

TORT

Breach of confidence – Report on financial status – Whether information confidential in nature – Whether information used in unauthorised manner – Whether cause of action established

Geh Thuan Hooi v Serene Lim Paik Yan & Ors

[2015] 6 CLJ 246, High Court

Facts The plaintiff (husband) and the first defendant (wife) obtained a divorce in the High Court in which the plaintiff applied to vary the maintenance order. The first defendant, intending to dispute the disclosure made by the plaintiff, engaged the second defendant, a consulting firm managed by the third defendant, to investigate the plaintiff's financial status. The second defendant then prepared a report containing confidential information about the plaintiff's bank accounts, Employees Provident Fund (EPF) account, income tax and directorship/shareholding in companies. These details were obtained without the plaintiff's consent. The plaintiff, therefore, sued the defendants for breach of confidence, alleging that the report contained confidential information.

Issue The issue for consideration was whether the plaintiff had proved his case for breach of confidence against the defendants.

Held In deciding in favour of the plaintiff, it was held that three essential elements must be proved in a case of breach of confidence in the context of a non-contractual case. The three elements are as follow: (i) that the information is confidential in nature; (ii) that the information must have been communicated in circumstances imputing an obligation of confidence; and (iii) that there is an unauthorised use of the information. The High Court held that there was indeed a breach of confidence as firstly, the information in the report is confidential and private. Secondly, the information was obtained illegally by the third defendant considering he was not an accredited investigator and thus owed the plaintiff an obligation of confidence and lastly, because there was an unauthorised use of the plaintiff's information when the report was exhibited in the variation proceedings.