



## The Assistant Registrar's Role in the Judicial Hierarchy

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### Introduction

In *Peter Low LLC v Higgins, Danial Patrick* [2017] SGHCR 18 ("**Peter Low LLC**"), the plaintiff law firm applied for a Writ of Seizure and Sale ("**WSS**") to be executed against the property of the defendant, which was held in joint tenancy with the defendant's spouse. In the course of the proceedings, the plaintiffs sought to argue that the Assistant Registrar was not bound by conflicting decisions of the High Court Judges, and therefore could rule in their favour in allowing for the WSS to be executed against the defendant's property.

In particular, the plaintiff initially relied on the decision in *Chan Yat Chun v Sng Jin Chye & Anor* [2016] SGHCR 4 ("**Chan Yat Chun**"), where the court stated in obiter that Assistant Registrars are not bound by the decisions of High Court Judges.

### Discussion

After considering several cases submitted by the plaintiff, the Assistant Registrar elected to adopt the view taken in *Actis Excalibur Ltd v KS Distribution Pte Ltd and others* [2016] SGHCR 11 ("**Actis Excalibur**"), which firmly placed the Assistant Registrars as subordinate to High Court Judges.

The Assistant Registrar based his decision on the doctrine of vertical *stare decisis*, which mandates that a judge is constrained to follow the decision of the courts above him in the judicial hierarchy if the case before him cannot be distinguished from the prior case.

He then went on to find that High Court Judges occupy a higher position than Assistant Registrars in the judicial hierarchy, which meant that Assistant Registrars are subordinate and bound to follow the ruling of any High Court Judge.

The Assistant Registrar gave three main reasons for this finding. First, he highlighted that all decisions made by Assistant Registrars were appealable to a High Court Judge in Chambers *as of right*. It would then naturally flow that such a right of appeal is indicative of the lower standing of the Assistant Registrar in relation to the High Court Judge. Furthermore, vertical *stare decisis* would be present in any situation where a court has power to reverse the decisions of another court.

Secondly, the unfettered standard of review given to the High Court in hearing Registrar's Appeals on interlocutory applications is evidence of the High Court Judges' higher standing in the judicial hierarchy. Not only are the High Court Judges to treat the matter afresh as though it had come before him or her for the first time, they are also not obliged in any way to consider how the Assistant Registrar exercised his or her discretion in the first instance.

Lastly, the Assistant Registrar stressed that the powers, authority and jurisdiction of Assistant Registrars are delegated to them in the interests of administrative convenience, in order to save the time of High Court Judges. Therefore, the prevailing legislative and judicial intent is to hold the jurisdiction of Assistant Registrars as subordinate to High Court Judges.

## Conclusion

The decision in *Peter Low LLC* provides the latest judicial pronouncement on the role and position of an Assistant Registrar in the judicial hierarchy. Given, however, that all three decisions on this point thus far have been rendered by Assistant Registrars, the door remains open for a High Court Judge (or the Court of Appeal) to give the final word on the matter.

That being said, this decision sheds additional light on the relationship between the jurisdiction and authority of Assistant Registrars and that of High Court Judges. Furthermore, together with *Actis Excalibur*, there is now a preponderance of authorities providing that Assistant Registrars are bound to follow the rulings of a High Court Judge.

It would thus be of practical benefit to the conscientious lawyer to bear in mind that in the preparation of cases, any High Court decision that cannot be distinguished will likely be followed by the Assistant Registrar.

If you would like more information on this area of law, please contact:



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