

AHTC lawsuit; Lawsuit raises questions over liability, implications for WP

Rachel Au-Yong, Priscilla Goy

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The legal action taken against three Workers' Party (WP) MPs and several others in relation to more than \$33 million paid to Aljunied-Hougang Town Council (AHTC)'s former managing agent FMSS and service provider FMSI will take time to play out, observers said yesterday.

But questions have been raised as to what happens if the defendants are found to be liable for improper payments, how much they might have to pay and the implications if they are unable to do so - including on the WP's future.

Singapore Management University law don Eugene Tan said: "The lawsuit could force those being sued to enter into serious negotiations for an equitable restitution that is acceptable to AHTC."

Observers say the necessary recovery of payments will likely be determined in court, and it is too early to say what can be recovered.

If they are indeed found liable, the defendants would have to compensate AHTC. If they cannot pay up, they risk being declared bankrupt and having their assets seized, lawyers interviewed said.

Mr Rajan Chettiar of Rajan Chettiar LLP said this means for those living in private property, their homes may be subject to seizure. "They can't borrow from banks and can't travel freely," he added.

TSMP Law joint managing director and senior counsel Thio Shen Yi said bankruptcy "would be an added problem for MPs, who would lose their seats".

But he said: "The onus is on the town council (to make the case) that the various members acted dishonourably. It is possible to act in good faith and still screw up."

Observers said the legal action was to be expected, given that questions had been raised over improper payments by the town councillors since the Auditor-General issued a special report in February 2015 on lapses and conflicts of interest in AHTC's accounts.

The town council has been unable to submit a clean set of accounts since it was formed after WP won Aljunied GRC in the 2011 General Election.

As a result, Deputy Prime Minister Tharman Shanmugaratnam in February 2014 directed the Auditor-General to do a special audit of its FY2012/2013 accounts. Last October, audit firm KPMG also noted that over \$33 million in payments to FM Solutions and Services (FMSS) and FM Solutions and Integrated Services (FMSI) were co-signed by persons with conflict of interest or FMSS employees.

Associate Professor Lawrence Loh of the National University of Singapore's Business School said: "The lawsuit is a natural sequence of procedures that follow from the unique circumstances in the awarding of contracts by AHTC to its managing agent and service provider."

As for the political impact on the WP, Associate Professor Tan said the lawsuit is "another milestone in the long-running saga". He added: "It is not a new set of allegations, so the political impact of the suit is likely to be minimal."

However, Institute of Policy Studies deputy director Gillian Koh said the judgment will be "far more consequential" with regard to how people see the WP and its leaders than any previous actions.

There will be some who will insist the lawsuit is politically motivated, she noted. "But to do that, you would also have to argue that the WP's auditors, KPMG and the WP-appointed independent panel led by Mr Philip Jeyaretnam have also been acting with political motivation - a notion that is quite audacious and fanciful."