

Melati bte Haji Salleh
v
Registrar-General of Births and Deaths and another

[1989] SGHC 47

High Court — Originating Summons No 62 of 1989

Chan Sek Keong J

5 May 1989

Family Law — Adoption — Confidentiality and inspection of documents — Request to inspect Adoption of Children Register — Refusal of Registrar-General of Birth and Deaths to accede to request — Section 12(6) Adoption Act (Cap 4, 1985 Rev Ed)

Facts

After the plaintiff discovered her adopted status, she requested that she or her solicitors be allowed to inspect the now defunct Adoption of Children Register and make copies of the entries therein relating to her adoption. As the Registrar-General of Births and Deaths refused to accede to her request, the plaintiff filed this application for an order that she or her solicitors be permitted to inspect the original or former entry in the Adoption of Children Register or to take a copy thereof relating to the original birth certificate and legal adoption of the plaintiff. The plaintiff stated that she intended to make her will and that she wished to know the identities of her natural parents so that she could provide for them in her will. Section 5 of the Adoption (Amendment) Act 1972 (Act 9 of 1972) (now s 12 of Cap 4, 1985 Rev Ed) had amended the original Adoption Act (Cap 43, 1970 Rev Ed) such that adopting parents would only be issued with birth certificates of adopted children which do not disclose their adoption. Amongst the grounds relied on to resist disclosure of the information was that the application was not made *bona fide* as (a) it was made when the plaintiff was already 34 years of age; and (b) the natural parents were not likely to survive the plaintiff.

Held, allowing the application:

- (1) In the absence of a demonstrable public interest against disclosure, it was only morally right that an adopted child in such a position should be granted a right to know who his or her natural parents were: at [8].
- (2) There was absolutely no evidence to suggest that the plaintiff's motive was anything but *bona fide*. In any case, if the plaintiff had a right to be informed, it did not matter what her motive was in seeking the information so long as it was not for an illegitimate purpose: at [8].
- (3) Whether or not the applicant was entitled by law to a certified copy of an extract from the Adoption of Children Register in order to obtain the identities of her natural parents, was determined by the scope of the relevant provisions of the Adoption Act and in particular s 12 thereof. Since s 12(6) did not prescribe the purpose for which inspection was required, any legitimate purpose must

suffice. The plaintiff required inspection for the purpose of finding out who her natural parents were. That was a legitimate purpose: at [8].

Legislation referred to

Adoption Act (Cap 43, 1970 Rev Ed) ss 11(6), 11(8)

Adoption Act (Cap 4, 1985 Rev Ed) s 12(6) (consd);
ss 12(10), 12(11)

Adoption (Amendment) Act 1972 (Act 9 of 1972) s 5

Wong Soo Chih (Hoh & Mas) for the plaintiff;
Sim Mei Ling (State Counsel) for the defendants.

5 May 1989

Judgment reserved.

Chan Sek Keong J:

1 This is an application by the plaintiff, an architect, for an order that she or her solicitors be permitted to inspect the original or former entry in the Adoption of Children Register or to take a copy thereof relating to the original birth certificate and legal adoption of the plaintiff.

2 The plaintiff's solicitors wrote to the Registrar-General on 14 July 1988 that the plaintiff, who believes her ethnic origin to be Chinese, would like to find out who her natural parents were and requested that they be allowed to inspect the Adoption of Children Register maintained under s 11 of the Adoption Act before it was amended by Act 9 of 1972 (hereinafter called "the defunct Register") and make copies of the entries therein relating to their client's adoption. The Registrar-General replied on 10 August 1988 as follows:

I refer to your letter dated 14 July 1988.

2 Under s 12(6) of the Adoption of Children Act (Cap 4), no person shall be allowed to take a copy of the original entry as to the birth of a child who has been subsequently adopted.

3 As your client was legally adopted, we regret that we are unable to accede to her request for her original birth certificate.

3 In making this application, the plaintiff has filed an affidavit stating that she intended to make her will and that she wished to know the identities of her natural parents so that she could provide for them in her will. She has also stated that she did not wish to obtain the information from the adopting parents, as she did not wish to hurt them in their old age.

4 To determine whether the plaintiff has the right to have access to the defunct Register in order to know who her natural parents are, it is necessary to trace the legislative history of the Adoption Act. Until 15 May 1972, when Act 9 of 1972 came into force, the Adopted Children Register was maintained by the Registrar-General of Births and Deaths

pursuant to and in accordance with s 11 of the Adoption Act (Cap 43, 1970 Rev Ed). The procedure thereunder was that on receipt of an adoption order made by the court, the prescribed particulars, *ie* date, country and birth of the adopted child, his name and surname, the sex of the child, the names and surnames of the adopting parents and particulars of the court order would be entered in the Adopted Children Register. By s 11(6), the Registrar-General was required to mark an entry in the register of births with the word “Adopted”. Section 11(8) also provided that every person should be entitled to have a certified copy of any entry in the Adopted Children Register in all respects upon and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the Registration of Births and Deaths Act, in respect of the supply of certified copies of entries in the registers of births and deaths.

5 The law before 15 May 1972 was therefore that every person had a right to obtain a certified copy of any entry in the defunct Register. However, s 5 of Act 9 of 1972 (now s 12 of Cap 4) changed the procedure for the registration of adopted children in the following manner.

(a) (By subsection (3))

Upon receipt of the form referred to in subsection (1), the Registrar-General shall if the birth of the adopted child has been registered in Singapore cause the entry in the relevant register of births to be marked with the word ‘Adopted’. Particulars as to the birth of the child shall then be registered separately substituting the name conferred by the adoption for the name of the child prior to adoption, and recording the name, address and description of each adopting parent in substitution for the particulars as to the natural or last adopting parents.

(b) (By subsection (4))

In any case where the birth of the adopted child has not been registered in Singapore, the Registrar-General, upon being satisfied as to the correctness of the information supplied to him as to the date and place of birth of the child, shall register particulars as to the birth of the child in accordance with the procedure in subsection (3).

(c) (By subsection (5))

Where a copy of the entry as to the birth of any child to which this section relates is required for any purpose, the Registrar-General, subject to any regulations as to payment of fees as are prescribed, shall apply a copy of the last entry made pursuant to subsection (3), omitting in the copy the word ‘Adopted’ that appears in the original or former entry.

(d) (By subsection (6))

No person shall be permitted to inspect any such original or former entry, or to take a copy of such original or former entry unless that person has certified, and the Registrar-General is satisfied, that the

particulars recorded in the original or former entry are material for the purpose for which the inspection is required.

(e) (By subsection (7))

Where on 15th May 1972 an adoption order has already been made in respect of an infant, the Registrar-General shall upon application being made by either of the adopting parents, or in the event of both adopting parents being dead, by the adopted child register particulars as to the birth of the child in accordance with subsection (3) and upon registration, subsection (5) shall apply to any copy of an entry as to the birth of the adopted child.

(f) (By subsection (8))

The copy of the entry as to the birth of the child supplied by the Registrar-General under subsection (5) shall have the same effect in law as copy of an entry as to the birth of a child who is not adopted.

(g) (By subsection (10))

The Adopted Children Register maintained under section 11 repealed by the Adoption of Children (Amendment) Act 1972 shall cease to be maintained and no extracts therefrom shall be issued except by an order of court.

(h) (By subsection (11))

The Registrar-General shall keep such other registers and books, and make such entries therein as may be necessary to record and make traceable the connection between any entry in the Adopted Children Register previously maintained under section 11 repealed by the Adoption of Children (Amendment) Act 1972 and an entry in the registers of births made pursuant to this section, but the registers and books kept under this subsection shall not be, nor shall any index thereof be, open to public inspection or search nor except under an order of court shall the Registrar furnish any person with any information contained in or with any copy or extract from any such registers or books.

6 The substantial change brought about by these amendments was that after 15 May 1972, adopting parents would only be issued with birth certificates of adopted children which do not disclose their adoption. The effect is that no adopted child who is adopted by parents of the same ethnic group would discover the fact of his adoption by merely looking at his birth certificate. Whatever may be the policy considerations behind the amendments, the fact remains that in a multi-racial society like Singapore, the amendments will have limited effect because they can never conceal an inter-racial adoption. This case is a demonstration of that fact. The plaintiff believes her ethnic origin is Chinese although her legal parents are Malay.

7 Now that the plaintiff has discovered her adopted status, she desires to find out who her natural parents are. The first defendant denied her that "right" solely on the ground that she was an adopted child. Before me, state

counsel has argued strenuously that the plaintiff be barred from inspecting the defunct Register. She has advanced three reasons to justify the first defendant's decision, but at the same time, has conceded that the court has the power to order disclosure by virtue of ss 12(10) and 12(11) of the Adoption Act. The question is whether the court should make the order. It is submitted firstly, that the object of the new provisions is to protect the interests of all parties to the adoption, including the child; that an adoption order severs forever all rights and obligations between the natural parents and the child and therefore the court should not in principle grant the order. Secondly, it is submitted that the grant of an order would set a dangerous precedent, as it may be abused leading to undesirable social consequences. Thirdly, it is submitted that the application may not be *bona fide* on the grounds (a) it is made at such a late stage (the plaintiff is aged 34); and (b) that the natural parents are not likely to survive the plaintiff.

8 In my view, state counsel has overstated a case which has no substance in it. Firstly, if the object of the new provisions is to protect the interests of all parties (presumably, their feelings or their conscience, but I would have thought it is primarily to protect the adopted child) connected with an adoption, that object has failed once an adopted child knows he or she is an adopted child. Secondly, I am unable to comprehend why the legal effect of an adoption order should by itself determine whether or not an adopted child who knows he or she is an adopted child should be denied the opportunity or right to know who his or her natural parents are. In the absence of a demonstrable public interest against disclosure, I would have thought that it is only morally right that an adopted child in such a position should be granted the right to know who his or her natural parents are. Indeed there may even be a countervailing public interest in favour of full disclosure in at least one specific circumstance: that of preventing the adopted child from contracting a marriage within any of the prohibited degrees of relationship prescribed by s 10 of the Women's Charter. As for the third submission, there is absolutely no evidence to suggest the plaintiff's motive is anything but *bona fide*. In any case, if the plaintiff has a right to be informed, it does not matter what her motive is in seeking the information so long as it is not for an illegitimate purpose. In my view, whether or not the applicant is entitled by law to a certified copy of an extract from the defunct Register in order to obtain the identities of her natural parents, is determined by the scope of the relevant provisions of the Adoption Act and in particular s 12 thereof and not to what state counsel considers to be the policy reasons behind the new provisions. Section 12(6) provides that no person shall be permitted to inspect any such original or former entry or to take a copy thereof unless that person has certified and the Registrar-General is satisfied that the particulars recorded in the original or former entry are material for the purpose for which the inspection is required. Neither the materiality nor the purpose is defined in s 12(6). The Registrar-General rejected the application of the plaintiff solely

on the ground that she was an adopted child. In my view, that was clearly not a proper ground for refusing the request. Under s 12(6), the Registrar-General needs only to be satisfied that the particulars recorded in the original entry are material for the purpose for which the inspection is required. Since s 12(6) does not prescribe the purpose for which the inspection is required, any legitimate purpose must suffice. Here the plaintiff requires inspection for the purpose of finding out who her natural parents are. That is a legitimate purpose. Therefore, I cannot see how the Registrar-General was in a position to say that the original entry was not material for the purpose for which the inspection was required.

9 In my view, the Registrar-General has misconstrued his duty under s 12(6) and has reached the wrong decision. Accordingly, I will make an order in terms of the application. However, to enable the defendants to apply for a stay of this order should they decide to appeal against my decision, I direct that this order should lie in the Registry for a period of seven days from today.

Headnoted by Loh Tann Ling.
