

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Zhang Estate v. Yin*,
2025 BCSC 510

Date: 20250319
Docket: S2010412
Registry: Vancouver

Between:

**Junjie Tao, Executor of the Estate of Tong Zhang aka
Tony Zhang, Deceased**

Plaintiff

And:

**Hang Yin, Yan Chun Liu, Yu Yin, 1011066 B.C. Ltd., 1079770 B.C. Ltd.,
1032734 B.C. Ltd., 1085842 B.C. Ltd., 1079775 B.C. Ltd., and
1084960 B.C. Ltd.**

Defendants

And:

Chunli Zhang

Defendant by way of Counterclaim

Corrected Judgment: The text of the judgment was corrected at paragraph 2 on
March 21, 2025.

Before: The Honourable Mr. Justice Funt

Reasons for Ruling (*ex turpi causa*)

Counsel for the Plaintiff:

M.J. Hewitt

Counsel for the Defendants:

V. Pappas
R. Gagnon
J. Spencer
A. Wang, Articled Student

Counsel for the Defendant by way of
Counterclaim:

P. Lewis

Place and Date of Hearing:

Vancouver, B.C.
March 19, 2025

Place and Date of Judgment:

Vancouver, B.C.
March 19, 2025

1.0 Background

[1] The defendants, by application filed February 25, 2025, seek to amend their response to civil claim.

[2] A 45-day trial, set peremptorily, is scheduled to start on March 31, 2025.

[3] The focus of the defendants' application is to support a plea of *ex turpi causa non oritur action* ("*ex turpi causa*"). The plaintiff, the executor of the estate of Tong Zhang ("Mr. Zhang Jr."), and the defendant by counterclaim, Mr. Chunli Zhang ("Mr. Zhang Sr."), oppose the proposed amendment addressing *ex turpi causa*.

[4] There are also some minor amendments. These amendments are not opposed.

[5] In the action, it is pleaded that Mr. Zhang Jr., now deceased, invested under one or more oral contracts with the defendant Mr. Yin an amount of approximately \$45 million. The other defendants assisted Mr. Yin or were otherwise involved with respect to Mr. Zhang Jr.'s investment.

[6] Mr. Zhang Jr.'s executor pleads that the defendant Mr. Yin did not segregate Mr. Zhang Jr.'s funds for the purposes of the investment. Instead, Mr. Yin commingled Mr. Zhang Jr.'s funds with other assets and funds in order to convert Mr. Zhang Jr.'s funds for Mr. Yin's "own use as he then saw fit".

[7] Mr. Zhang Jr.'s executor seeks damages, the disgorgement of profits, and various declarations, among other relief.

[8] In brief terms, the defendants say that the relevant transactions were between Mr. Zhang Sr. and Mr. Yin.

[9] Further, the defendants specifically wish to plead:

4c. In or around late 2018 or early 2019, Zhang Sr. became the subject of an investigation in China for bribery, corruption in office, and money laundering, including investing proceeds of crime into B.C. real estate (the "Zhang Sr. Chinese Investigation").

4d. As a result of the Zhang Sr. Chinese Investigation, in or about early 2019, Mr. Yin and Zhang Sr. decided to terminate their business relationship and undertook to divide their assets in a mutually agreeable manner (the “Corporate Reorganization”). Following the Corporate Reorganization, there are no outstanding amounts owed to Zhang Sr. or his family members by any of the Defendants.

4e. In any event, the Plaintiff’s claim must fail pursuant to the legal doctrine of illegality or *ex turpi causa non oritur actio*, which at its most fundamental level, exists to promote the integrity of the justice system by preventing a plaintiff from profiting from an illegal or wrongful act. The emphasis of the *ex turpi causa* doctrine on preserving the administration of justice from the taint that would result from the approval of a transaction that a court ought not to countenance. Here, if the Plaintiff succeeds in this lawsuit, he will have successfully legitimized ill-gotten funds obtained by his father into an award for damages. To preserve the integrity of the justice system the Plaintiff ought to be barred from obtaining the relief he seeks.

And further,

The Zhang Sr. Chinese Investigation

50a. Zhang Sr. is the subject of an arrest warrant issued in China for committing the following crimes while in a position of authority in the Chinese government as Chairman of the Board of Dadi Company:

- (a) Embezzling 229,674,003.74 RMB between 2010 and 2017, including by fabricating false construction projects to fraudulently obtain project funds, fabricating surface attachments to defraud land compensation payments, and by misappropriating 11 vehicles;
- (b) Accepting bribes amounting to 298,166,152.2 RMB for matters such as project approval, development, contracting, and fund allocation, thereby illegally extorting and accepting large sums of money and property from others;
- (c) Misappropriating public funds amounting to 59,637,955.78 RMB for personal use; and
- (d) While managing Shuntai Company, giving money and goods to government employees totaling 22,250,000 RMB to seek improper benefits.

50b. The funds Zhang Sr. contributed to the Projects originated from the foregoing illegal sources.

50c. Zhang Sr. has remained abroad to avoid consequences for the foregoing crimes in China and remains on the wanted list in China as a result.

2.0 The Law

[10] Our Court of Appeal in *Bang v. Kim*, 2024 BCCA 88, recently reviewed the application of *ex turpi causa*.

[11] Justice Saunders, writing for the Court of Appeal, stated:

[30] These cases all share one feature: they contemplate application of *ex turpi causa* where the illegality is closely connected to the cause of action at issue; they do not allow for wrongs disconnected to the claim to relieve a party from liability for compensatory damages. Such a result would be a windfall to the defendants not contemplated by the maxim itself.

[My emphasis.]

3.0 Application of the Law

[12] Assuming that Mr. Zhang Sr. was involved in the illegality the defendants wish to plead, the rule in *Bang* that the “illegality must be must be closely connected to the cause of action” is not met.

[13] The cause of action involves an investment. The key defences are: (1) Mr. Zhang Jr. did not advance any funds for investment by Mr. Yin; or (2) alternatively, that Mr. Yin fulfilled the terms of any oral contract. Neither defence supports closely connected illegality.

[14] Under paragraph “50(a)” of the proposed amendments, we have Mr. Zhang Sr. as the subject of an arrest warrant. There is not a pleaded conviction.

[15] In my view, an unproven charge is not sufficient to bring any possibly related funds within the closely connected test.

[16] Further, I will add two points with respect to the integrity of the justice system. First, the scheduled 45-day trial will be in open court. Any member of the public may attend, including those with familiarity with one or more of the parties. The various avenues of our law are available to members of the public to bring appropriate legal proceedings if they so choose.

[17] Second, if there are future developments which may engage the integrity of the justice system, I may fashion an appropriate remedy after inviting and considering the submissions of counsel.

4.0 Disposition

[18] The defendants' application to amend the response to civil claim is dismissed with respect to any plea of *ex turpi causa*. The other proposed amendments will be allowed having regard to the consent of the parties.

“Funt J.”