

CIVIL PROCEDURE

Pleadings – Solicitor-client privilege – Confidential information – Whether there was breach of confidentiality – Whether legal profession privilege could form cause of action – Evidence Act, section 126

Yeoh Tai Chuan & Anor v Tan Chong Kean

[2016] 4 MLJ 769, Court of Appeal

Facts The appellants, as solicitors, assisted their client, the respondent, in preparing a trust deed which was required by the respondent in their dealings with a property development company. The development company subsequently brought an action against the appellants, in a separate suit at the Sessions Court. In that suit, the trust deed was exhibited by the appellants. The respondent commenced an action against the appellants for breach of confidentiality. The High Court ruled in favour of the respondent. Hence, this appeal.

Issue The issue was whether there was a breach of confidentiality pursuant to section 126 of the Evidence Act 1950¹

Held In allowing the appeal, the Court of Appeal held that there could not be a cause of action for breach of confidential information as the appellants and respondent were not parties to the trust deed. It was also held that the section 126 of the Evidence Act 1950 does not entitle the respondent to anchor a cause of action. However, if a solicitor breached solicitor-client privileges without the consent of the clients, it can be a subject matter of complaint to the advocates' disciplinary board.

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¹ Professional communications