final will, the 1st Defendant was to receive Property D, while GS1 was to receive Property L.

As M outlived the Deceased, she became the sole owner of Property D by survivorship upon the Deceased's death. Therefore, the devise of Property D to the 1st Defendant did not take effect. Furthermore, under M's will, GS1 was named as the devisee of Property D, which meant that GS1 would receive both Property L and Property D, with the 1st Defendant receiving neither property.

The Plaintiff subsequently applied for a Grant of Probate based on the final will and the 1st Defendant challenged the final will. The 1st Defendant argued that the Deceased lacked testamentary capacity

and did not understand the will, signed the will in suspicious circumstances, and was under undue influence by the Plaintiff.

Decision

The court held that there were three main issues before the court:

(a) Whether the Deceased had the testamentary capacity to execute the final will;

(b) Whether the Deceased knew and approved of the contents of the final will; and

(c) Whether the Deceased executed the final will under the Plaintiff's undue influence.

Whether the Deceased had testamentary capacity

The requirements of testamentary capacity are that (*Muriel* at [37]):

(a) The testator understood the nature of the act and what its consequences were;

(b) The testator knew the extent of his property of which he was disposing;

(c) The testator knew who his beneficiaries were and could appreciate their claims to his property; and

(d) The testator was free from an abnormal state of mind (e.g. delusions) that might distort feelings or judgments relevant to making the will.

The court held that on the date the Deceased made the will, the Deceased understood that he was making a will and its consequences, had a sufficient appreciation of the property he was disposing of, knew and could appreciate the claims of potential beneficiaries, and was free from any abnormal state of mind that distorted his judgment.

The court accepted that the medical evidence showed cognitive decline but did not establish loss of testamentary capacity. The court was more inclined to take the view that the episodes of hallucinations, memory loss and delusions experienced by the Deceased were side effects of his medication and not permanent. Witnesses present at the execution also supported the conclusion that the Deceased retained testamentary capacity.

Whether the Deceased knew and approved of the contents of the final will

The Court noted that there were suspicious circumstances around the making of the final will. The Plaintiff, who benefited substantially under the final will, was materially involved in the preparatory arrangements of the final will. He had assisted in preparing a typewritten note setting out proposed amendments to an earlier will, and the final will was executed at his residence. There were also irregularities in the drafting process of the final will.

Despite the above, on the totality of evidence, the Court found that the Deceased knew of, understood, and approved the conditional devise. The evidence showed that the Deceased was informed that Property D was held in joint tenancy and his share would pass to M if he passed on before M. The Court noted that the Deceased had understood this change, not only because he nodded and gave brief affirmations, but also because he had participated in an iterative drafting process, made amendments to multiple drafts, and also approved a clause which expressly made the gift of Property D conditional upon M predeceasing him.

While the Court noted that the Deceased may have overlooked M's Will, it noted that the Deceased had decided to make the swap because GS1 had stayed in Property L for some years, maintained and renovated it and kept the rental income to support his growing family. In totality, the Court

found that the Deceased understood and approved the conditional gift, even if the Deceased overlooked its interaction with M's separate Will.

Whether the Deceased executed the final will under the Plaintiff's undue influence

The court found that the 1st Defendant failed to discharge his burden of proving that the Deceased was under the Plaintiff's undue influence at the time of the execution of the final will, i.e. coercion that overpowers the Deceased's volition.

The court noted the existence of audio recordings which showed the Plaintiff guilt-tripping the Deceased, repeating to the Deceased that he was the only one who looked after the Deceased's interests, and speaking ill of his siblings (ie, the 2nd and 3rd Defendants). The court also took into account various transfers of monies from the Deceased to joint accounts held by the Plaintiff and the Deceased..

The court ultimately ruled that even taking the recordings at their highest, they establish persistent persuasion but do not prove that the Plaintiff overbore the Deceased's volition. The transfers of money were also suspicious, but the evidence did not establish that the Plaintiff procured the transfers through coercion and domineering conduct overpowering the will of the Deceased which had undermined the Deceased's independence to such an extent that it also caused the Deceased to execute the final will.

The evidence demonstrated that the Deceased was not only capable of thinking and acting independently, he was also capable of expressing his opinions and views by himself on the day of the execution of the final will. There was also insufficient evidence to establish that the Plaintiff had acted to isolate the Deceased from the Defendants. Further, an unequal distribution of assets based on a testator's personal relationship with the beneficiaries is not unusual. Persuasion and influence are not undue influence in the sense of coercion.

The court pronounced in favour of the Deceased's final will and directed that the Grant of Probate of the Deceased's final will be granted to the Plaintiff.

Learning Points

Firstly, the determination of whether one has testamentary capacity is fact specific. A diagnosis of cognitive decline, and even evidence of hallucinations or memory issues, will not automatically invalidate a will. The court would look at the entire scenario, and consider whether the testator understood what he was doing and what the consequences were, whether the testator knew the extent of his property of which he was disposing, whether the testator knew who his beneficiaries were, as well as their claims to his property, and whether the testator's feelings or judgments relevant to making the will were distorted by any abnormal belief.

Secondly, suspicious circumstances do not necessarily defeat a will. Where a major beneficiary is involved in arrangements for execution, or where drafting irregularities exist, the court may still uphold the will if there is cogent affirmative evidence of knowledge and approval. The fact that amendments to the will resulted in the failure to achieve the intended purposes of the will could nonetheless be regarded as legally valid as long as based on the totality of evidence, the testator knew, understood, and approved the changes.

Lastly, undue influence in probate requires coercion, and not mere persuasion. Even sustained efforts by a beneficiary to influence a testator may fall short unless the challenger proves that the testator's volition was overborne.

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