IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHC 242

Originating Summons No 396 of 2017

In the matter of section 14 of the First Schedule to the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed)

And

In the matter of HC/OS 557/2015 and HC/ORC 7115/2015 dated 26 October 2015

Between

1L30G PTE LTD

… *Plaintiff*

And

EQ INSURANCE COMPANY LTD

… *Defendant*

GROUNDS OF DECISION

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v
EQ Insurance Company Ltd

[2017] SGHC 242

High Court — Originating Summons No 396 of 2017
Lee Seiu Kin J
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2 October 2017

Lee Seiu Kin J:

Introduction

1 In originating summons no 557 of 2015 ("OS 557"), the court declared on 26 October 2015 that the plaintiff had made a valid demand on performance bond no DBPFHQ11-000851 dated 9 February 2012 ("the Bond") issued by the defendant. Following from that, on 29 October 2015 the defendant paid the plaintiff the sum of $361,200 pursuant to the demand on the Bond.

2 On 19 January 2017, the plaintiff made a second demand on the Bond for the sum of $158,800. The defendant's solicitors replied on 24 March 2017 stating that the defendant would not pay the $158,800 demanded. The letter added that the Bond had expired on 26 October 2014, prior to the first demand which was made on 24 February 2015. The defendant's solicitors requested a refund of the $361,200 that had been paid to the plaintiff on 29 October 2015.

3 In this originating summons, the plaintiff sought a declaration that the defendant is not entitled to be repaid the sum of $361,200, as well as an order that the defendant pays the plaintiff the sum of $158,800 pursuant to the second demand of 19 January 2017.

4 After hearing submissions of counsel for the parties, I agreed with the plaintiff and ruled that the defendant was not entitled to repayment of the sum that it had paid to the plaintiff following OS 557. I also ordered the defendant to pay the plaintiff $158,800 pursuant to the second demand. I now give my reasons.

Issues

5 The matter turns on a single issue: whether the Bond had expired by the time the first call was made on 24 February 2015. The Bond was expressed to be valid from 13 December 2011 until 26 October 2014, with the proviso that it would automatically be extended for successive periods of 180 days unless the defendant gave the plaintiff 90 days' written notice of its intention not to extend the Bond ("notice of non-renewal"). The relevant clause, cl 3, provides as follows:

> Our liability under this guarantee shall continue and this guarantee shall remain in full force and effect from **13th December 2011** until **26th October 2014** provided always that the expiry date of this guarantee and our liability thereunder shall be automatically extended for successive periods of 180 days unless we give you 90 days' written notice prior to the expiry of our liability of our intention not to extend this guarantee in respect of any future extension and provided further that you shall be entitled, upon receiving such notice of our intention (and within the period specified in Clause 4 hereof), either to:
>
> a. make a claim under this guarantee; or

> b. direct us to extend the validity of this guarantee for a further period not exceeding 180 days (and this guarantee shall then expire at the end of such further period).

6 The defendant claimed that the Bond had expired because, in accordance with cl 3, it had sent the plaintiff a letter dated 27 June 2014 which gave notice of its intention not to extend the Bond beyond the expiry date of 26 October 2014 ("the 27 June letter"). If that letter had been effectively served on the plaintiff, the Bond would have expired on 26 October 2014. Thus, after that date, the defendant would no longer be liable to make payment pursuant to any demand by the plaintiff.

7 On the other hand, the plaintiff claimed that it did not receive the 27 June letter. It further claimed that the defendant was unable to prove that the letter had even been sent, much less that it was ever delivered to the plaintiff.

8 Accordingly, I had to decide whether the evidence showed that the defendant had sent the 27 June letter and, if so, whether this amounted to giving written notice of non-renewal under cl 3 of the Bond.

Parties' submissions

Plaintiff's submissions

9 Both parties agreed that the Bond would expire within 90 days of the defendant giving "written notice" of non-renewal under cl 3. However, the plaintiff's case was that "written notice" required any letter sent by the defendant to have been actually received by the plaintiff. In support of this interpretation of cl 3, the plaintiff relied on the decision of the High Court in *Ho Miaw Ling v Singapore Island Country Club* [1997] 1 SLR(R) 640 ("*Ho Miaw Ling*"). The issue there was whether the club had served adequate notice to a club member to delete her name from its register. The club's rules provided that

a notice by post "shall be deemed to have been duly delivered on the day following the date of posting" (at [7]). The court distinguished between delivery and notice. It held that actual communication was required (at [20]) and that "notice must mean effective notice", not merely "proof of posting" (at [34]). The plaintiff submitted that cl 3 operated in the same manner. Similar to the club's rules in *Ho Miaw Ling*, the defendant's rights in cl 3 only accrued when the plaintiff "receiv[ed] such notice of [the defendant's] intention". Hence proof of actual notice was required.

10 The plaintiff further submitted that even if the court could not rely on the plain wording of the clause and *Ho Miaw Ling*, the court should still interpret any ambiguity in cl 3 in favour of the plaintiff. This could be done on the basis of either the *contra proferentem* rule, or the principle that clauses which take away "valuable proprietary, social and other rights" should be given a strict construction (*Lee Seng Choon Ronnie v Singapore Island Country Club* [1993] 1 SLR(R) 557 ("*Ronnie Lee*") at [26]). The plaintiff submitted that while *Ronnie Lee* also concerned a club's internal rules, the principle was one of general application which could apply to this case. Hence, cl 3 required actual receipt.

11 The plaintiff argued that the Bond had not expired under cl 3 because it did not receive the 27 June letter. Primarily, the plaintiff relied on its director's affidavit evidence, where he stated that the plaintiff did not receive any such letter. The plaintiff submitted that this was consistent with the conduct of the defendant and two third parties whom the 27 June letter was purportedly copied to – Admin Construction Pte Ltd ("Admin") and AWG Insurance Brokers Pte Ltd ("AWG"):

(a) The defendant's SingPost Registered Mail receipt only showed that an item had been sent to the plaintiff on 27 June 2014. It did not

show what that item was. The defendant could have called Paul Koh, its employee whose email address was on the Registered Mail receipt, to give evidence, but it did not.

(b) The defendant proffered no good reason as to why it had inadvertently filed the 27 June letter under another file.

(c) Admin, the party whose performance was guaranteed by the Bond, had filed for an injunction against the first demand in OS 557 on 5 June 2015. It would not have done this if it had received the 27 June letter.

(d) The plaintiff emailed AWG on 12 December 2014 to ask if the Bond would be automatically renewed. By this time AWG would have received the 27 June letter and would have known that the Bond was terminated. But this was not reflected in AWG's reply. This email was also referenced in the affidavit of AWG's CEO, Tey Siang Lim ("Tey"), but Tey did not explain why AWG still considered the Bond valid in December 2014.

(e) The plaintiff emailed AWG's Jeanet Soriano Real ("Jeanet") on 22 March 2017 to clarify whether AWG received the 27 June letter. Jeanet was the same person copied in the 27 June letter as AWG's representative. AWG did not reply. Jeanet did not put forth any affidavit evidence explaining the situation.

12 The plaintiff relied on the above facts as proof that it had not received the 27 June letter. In the alternative, the plaintiff also submitted that even if cl 3 only required the defendant to have *posted* the notice and did not require the

plaintiff to actually receive the notice, the same facts would also support a finding that the defendant did not even send the 27 June letter.

Defendant's submissions

13 The defendant's case was that the postal rule applied to cl 3. This would mean that the requirement of "written notice" in cl 3 was satisfied as long as the defendant could show that it had posted the written notice, regardless of whether it was actually received.

14 The defendant submitted that the postal rule could be found in the English cases of *Adams v Lindsell* (1818) 106 ER 250 and *Henthorn v Fraser* (1891) H 226. Under this rule, the acceptance (of a contract) is complete as soon as it is posted if the circumstances are such that it must have been within the parties' contemplation that the post may be used to communicate an acceptance in ordinary usage. This rule was adopted in Singapore by the Straits Settlement court in *Lee Seng Heng and others (trading as Chop Lian Guan & Co) v The Guardian Assurance Co Ltd* [1932] SSLR 110 ("*Lee Seng Heng*"). In *Lee Seng Heng*, the defendant sought to terminate a fire policy which required "notice to that effect being given to the insured". The notice was sent but never reached the plaintiffs because their premises were destroyed by a fire after the letter was sent. The court held that the policy was rescinded as soon as the letter was sent.

15 The defendant said that this postal rule applies to cl 3. Clause 3 was fulfilled on 27 June 2014 since this was the postal date as shown by the SingPost Registered Mail receipt. In response to the plaintiff's claim that it did not receive the letter, the defendant said that this was a "self-serving" bare assertion with no evidence.

My decision

16 I agreed with the plaintiff and found that the requirement of "written notice" in cl 3 was not met in this case. Consequently, the defendant did not validly terminate the Bond. This finding depended on three sub-issues which I will discuss in turn:

(a) Whether the defendant posted the 27 June letter.

(b) Whether cl 3 only requires the defendant to post the letter, or whether it requires the plaintiff to have also received the letter.

(c) If cl 3 requires actual receipt, whether the plaintiff actually received the 27 June letter.

Whether the defendant posted the 27 June letter

17 I found that the defendant did post the 27 June letter on a balance of probabilities. The defendant's claims manager, Neo Kim In ("Neo"), deposed on affidavit that it was brought to his attention that the 27 June letter was "filed in another file" and that this was "due to inadvertence". It was "upon further investigation" that it was "brought to [his] attention" that the 27 June letter was sent by SingPost's Registered Mail service on the same day. Both the letter and the Registered Mail receipt were attached as exhibits. No other affidavit evidence supported the defendant's claim.

18 The defendant's affidavit evidence is not entirely satisfactory. Neo was not the one who wrote, sent, or filed the 27 June letter in another file due to inadvertence. He also did not explain what this inadvertence was. Neither could he explain what were the steps taken in further investigation because it appeared that he was not the one who took these investigative steps. The evidence also

did not speak for itself because the Registered Mail receipt did not tell me which letter was sent, but only that there was a letter sent by the defendant to the plaintiff on 27 June 2014. I could not be sure that the letter referred to in the Registered Mail receipt was the 27 June letter.

19 Fortunately for the defendant, all it needed to show was that the letter was sent out on a balance of probabilities. I gave some weight to the Registered Mail receipt. I also noted that it was not the plaintiff's position that the defendant had forged the letter or had otherwise fabricated it in bad faith. All the plaintiff said was that there was no evidence that the defendant had sent it out. As for the plaintiff's submissions concerning the inferences to be drawn from the conduct of the two third parties, AWG and Admin, these were more apposite to the question of receipt. The reactions of the third parties can only tell us whether they received the 27 June letter, and not whether the defendant had sent the letter. Hence, even if I accept that their reactions show that they did not receive the letter (which I shall turn to later), this still squares with the defendant's position that it had sent the 27 June letter, regardless of whether it was received. Consequently, given that the defendant's affidavit evidence was not directly contradicted by the plaintiff and was supported in part by the Registered Mail receipt, I found that the defendant did send the letter on a balance of probabilities.

Interpretation of cl 3

20 Since I have found that the defendant did send the letter, the interpretation of cl 3 becomes material. I reproduce cl 3 here for convenience:

> Our liability under this guarantee shall continue and this guarantee shall remain in full force and effect from 13th December 2011 until 26th October 2014 provided always that the expiry date of this guarantee and our liability thereunder shall be automatically extended for successive periods of 180

> days *unless we give you 90 days' written notice* prior to the expiry of our liability of our intention not to extend this guarantee in respect of any future extension and provided further that you shall be entitled, *upon receiving such notice of our intention* (and within the period specified in Clause 4 hereof), either to:
>
> a. make a claim under this guarantee; or
>
> b. direct us to extend the validity of this guarantee for a further period not exceeding 180 days (and this guarantee shall then expire at the end of such further period).
>
> [emphasis added]

The sticking point between the parties was over whether the expiry of the Bond under cl 3 is triggered upon posting of the letter or upon actual receipt.

Plain meaning of cl 3

21 The starting point in interpreting a contractual clause like this is its ordinary meaning. Clause 3 is somewhat different in form from a typical extension clause. The default position is that the Bond will be renewed unless the defendant "give[s] [the plaintiff] 90 days' written notice", as opposed to a typical extension clause where the party wishing to renew the Bond would have to give notice of extension. Under the clause, "upon receiving such notice of [the defendant's] intention" not to extend, the plaintiff then has two options: to make a claim or to extend the validity of the Bond for 180 days. In other words, the tenor of cl 3 is that the validity of the Bond is to continue until the defendant terminates it in writing. It is, in substance, a termination clause which only the defendant may exercise, even though it is expressed as an extension clause. However, the effect of any exercise of the right to terminate is mitigated by the plaintiff's right to make an immediate claim on the Bond or to extent the Bond by a final 180 days.

22 The emphasis on "notice" in cl 3 is significant. In *Holwell Securities v Hughes* [1974] 1 WLR 155 ("*Holwell*"), the English Court of Appeal interpreted a clause which allowed an option to be exercised "by notice in writing to the intending vendor". The court held that actual notice was required. Russell LJ, with whom Buckley LJ agreed, said (at 158):

> But the requirement of 'notice…to', in my judgment, is language which should be taken expressly to assert the ordinary situation in law that *acceptance requires to be communicated or notified to the offeror*, and is inconsistent with the theory that acceptance can be constituted by the act of posting …
>
> [emphasis added]

These observations were made in response to counsel's argument that the postal acceptance rule applied to displace the general rule under contract law that acceptance requires actual notification. Russell LJ said that while the postal acceptance rule was an exception, the specific wording in this case indicated that the parties wanted the general rule to apply, *ie*, that acceptance requires notification. I shall come to the postal acceptance rule later but I focus here on *Holwell*'s interpretation of the phrase "notice in writing".

23 Lawton LJ also made a similar observation (at 160):

> In my judgment, the phrase "notice in writing" is of importance in this context. Conveyancers are familiar with it and frequently use it. It occurs in many sections of the Law of Property Act 1925 … Should any inference be drawn from the use of the word "notice"? In my judgment, yes. Its derivation is from the Latin word for knowing. A notice is a means of making something known … If a notice is to be of any value it must be an intimation to someone. A notice which cannot impinge on anyone's mind is not functioning as such.

Lawton LJ considered significant that the plain meaning of "notice" was to inform the other party. Although he qualified his statement by saying that this

was especially significant in the conveyancing context, there is no reason why it should not apply equally to the present context.

24 In the present case, cl 3 provides for termination of the Bond upon the giving of "90 days' written notice". This is similar to the relevant clause in *Holwell*. As in *Holwell*, the plain meaning of "notice" is that the other party must actually be informed. This interpretation of the word "notice" is also supported by the language of cl 3 which gives the plaintiff the right to make a claim or extend the validity of the Bond for a further 180 days "upon *receiving* of such notice". These words are consistent with the plaintiff's position that the clause is triggered upon *receipt* of the notice.

Whether the postal rule applies to cl 3

25 I turn now to the postal rule and its relevance. The defendant urged the court to interpret cl 3 in harmony with the postal rule, but the plaintiff submitted that the plain reading of cl 3 was sufficient. In my view, the plain text of cl 3 does not indicate the parties' intention that the postal rule should apply to the giving of notice.

26 As there are few local cases on the postal rule, I first set out its parameters in some detail (insofar as they are relevant to this decision) before turning to whether cl 3 should be interpreted as applying the postal rule. The postal rule originated as a means of determining the point at which a contract had been formed through the acceptance of an offer. Originally known as the "postal acceptance rule", this principle is an *exception* to the general common law position that the formation of a contract requires actual communication of the parties' offer and acceptance. Instead, in certain circumstances, the acceptance is deemed to take place at the point of *posting* instead of the time of

receipt (which is when the acceptance would have been communicated to the offering party).

27 The reason for this exception is historical; it was established in an era when it was unclear whether a letter sent by post would ever reach its destination. It was also difficult to predict *when* such a letter would reach its destination, since this was subject to the circumstances surrounding the postal delivery, *eg*, the weather. By setting the time of acceptance at the point of posting, the postal acceptance rule allows the accepting party to know precisely when the acceptance took place so that he is able to act on his acceptance (see *eg*, *The Law of Contract in Singapore* (Andrew Phang gen ed) (Academy Publishing, 2012) ("*The Law of Contract*") at para 03.128). If the postal acceptance rule applies and the acceptance is deemed to occur at the point of posting, then the acceptance is valid even if the acceptance letter did not actually reach its eventual destination.

28 Yet the postal acceptance rule is a departure from the general common law position that acceptance should ordinarily be communicated to an offeror. By affording certainty to the accepting party, the rule also introduces uncertainty for the offering party. For these reasons, the postal acceptance rule only applies in circumstances where both parties intend for it to apply. Such intention may expressed by the authorisation of postage as one of the means for communicating acceptance (*The Law of Contract* at para 03.125). This authorisation by the parties is most commonly seen in the express terms between the parties, but can also be objectively ascertained from all the circumstances, including the nature of the contract, the conduct of the parties, and whether applying the rule would "produce manifest inconvenience and absurdity" (*Holwell* at 161). But just as the parties can, by their words or conduct, intend for the postal acceptance rule to apply, they can equally intend for the general

common law rule of actual notification to apply. In other words, whether the postal rule applies depends on whether the parties intended it to do so.

29 There has been some suggestion that whether the postal acceptance rule applies depends on the nature of the communication, rather than the parties' intentions. On this view, certain types of communication simply attract the application of the postal acceptance rule by operation of law. In *Chwee Kin Keong and others v Digilandmall.com Pte Ltd* [2004] 2 SLR(R) 594, V K Rajah JC considered the postal rule in the context of email acceptances. He noted that it could be argued that the postal acceptance rule should apply in the email context because email is not instantaneous and therefore is similar to postal communication in that the sender also loses control of the "route and delivery time" of the message once it is sent (at [97]-[98]). On the other hand, Rajah JC also noted that an argument can be made in favour of the recipient rule for "instantaneous or near instantaneous communications" because they take place in a relatively short time frame and arrive sooner rather than later in most instances (at [98]). This may suggest that the applicability of the postal acceptance rule depends only on whether the communication is instantaneous.

30 In my view, whether the communication is instantaneous is only one relevant factor to determine if, in all the circumstances, the parties intended for the postal acceptance rule to apply. In most cases the parties would intend for the rule to apply where there are many uncertainties between the sending and receipt of the letter. Hence, a large time delay (arising from non-instantaneous communication) could be one factor indicating that parties intended for the postal rule to apply. But this is only one factor to be considered in inferring the parties' authorisation (and consequently whether they intend for the postal acceptance rule to apply). Indeed, this was the approach taken in *Lee Seng Heng*, where the Straits Settlement court noted previous decisions where the courts

had "inferred authority of the post as agent from the distance … between the parties" (at 117). In other words, while the distance between the parties (and hence whether the communication is instantaneous) is a factor to consider, the ultimate inquiry is whether the parties authorised and hence accepted postal communication.

31 Finally, although the phrase "postal acceptance rule" suggests that the rule is only applicable to the acceptance of a contractual offer, the postal rule appears to have become one of general application that operates whenever parties have authorised postal communication. For instance, in *Tsu Soo Sin v Oei Tjiong Bin and another* [2009] 1 SLR(R) 529, the Court of Appeal considered the application of this rule in the context of assignment, although it did not need to rule on this point to decide the case (at [43]). Similarly in *Lee Seng Heng*, which was cited to me by the defendant, the Straits Settlement court considered the postal rule in the context of the termination of a fire policy. It held that the postal rule applied and that the policy was rescinded as soon as the letter was sent. From these cases it can be seen that the postal rule can potentially apply even outside the context of acceptance of contractual offers.

32 Applying these principles, the postal rule can potentially apply even though the present case concerns the termination of the Bond and not the acceptance of an offer. The real question is whether the parties intended for the postal rule to apply or whether they intended the general rule (which requires actual notice) to apply. The defendant did not raise any other factors supporting the application of the postal rule, apart from a direct analysis of the contractual language which I have undertaken above (at [20]-[24]), which indicated (contrary to the defendant's position) that the plaintiff must have actual notice of the non-renewal letter in order to be able to benefit from his entitlements under cl 3.

33 Indeed, the fact that cl 3 concerns termination rather than acceptance, while not fatal to the postal rule applying, might also indicate that the parties did not intend the postal rule to apply. In *Ho Miaw Ling* and *Ronnie Lee*, the courts were faced with questions of whether a club had served notice to its member to delete the member's name from its register. Neither court considered the postal rule but directly interpreted the relevant club rules instead. This suggests to me that outside of acceptance situations, courts will be slow to find that the parties' intentions had displaced the general rule that actual notice is required. I should add that in this day and age, the postal rule may well be an anachronism, even as the postal system as a conveyor of written communication (as opposed to physical goods) has become an anachronism. In order to keep up with the modes of communication in this day and age, it should be difficult to imply that the parties intend for the postal rule to apply outside of the narrowly-defined situations where the rule typically applies.

34 Furthermore, the consequences of interpreting cl 3 in the manner the defendant proffered also militate against applying the postal rule. Clause 3 vests the plaintiff with the right to respond to a notice of non-renewal in order to protect its interests. Adopting the postal rule is detrimental to that right because the plaintiff may not receive the notice until it is too late to exercise that right – as is clearly manifested in this case. It is unlikely that the parties intended the postal rule to apply when it sits uneasily with the proviso in cl 3 which safeguards the plaintiff's rights when the defendant gives a notice of non-renewal.

35 Accordingly, I found that the postal rule did not apply to cl 3. Clause 3 is only satisfied when the plaintiff has actually received the notice of non-renewal whether by letter, fax, email or any other means. If the defendant

chooses to use postal communication, it assumes the risks that are associated with the post.

Whether the plaintiff actually received the 27 June letter

36 My interpretation of cl 3 means that the plaintiff must have actually received the 27 June letter in order for the Bond to be validly terminated. I found that the plaintiff did not receive this letter on a balance of probabilities.

37 The plaintiff deposed on affidavit (through its director) that it did not receive the 27 June letter. This position is consistent with the plaintiff's conduct throughout the course of the parties' communications. On 12 December 2014, after the 27 June letter had been sent, the plaintiff wrote to AWG to ask whether the Bond would be automatically extended and about the number of successive periods of automatic extension permitted under the Bond. This email was only sent to AWG and not to the defendant. The plaintiff would not have bothered to make these inquiries if it had already received the 27 June letter. Apart from emails to third parties, the plaintiff also sent letters and emails to the defendant on 24 February 2015, 26 March 2015, and 4 June 2015. The plaintiff mentioned calling on the Bond in all these letters.

38 I also accept the plaintiff's submission that the conduct of the third parties (Admin and AWG) was more consistent with them not having received the 27 June letter even though they were purportedly copied in the letter. Although the evidence of third parties does not directly show that the *plaintiff* had not received the 27 June letter, such evidence is useful insofar as it may suggest that, owing to some fault in the post, the 27 June letter was not received by any of its recipients.

39 The defendant's only argument was that the plaintiff adduced no objective evidence to support its claim that it had not received the 27 June letter (see above at [15]). However, the defendant did not adduce any evidence to rebut the plaintiff's version of events. While I accepted that there is no direct evidence that the plaintiff did not receive the 27 June letter apart from the plaintiff's own affidavit evidence, I found that the plaintiff's conduct throughout the correspondence between the parties, coupled with the reaction of the third parties, was sufficient to corroborate its claim. Accordingly, I found on a balance of probabilities that the plaintiff had not received the 27 June letter.

Costs

40 The plaintiff asked for costs for a half-day contested OS hearing of $6,000, based on the Costs Guidelines in the Supreme Court Practice Directions, and for these costs to be awarded on an indemnity basis. It submitted that indemnity costs were justified because it sent the defendant an offer to settle dated 11 April 2017, which offer the defendant did not accept. The terms of that offer were substantially similar to the order that the plaintiff sought, save for the issue of costs. It provided that if the offer to settle was accepted within 14 days then costs would be on a standard basis, but if it was only accepted after 14 days then costs would be on an indemnity basis. I granted the orders sought by the plaintiff save for the declaration (which I explain below at [42]) and, accordingly, I also ordered costs on an indemnity basis amounting to $8,000 plus disbursements fixed at $943.85 (including GST).

Orders

41 I therefore make the following orders:

(a) The defendant shall pay the plaintiff $158,000 pursuant to the plaintiff's demand dated 19 January 2017 on the balance value of the Bond (dated 9 February 2012) issued by the defendant in favour of the plaintiff.

(b) The defendant shall pay the plaintiff interest at 5.33% per annum on the sum in (a).

(c) The defendant shall pay the plaintiff costs on an indemnity basis for the sum of $8,000 plus disbursements fixed at $943.85.

42 I have found that the plaintiff is entitled to the balance value of the Bond under the second demand. I have also rejected the only argument that the defendant has advanced in relation to the first demand, namely, whether the Bond was valid. Accordingly, there is no need for the declaration sought by the plaintiff that the defendant is "not entitled to repayment or to make any demand, or further demand for repayment" on the sum of $361,200 paid by the defendant to the plaintiff pursuant to the court's order in OS 557.

Lee Seiu Kin
Judge

Daniel Tay Yi Ming (Morgan Lewis Stamford LLC) for the plaintiff;
Phua Cheng Sye Charles (Comlaw LLC) for the defendant.