

**The requirements of proper character befitting a lawyer:
Re Tay Jie Qi and another matter [2023] SGHC 59**

I. Executive Summary

Even after passing the Singapore Bar exam and completing a training contract, an applicant's admission to the Singapore Bar can still be rejected on the basis of not having the proper character befitting that of an advocate and solicitor of the Supreme Court of Singapore. *Re Tay Jie Qi and another matter* [2023] SGHC 59 is such a case, where two law graduates' instances of improper conduct were highlighted when deciding whether to allow their applications to the Singapore Bar. The applicants were Ms Tay Jie Qi ("**Ms Tay**") and Ms Low Shauna ("**Ms Low**").

Ms Tay engaged in plagiarism for one of her research papers in her second year studying law at the Singapore Management University ("**SMU**"). Ms Low's case consisted of two separate brushes with law enforcement. The first incident was when she was caught shoplifting makeup while still a law student. The second incident also happened while she was a law student, when a slab of illegal substance was found in her sister's bag while they were out clubbing. Both of them voluntarily disclosed this information as part of their respective applications for admission to the Bar.

Given the lapse of time between their actions and their applications for admission to the Bar, the High Court ("**HC**") was able to review their earlier actions with the benefit of the perspective that came from the fact that there had been some distance between the time of their wrongdoing and the time of their applications for admission. The HC further noted that both Ms Tay and Ms Low voluntarily disclosed their misconduct despite that information not being in the public domain; were not involved in any other type of unsatisfactory conduct in the intervening years; and demonstrated repentance and remorse for their misconduct. The HC found "heartening" the candidates' willingness to "face up to their mistakes and to deal candidly and forthrightly with the court and with the stakeholders". As such, the HC allowed both their applications for admission to the Bar and welcomed them to the profession.

II. Material Facts

A. Ms Tay

In her second year of university, Ms Tay received an email from Professor Benjamin Ong, her Constitutional and Administrative Law professor, informing her that several paragraphs in her research paper appeared to have been taken from a paper submitted by another student who had taken the module in a previous year. She admitted that some of the paragraphs flagged in her research paper were taken without proper attribution and apologised for her misconduct, stating that she was willing to accept any punishment. Subsequently, Ms Tay received and signed an official Letter of Reprimand issued by the university where she accepted that 5 marks would be deducted from her research paper.

After graduating from university and completing her Bar examination without any further complaints of misconduct, she then applied for admission to the Bar, where she disclosed the plagiarism incident in her affidavit for admission into the Bar. Upon being requested to provide further details of the incident by the Attorney General's Chambers ("**AGC**"), Ms Tay filed a supplementary affidavit detailing the incident and attached a table prepared by Professor Ong which showed the similarities between her Research Paper and the Relevant Research Paper.

The AGC subsequently filed a Notice of Objection to Ms Tay, objecting to her application of admission to the Singapore Bar. The AGC considered that Ms Tay's act of plagiarism in 2019 was dishonest and that Ms Tay was not a fit and proper person to be admitted at that time. It thus urged the HC to dismiss Ms Tay's application unless she withdrew her application and undertook not to bring any fresh application for at least three months. Ms Tay agreed to adjourn her application for three months, and AGC at that point withdrew its Notice of Objection.

B. Ms Low

In her affidavit for admission, Ms Low disclosed two incidents where she had brushes with law enforcement.

The first incident occurred sometime between late 2016 and early 2017. Ms Low was a law student at SMU at the time and was caught stealing a \$50 eyeshadow palette at a store by the security guards. Upon being caught, she immediately admitted to shoplifting and surrendered the makeup. The police were called, and they issued her a stern warning in lieu of prosecution. There would also be a sealed police record of the incident.

The second incident occurred sometime in 2017 or 2018. Ms Low and a group comprising of her boyfriend, her sister and some friends were attempting to enter a club when a staff member of the club found a slab of Xanax in the bag of Ms Low's sister. The whole group was arrested and brought into police custody. Ms Low was questioned, tested for drugs, and released the next morning. It turned out that the Xanax belonged to another person in the group, who was seeing a psychiatrist at the time and had been prescribed Xanax, and who had asked Ms Low's sister to keep the Xanax with her that night. After the drug test results were out, an officer from the Central Narcotics Bureau informed the group that no further action would be taken against them.

After Ms Low submitted her affidavit for admission and a supplementary affidavit to provide further details of the two incidents, the AGC sent a letter to Ms Low stating its position that Ms Low was not a fit and proper person to be admitted at that time, and invited her to adjourn her application for a period of three months. Ms Low accordingly applied and was granted adjournment of her admission application for three months. After that three months, the AGC indicated that it would not object to Ms Low's admission if she agreed to file a further supplementary affidavit confirming that no new facts had arisen since the submission of her last supplementary affidavit that affected her suitability to be admitted as an advocate and solicitor. Ms Low duly filed a further supplementary affidavit confirming the same.

III. Issues

A. General Principles

The HC stressed that the central inquiry in such applications is to establish whether the applicant is suitable for admission in terms of her character. This will entail consideration of all the relevant circumstances including:

1. the circumstances of the applicant's misconduct;
2. her conduct in the course of any investigations that may have been held in connection with the misconduct;
3. the nature and extent of and the circumstances surrounding the initial and subsequent disclosures about the misconduct made by the applicant in her application for admission;
4. any evidence of remorse; and
5. any evidence of rehabilitation including steps that have been planned or already taken towards achieving the applicant's rehabilitation.

The above are pointers or indicators that inform the court's assessment of the nature and severity of the applicant's character issues, whether there is a need to defer the applicant's admission and if so, the amount of time he or she will likely need to resolve these character issues. In cases where a significant period had elapsed since the applicant's wrongdoing, evidence of remorse and efforts towards rehabilitation may take on particular importance in helping the court determine whether any further deferment of the applicant's admission is necessary. If the applicant demonstrates genuine remorse and satisfies the court that she had successfully resolved her character issues through consistent and proper conduct, then deferment may not be necessary. This is aligned to the court's rehabilitative purpose in deferring an applicant's admission application. The deferment is meant to provide the applicant with adequate time to correct her character issues, and instil confidence in the Law Society, the Singapore Institute of Legal Education and the AGC collectively (the "stakeholders") of her suitability for admission.

B. Whether Ms Tay was a fit and proper person to be admitted

The HC compared the facts of Ms Tay's case to that of *Re Tay Quan Li Leon* [2022] SGHC 133, *Re Wong Wai Loong Sean* [2022] SGHC 237, and *Re Monisha Devaraj* [2022] SGHC 93, where the applicants were caught cheating in their Bar examinations. The HC distinguished those three cases with Ms Tay's case in two main respects. *First*, unlike the applicants in those cases, Ms Tay did not cheat in her Bar examination. Rather, she committed plagiarism during her second year of university. While plagiarism is not less serious than cheating in an examination, it may be less aggravated when the misconduct in question is isolated and had taken place a significant time before the admission process, rather than in the very process of seeking admission. *Second*, unlike the applicants in those cases, Ms Tay was entirely forthcoming about the misconduct. She disclosed it in her admission affidavit even though the facts were private and not public. Ms Tay contacted SMU's Office of the Dean of Students early to obtain the records relating to her disciplinary conduct, which suggests that she may have been contemplating disclosing this incident. In any case, the willingness to make disclosure of a matter that was not publicly known suggests that she was resolute about coming clean and facing up to the consequences.

Given the circumstances of Ms Tay's case, the HC ruled that she had sufficiently shown that she had learned from her mistakes and could be considered a proper person to be admitted as an advocate and solicitor in Singapore. The reasons were as follows:

1. She had maintained a clean record through the remainder of her course of study at SMU and beyond that. In the intervening period of nearly four years since the incident that took place in or about May 2019, she graduated from SMU and passed her Bar examinations without any further suggestion of dishonesty or misconduct. The period of time that elapsed is a weighty factor in the present circumstances because it serves as evidence that her remorse is real and that she does have the necessary capacity for change and rehabilitation. It demonstrates that Ms Tay had reflected on and understood the ramifications of her misconduct as a student at SMU and had resolved not to repeat it. This period also affords the stakeholders sufficient time to assess her suitability for admission. Thus, unlike the applicants in *Re Leon Tay*, *Re Wong Wai Loong Sean*, and *Re Monisha Devaraj*, who cheated in their Part B examinations shortly before their admission applications, there is no need to further defer Ms Tay's admission application in order to enable the stakeholders to assess her suitability.
2. Ms Tay demonstrated candour and forthrightness in confronting her mistake. This can be seen not only from her initial conduct during SMU's investigations in 2019, but also from her voluntary disclosures in her affidavit for admission. When Ms Tay was first

confronted by Professor Ong, she immediately admitted that certain paragraphs in her Research Paper were taken from the Relevant Research Paper. She apologised for her misconduct and indicated that she was willing to accept any punishment meted out by the school. This contrasts favourably with the applicant in *Re Leon Tay* who lied to the SILE when he was initially confronted over his suspected cheating.

3. Ms Tay's admission hearing was originally fixed on 23 August 2022, but she agreed to adjourn her admission hearing for three months. The three-month adjournment, assuming it was needed at all, would have afforded Ms Tay a further opportunity, in the specific context of seeking admission to the roll, to reflect on the importance of the attributes of honesty and integrity in this profession. All the relevant stakeholders have indicated that they have no objections to her admission.

C. *Whether Ms Low was a fit and proper person to be admitted*

The HC first noted that the second incident (related to the arrest for drug possession) had no apparent relevance to her suitability to practice as an advocate and solicitor. This is because Ms Low tested negative for drugs, and there was a valid explanation as to why the Xanax was in her sister's bag, therefore demonstrating that the incident had no connection to Ms Low.

The first incident however, namely Ms Low's act of shoplifting, reflects dishonesty which is almost invariably seen as suggestive of underlying character flaws that are incompatible with being admitted as an advocate and solicitor. In the legal profession, clients invariably repose their trust and confidence in lawyers, in various ways, including to handle their money. It is essential in such circumstances, that lawyers act with the utmost integrity and moral fortitude at all times. This is also mandated by the nature of a lawyer's vocation, which is to aid in the administration of justice.

The question before the HC was whether Ms Low had reflected on and remedied the character issues which surfaced through her actions six years ago. The HC decided that Ms Low had indeed demonstrated genuine remorse and had reformed herself in the intervening period preceding her admission application, akin to Ms Tay's case, for the following reasons:

1. Like Ms Tay, Ms Low had maintained a clean record since her misconduct, more than six years ago. She graduated from SMU and passed her Part B examinations without any suggestion or complaints of dishonesty or misconduct. Her clean record in the years after her brush with the law suggests that she had learnt from her mistake and had taken steps to reflect on her mistake and on what she must do to reform herself. Given that the purpose of a deferment in admission applications is not punitive, where an applicant had, through a consistent course of conduct, demonstrated that she had turned over a new leaf, there is no need or even basis for any further deferment of her admission application to punish her. If appropriate, the request for an adjournment should be explained so that the applicant understands why this is being sought and what she must do to make the best use of that time.
2. Ms Low had also been forthcoming in her disclosures and her willingness to take responsibility for her mistake. During the initial investigations, Ms Low immediately confessed to shoplifting, cooperated with the police and returned the eyeshadow palette. She also disclosed her wrongdoing to the court and the stakeholders at the first opportunity in her admission affidavit. This is notwithstanding the fact that the police informed her that her act of shoplifting would be noted in a sealed police record. The fact that Ms Low nonetheless disclosed the episode in her admission affidavit demonstrates her willingness to openly confront her mistake. This revealed a high

degree of candour and accountability on Ms Low's part, which are qualities that every advocate and solicitor in Singapore should have.

IV. Lessons Learnt

As the HC noted: "[e]veryone makes mistakes; the real question is whether one demonstrates the capacity to learn from one's mistakes". As a law student and aspiring legal practitioner, it is encouraging to know that Singapore's admissions process to the Bar is a rehabilitative one, recognising that law graduates too are human beings susceptible to misconduct from time to time, but more importantly also having the ability to grow and learn. If one subsequently demonstrates consistently proper conduct, and reflection on and remedying of one's mistakes, a second chance may be awarded to realise one's dream of becoming a practicing legal professional in Singapore.

Written by: Isabelle Lau Xin Qi, 3rd-Year LLB student, Singapore Management University Yong Pung How School of Law.

Edited by: Ong Ee Ing, Senior Lecturer, Singapore Management University Yong Pung How School of Law.