

The “Pontianak Caraka Jaya Niaga III-34”
[2010] SGHC 314

Case Number : Admiralty in Rem No 250 of 2009 (Registrar's Appeal No 15 of 2010)
Decision Date : 25 October 2010
Tribunal/Court : High Court
Coram : Tan Lee Meng J
Counsel Name(s) : Toh Kian Sing SC, Leong Kah Wah and Koh See Bin (Rajah & Tann LLP) for the appellant/plaintiff; Gan Seng Chee and Leong Kai Yuan (Ang & Partners) for the respondent/intervener.
Parties : The “Pontianak Caraka Jaya Niaga III-34”

Admiralty and Shipping

25 October 2010

Judgment reserved.

Tan Lee Meng J:

1 The appellant, ANL Singapore Ltd (“ANL”), appealed against the Assistant Registrar’s decision to set aside the service of its Writ of Summons on a vessel, the “*Pontianak Caraka Jaya Niaga III-34*” (the “*Pontianak*”), and to stay all further proceedings in favour of foreign arbitration. The respondent intervener, PT Djakarta Lloyd (Persero) (“PTDL”), is an Indonesian state-owned company, in whose name the vessel was registered.

Background

2 On 19 May 2009, ANL filed Admiralty in Rem No 181 of 2009 (“Adm No 181”) against the owners of the *Pontianak*. It contended that the said owners owed it the sum of US\$575,074.20 for slot fees earned pursuant to a slot charterparty entitled “AAX Main Agreement” dated 23 November 2001, read with an Addendum dated 7 September 2004 and Memorandum of Understanding dated 17 March 2006 (the “Main Agreement”).

3 On 11 June 2009, the appellant arrested the *Pontianak* as security for its claim in Adm No 181.

4 After arresting the *Pontianak*, ANL filed another suit, Admiralty in Rem No 250 of 2009 (“Adm No 250”), the suit presently being considered, against the owners of the *Pontianak*. In this second suit, ANL claimed a further amount of US\$719,096.64 for slot fees due and owing under an invoice rendered pursuant to the Main Agreement as well as under invoices rendered pursuant to a slot charterparty entitled AAX Main Agreement dated 1 January 2008.

5 PTDL intervened in the action. In relation to Adm No 181, it filed SUM No 5042/2009 on 24 September 2009 to obtain an order to set aside the arrest of the *Pontianak* and to release the said vessel. PTDL contended that although it is the registered owner of the *Pontianak*, the vessel was in fact owned by the State and that it is merely the State-appointed operator of the said vessel. PTDL also sought a stay of all further proceedings in Adm No 181 in favour of foreign arbitration.

6 In relation to Adm No 250, PTDL filed SUM No 5120/2009 on 30 September 2009 in order to have the service of the Writ of Summons on the vessel set aside and to have all further proceedings

in this action stayed in favour of foreign arbitration.

7 On 15 January 2010, the Assistant Registrar heard both the summonses in question. With regard to the Summons in Adm No 181, he set aside the arrest of the *Pontianak* and ordered her release on the ground that the requirements under s 4 (4) of the High Court (Admiralty Jurisdiction) Act (Cap 123, 2001 Rev Ed) had not been satisfied. He also ordered a stay of further proceedings in favour of foreign arbitration. In regard to the Summons in Adm No 250, the Assistant Registrar set aside the service of the Writ of Summons on the *Pontianak* and ordered all further proceedings in the said action to be stayed in favour of foreign arbitration.

The appeal

8 In my earlier judgment in relation to Adm No 181: see 2010 [SGHC] 307 ("the earlier judgment"), I held that the *Pontianak* was beneficially owned by PTDL and overruled the Assistant Registrar's decision to set aside the arrest of this vessel. In view of this, the Assistant Registrar's decision to set aside the service of the Writ of Summons in Adm No 250 on the *Pontianak* cannot stand and is overruled.

9 As for the appeal against the order of the Assistant Registrar to stay the proceedings in Adm No 250 in favour of foreign arbitration, PTDL contended that as the parties are required by their contract to resolve their differences by means of arbitration, the court should stay all further proceedings in these proceedings in view of s 6 of the International Arbitration Act (Cap 143A, 2002 Rev Ed) ("the Act"). In the earlier judgment with respect to Adm No 181, I considered the effect of the arbitration clauses in the parties' contracts as well as s 6 of the Act and I affirmed the decision of the Assistant Registrar to stay the proceedings in Adm No 181. No new arguments were raised before me in relation to the issue of stay of proceedings in Adm No 250. For the same reasons as those stated in the earlier judgment, I affirm the Assistant Registrar's decision to stay the proceedings in Adm No 250 to enable the parties to resolve their dispute by means of arbitration.

Costs

10 I make no order on the costs of the appeal. The order on costs below is set aside.

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