

TORT

Libel – Storage of outdated financial information– Access to information on subscription basis – Whether such access constituted publication – Whether information defamatory

Tan Ah Hong v CTOS Data System Sdn Bhd

[2016] 1 LNS 90, Court of Appeal

Facts The appellant is an individual while the respondent is a company providing credit rating information of individuals. The respondent stores the financial information of individuals in its database which is accessible by subscribers. A dispute arose when the respondent published outdated financial information (“the Information”) which did not reflect the appellant’s contemporary financial status. The Information showed records of the appellant’s bankruptcy proceedings and debts owed to various institutions. However, at the time of accessing the Information from the respondent’s database, the appellant had cleared his debt and had been discharged from bankruptcy. The appellant alleged that the Information was defamatory. At the High Court, the judge decided in the respondent’s favor as the appellant failed to prove the element of publication that was necessary in an action for libel. Dissatisfied, the appellant appealed.

Issues The issues were (i) whether access to the Information by subscribers constituted publication to third parties, and (ii) whether such Information was defamatory.

Held In allowing the appeal, the court held that the respondent had published the Information and that access to such Information, although limited by way of subscription, was irrelevant. This is because the respondent had deliberately and intentionally uploaded the Information onto its database to be accessed by the subscribers. The court further ruled that the Information is defamatory as such Information would lead the reader to be suspicious of the appellant’s creditworthiness.

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{JULY 2016 \ 01346703}