

Limits under the Maintenance of Parents Act

* Written by Wong Jun Hao Lucas

Question:

My father is 65. He has been taking money from me ever since I started working 2 years ago, claiming it is his right as my father. He spends his money on gambling, drinking and cigarettes. I have refused to give him any more money but he threatens to take me to court under the Maintenance of Parents Act. What can I do about this?

I. Introduction

Filial piety lies at the heart of many Asian societies. According to one Confucian proverb, the lowest degree of filial piety is simply supporting one's parents.¹ However, does this extend to supporting parents in *anything* they desire? If your elderly father cannot live without gambling, drinking or smoking, do you, as his son, have a duty to help him satisfy those addictions? This article seeks to answer this question.

In Singapore, the duty to support one's parents is a legal obligation governed by the Maintenance of Parents Act ("MPA").² Under the MPA, elderly parents may bring an action against their children to claim for maintenance (i.e. an allowance).³ Thus, the question is whether your father can invoke the MPA to demand that you provide him with money for gambling, alcohol and cigarettes. This article will explain why your father is unlikely to succeed, and what you can do if he subsequently continues to hound you for money.

II. Discussion

A. *You are unlikely to be required to provide money to your father*

If your father chooses to invoke the MPA, he may frame his claim in two ways:

¹ V. K. Wellington Koo, "China and her Civilization" Proceedings of the New York State Historical Association 1919; 17; 154-163, at 158.

² Maintenance of Parents Act (Cap 167B, 1996 Rev Ed) ("MPA").

³ See Chan Wing Cheong, "The Duty to Support an Aged Parent in Singapore" (2004) 13 Pac. Rim L & Pol'y J. 547 ("Chan") at 554.

- a) a broad, all-encompassing claim that includes money to fulfil his vices (the “**broad claim**”); or
- b) a narrower claim that is limited to his bare essentials (the “**narrow claim**”).

Each of these possible claims will be considered accordingly. At the outset, it should be noted that maintenance applications are generally heard by the Tribunal for the Maintenance of Parents, not the courts.⁴ There are hence only a few court decisions on the MPA, and any interpretation of the MPA would be based only on the cases which are known.

(1) The broad claim will probably fail

To begin with, your father is unlikely to succeed if he does not specify *what* he requires the money for. In particular, the court will consider your father’s financial needs and expenses before determining the appropriate payment he should receive.⁵ Thus, he does not have free rein to demand any sum of money from you merely by virtue of being your father.

In addition, your father probably cannot obtain money for the purpose of satisfying his gambling, drinking, and smoking habits.

First, allowing such a claim would run contrary to the wording of the MPA. Section 3(4) states that the MPA will only protect those who are unable to afford “*basic physical needs including ... shelter, food, medical costs and clothing*”.⁶ Hence, the MPA will only provide applicants with sufficient money for things *critical* to their survival. Since gambling, alcohol and cigarettes cannot be considered bare necessities, your father probably cannot invoke the MPA for such expenses.

Second, allowing this claim would undermine the policy considerations underlying the MPA. The drafters of the MPA have explicitly stated that the amount of maintenance “should not be dependent on the lifestyle the parent was accustomed to, or aspires to”;⁷ rather, the MPA will only support parents “at the *basic minimum*”.⁸ Therefore, regardless of whether your father is used to a life of alcohol and cigarettes, the MPA will not cover such expenses.

⁴ MPA, *supra* n 2, s 14(1). See also the Ministry of Social and Family Development website <<https://www.msf.gov.sg/maintenanceofparents/Pages/Overview.aspx>> (accessed 7 October 2021).

⁵ *Id*, s 5(2)(a).

⁶ *Id*, s 3(4).

⁷ *Report of the Select Committee on the Maintenance of Parents Bill (Bill No 13/94)* (Parl 2 of 1995, 20 October 1995) (“**Select Committee Report**”) at p iv.

⁸ *Singapore Parliamentary Debates, Official Report* (2 November 1995) vol 65 at col 212 (Assoc. Prof. Walter Woon, Nominated Member).

Third, allowing this claim would inadvertently promote gambling, alcoholism and smoking, since parents would effectively be able to enjoy these indulgences without paying. Considering the government's efforts in *discouraging* such habits – such as imposing high excise duties on alcohol and cigarettes⁹ – allowing this claim would undo its previous work. Thus, your father is unlikely to succeed if he frames his claim broadly.

(2) *The narrow claim is unlikely to succeed either*

Your father is also unlikely to succeed if he claims only for the cost of his basic essentials. For one, the court will consider the manner in which a parent has spent his money in deciding whether to grant a maintenance order. This is because “the child should not be penalised for the parent’s mismanagement over his own financial affairs”.¹⁰ Accordingly, if your father is applying for maintenance because he has squandered all his savings on gambling and alcohol, the court is unlikely to look kindly on him.

Further, publicly-available information suggests that the bar for maintenance applications to succeed is relatively high. In *KLH*,¹¹ a 79-year-old father who lived in a one-room HDB flat applied for maintenance from his sons. However, his application was dismissed, as he had managed to maintain himself adequately on his earnings as a petrol kiosk attendant and carpark attendant.¹² Thus, even elderly parents who are “barely able to eke out a living at a subsistence level” may not be eligible for maintenance.¹³ This means your father must *truly* be unable to survive independently to succeed. In this regard, your father must also show that he attempted to find employment before applying for maintenance.¹⁴

Indeed, it is crucial to note that the MPA was never meant to protect *all* elderly parents; rather, it was only intended to safeguard elderly parents who are unable to get by, despite their financial prudence.¹⁵ It would, hence, not be easy for your father to succeed in a claim for maintenance under the narrow claim.

⁹ Rachel Chang, “Singapore Budget 2014: Duties on alcohol, tobacco and gambling to rise” *The Straits Times* (21 February 2014) <<https://www.straitstimes.com/singapore/singapore-budget-2014-duties-on-alcohol-tobacco-and-gambling-to-rise>> (accessed 19 September 2021).

¹⁰ Select Committee Report, *supra* n 7, at p iv. See also *Singapore Parliamentary Debates, Official Report* (23 November 2010) vol 87 at col 1683 (Seah Kian Peng).

¹¹ *KLH v KSW & 4 Others*, Tribunal for the Maintenance of Parents (12 September 1996), cited in Chan, *supra* n 3, at 561.

¹² *Ibid.*

¹³ Chan, *supra* n 3, at 560.

¹⁴ MPA, *supra* n 2, s 5(1)(b).

¹⁵ Select Committee Report, *supra* n 7, at p iv.

B. If he continues hounding you for money, you may be able to obtain a protection order against him

Nonetheless, if your father persists in demanding money, you may wish to apply for a protection order against him under the Women’s Charter.¹⁶ This will restrain your father from using family violence against you, and may also require him to attend counselling.¹⁷ To obtain a protection order, you must show that: (a) an act of family violence has been, or is likely to be, committed; and (b) a protection order is necessary for your protection.¹⁸

On the first requirement, “family violence” includes:

- a) placing a family member in fear of hurt; and
- b) causing continual harassment with intent to cause or knowing that it is likely to cause anguish to a family member.¹⁹

“Harassment” is defined as “a course of conduct by a person ... *sufficiently repetitive in nature* as would cause and which he ought reasonably to know would cause worry, emotional distress or annoyance to another person”.²⁰ In short, if your father has been *constantly* badgering you for money, you will likely satisfy the first requirement.

To illustrate, the court has found harassment on occasions where the defendant:

- a) sent almost daily emails to the applicant for three months, including one instance where 17 emails were sent within four hours;²¹
- b) continually shouted and hurled insults at the applicant for four years;²² or
- c) threatened to involve the applicant’s employers in their private dispute.²³

For the second requirement, a protection order is typically considered necessary when there is a high likelihood of the defendant committing family violence against the applicant in future.²⁴

In your case, the question is whether your father is likely to continue hounding you for money.

¹⁶ Women’s Charter (Cap 353, 2009 Rev Ed) (“WC”) s 65.

¹⁷ *Id*, s 65(5).

¹⁸ *UNQ v UNR* [2020] SGHCF 21 at [23].

¹⁹ WC, *supra* n 16, s 64.

²⁰ *VJB v VJC* [2020] SGFC 55 (“*VJB*”) at [11]; *VAW v VAX* [2019] SGFC 104 (“*VAW*”) at [8]; *UFD v UFC* [2017] SGFC 106 (“*UFD*”) at [17].

²¹ *VCJ v VCK* [2019] SGFC 121 (“*VCJ*”) at [19]–[25].

²² *UFD*, *supra* n 20, at [17].

²³ *VPK v VPJ* [2021] SGFC 18 (“*VPK*”) at [16]–[21].

²⁴ *VAW*, *supra* n 20, at [7].

This is ultimately dependent on the circumstances, although the court has found the following factors to be relevant:

- a) the history of acrimony between the parties;²⁵
- b) the likelihood of future interactions between the parties;²⁶ and
- c) the impact of the defendant's actions on the applicant.²⁷

III. Conclusion

In conclusion, you are unlikely to have anything to worry about if your father invokes the MPA against you. If he continues badgering you for money, you may be able to obtain a protection order against him to restrain him from doing so. While this conclusion may seem heartless to an elderly parent, one must remember that the MPA was borne out of a desire to protect parents who *genuinely* cannot make ends meet despite their best efforts; it was not meant to be a crutch for parents who are irresponsible at managing their wealth.²⁸

Nonetheless, you are advised to consider the long-term implications of getting sued. It will probably extinguish any chance of conciliation with your father, and there is no guarantee that the law will operate in your favour. If you remain hopeful of mending your relationship, you may wish to offer a compromise – e.g., by agreeing to give him an allowance if he agrees to fight his addictions – before resorting to the law only when all else fails.

²⁵ *UFD*, *supra* n 20, at [19].

²⁶ *VPK*, *supra* n 23, at [22].

²⁷ *VCJ*, *supra* n 21, [25]–[27].

²⁸ Select Committee Report, *supra* n 7, at p iv.