

Liquidators of Natural Fuel Pte Ltd v Power Knight Pte Ltd and others
[2010] SGHC 77

Case Number : CWU 134 of 2009 (SUM 6516/2009)
Decision Date : 10 March 2010
Tribunal/Court : High Court
Coram : Judith Prakash J
Counsel Name(s) : Manoj Sandrasegara, Tan Mei Yen and Mohamed Nawaz Kamil (Drew & Napier LLC) for the respondents; Lee Eng Beng SC, Low Poh Ling, Mark Cheng Wai Yuen and Ang Siok Hoon (Rajah & Tann LLP) for the liquidators.
Parties : Liquidators of Natural Fuel Pte Ltd — Power Knight Pte Ltd and others

Insolvency law

Land

10 March 2010

Judgment reserved.

Judith Prakash J:

1 This summons came before me as an application by Tam Chee Chong and Lim Loo Khoon (collectively “the Liquidators”) as the liquidators of Natural Fuel Pte Ltd (“the Company”) which was compulsorily wound-up by an order of court made on 23 October 2009. The respondents to the application are Power Knight Pte Ltd (“Power Knight”), a company that holds a debenture executed by the Company on 13 May 2008, and Ewe Pang Kooi and Farooq Ahmad Mann (collectively “the Receivers”) who were appointed by Power Knight as receivers and managers of the Company in September 2009. Power Knight and the Receivers are hereafter sometimes collectively referred to as “the Respondents”.

2 By the summons, the Liquidators ask for the following orders:

(1) a declaration that, pursuant to section 49 of the Land Titles Act, the interests of the creditors of Natural Fuel Pte Ltd (In Compulsory Liquidation) (Receivers and Managers Appointed) (the “**Company**”) in Private Lot A2173900 at Banyan Place, Jurong Island, forming Government Survey Lot 1877L of Mukim No. 34 and Private Lot A2173901 at Banyan Place, Jurong Island forming Government Survey Lot 2322T of Mukim No. 34 (the “**Property**”) shall have priority over [Power Knight’s] fixed charge over the Property under the Debenture dated 13 May 2008 (the “**Debenture**”);

(2) an order that the [Respondents] shall forthwith deliver possession of the Property to the [Applicants] as Liquidators of the Company;

(3) an order that the [Receivers] shall be liable for any damage or loss in value caused to the Property as a result of the [Receivers’] occupation and use of the Property;

(4) an order that the [Respondents] account to the [Applicants], as Liquidators of the Company, for any benefits acquired as a result of the [Receivers’] occupation and use of the Property; and

(5) an order that the costs and expenses incurred by the [Applicants], as Liquidators of the Company, for the purpose of these proceedings and the costs which may be ordered against the [Applicants] in these proceedings (if any) shall comprise the costs and expenses of the winding up of the Company under section 328(1)(a) of the Companies Act (Cap. 50), and that if and in so far as the assets of the Company may be insufficient to meet such costs and expense of the [Applicants], these costs and expenses shall, pursuant to Section 328(5) of the Companies Act (Cap. 50), be paid out of the assets comprised in the floating charge under the Debenture in priority to the [Power Knight's] Defendant's claims.

3 This summons was filed on 22 December 2009. On 28 January 2010, Power Knight filed an originating summons, OS 111 of 2010 ("OS 111"), naming the Company and the Liquidators as defendants. By OS 111, Power Knight asked for orders that the caveats lodged over the Property by the Company and the Liquidators be removed. Granting of those orders would mean that the Liquidators would no longer have a basis on which to make the application herein.

4 As the issues to be determined in OS 111 and this summons were essentially the same, the two applications were fixed to be heard together. I heard both applications on 2 February 2010 and reserved judgment at the conclusion of the arguments. I have now decided that Power Knight's application must be allowed. The reasons for my decision are contained in my judgment dated 10 March 2010 ([2010] SGHC 75). In view of that decision it follows that the Liquidators' application herein must fail. Accordingly, I hereby dismiss the application. I will hear the parties on costs.

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