IN THE GENERAL DIVISION OF THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2022] SGHC 181

Originating Summons No 1305 of 2021

Between

Ong Boon Chuan

… *Applicant*

And

(1) Tong Guan Food Products Pte Ltd (in compulsory liquidation)
(2) Ong Heng Chuan

… *Respondents*

GROUNDS OF DECISION

[Insolvency Law — Administration of insolvent estates — Disposal of assets]

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Ong Boon Chuan
v
Tong Guan Food Products Pte Ltd (in compulsory liquidation) and another

[2022] SGHC 181

General Division of the High Court — Originating Summons 1305 of 2021
Aedit Abdullah J
15 March, 28 March 2022

29 July 2022

Aedit Abdullah J:

1 The applicant sought and obtained an order under s 130 of the Insolvency, Restructuring and Dissolution Act 2018 (Act 40 of 2018) ("IRDA") for the sale and transfer of shares in the name of the second respondent, because of unpaid cost orders. I found that the reasons proffered by the second respondent against the application were not sufficient to deflect the exercise of discretion in favour of the application. The second respondent has since appealed. Brief grounds were previously issued, which are incorporated into the present full grounds.

Background

2 The second respondent is the brother of the applicant. Alongside Mr Ong Teck Chuan ("OTC"), the three brothers are shareholders of the first respondent

("the Company").[1] As of the date of the application, the second respondent owns 520,000 shares in the Company, which is 17.33% of the Company's total shareholding ("the Shares").[2]

3 In 2017, the second respondent commenced HC/S 1086/2017 ("Suit 1086") against the applicant and OTC, alleging minority oppression under s 216 of the Companies Act (Cap 50, 2006 Rev Ed). The second respondent's claim was dismissed on 31 January 2020 by the High Court, and his appeal in CA/CA 29/2020 ("CA 29") was similarly dismissed on 5 May 2021. By way of these proceedings, costs of $262,562.79 were ordered against the second respondent in favour of the applicant.[3] To date, the second respondent has not complied with the cost orders.

4 On 12 July 2018, the Company was ordered to be wound up on the basis of insolvency, and placed under the control of the liquidators ("Liquidators").[4]

5 As the costs outstanding to the applicant remained unpaid, the applicant filed a writ of seizure and sale ("WSS") on 26 October 2021, to seize and sell the second respondent's shares in the Company.[5] On 8 November 2021, the Shares were seized.[6] In turn, the second respondent filed HC/SUM 5154/2021 ("SUM 5154") on 11 November 2021 to stay the WSS proceedings until any and all litigation regarding the Company has been completed.[7] A temporary stay

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1 Affidavit of Ong Boon Chuan dated 22 December 2021 ("1OBC") at para 3.

2 1OBC at para 4.

3 1OBC at para 7. See also 1OBC at Tab 4.

4 1OBC at para 12.

5 1OBC at para 8. See also 1OBC at Tab 4.

6 1OBC at para 8.

7 Affidavit of Ong Boon Chuan dated 21 February 2022 ("2OBC") at Tab 2.

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of execution of the WSS was granted by the Assistant Registrar until the disposal of the present application.[8]

Summary of the applicant's case

6 The applicant argued that an order for transfer of shares under s 130 of the IRDA should be granted where the shares to be transferred are fully paid up and there is no issue of contributories evading liability.[9] A number of cases including *Carringbush Corporation Pty Ltd v ASIC* [2008] FCA 474 ("*Carringbush*"), *Rudge v Bowman* [1868] LR 3 QB 689 ("*Rudge*"), and the local Court of Appeal decision in *Seah Teong Kang (co-executor of the will of Lee Koon, deceased) and another v Seah Yong Chwan (executor of the estate of Seah Eng Teow)* [2015] 5 SLR 792 ("*Seah Teong Kang*") were cited in support of this proposition.[10]

7 The present transfer would not offend the underlying rational of s 130 of the IRDA as the Shares were fully paid up; it would also not cause any prejudice to the Company.[11] The second respondent's suggestion that the sale of the Shares would allow the applicant and OTC to evade liability for alleged wrongs committed against the Company was misplaced. This had nothing to do with the purpose of s 130 as the section does not seek to protect the interests of shareholders such as the second respondent.[12] That this is so is apparent from the applicant being able to proceed with the sale of the second respondent's beneficial interest in the Shares without an order under s 130, though perhaps at

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8 2OBC at paras 6 to 8.

9 Applicant's written submissions dated 9 March 2022 ("AWS") at para 14.

10 AWS at paras 15 to 19.

11 AWS at para 20.

12 AWS at para 22.

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a lower price.[13] In any event, this argument had been raised and rejected in SUM 5154.[14]

8 Allegations were also made by the second respondent that the Liquidators were acting in tandem with the applicant and OTC to grant the latter duo effective total control of the Company. This was without basis.[15] The second respondent's allegation was founded on the alleged release of confidential information that the second respondent's son was funding HC/S 906/2021 (a suit initiated by the Liquidators on behalf of the Company against the applicant and OTC) ("Suit 906"); yet, this information had in fact been provided by the second respondent himself.[16] The second respondent had also complained that the Liquidators ignored his emails, which he pointed to as evidence of a conspiracy. The applicant disagreed and pointed out that the Liquidators had no duty to respond to correspondence from the second respondent, a shareholder.[17] Lastly, the second respondent alleged that the Liquidators had unjustifiably requested him to pay, or produce evidence of payment, of costs due in HC/OS 219/2017 to the Company. This was, however, entirely within the rights of the Liquidators, given that the second respondent had yet to provide any evidence of payment.[18] In the final analysis, the applicant highlighted that the fact that the Liquidators chose not to appear at the present

13 AWS at para 23.

14 AWS at para 24.

15 AWS at para 25.

16 AWS at paras 26 and 27.

17 AWS at para 28.

18 AWS at para 29.

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hearing indicated that the sale and transfer of the Shares would not affect the Company's interests or those of its creditors.[19]

9 Beyond allegations of malice, the second respondent raised several other objections, including that s 130 of the IRDA could not operate retrospectively, or that the transfer would be to his prejudice. These were unmeritorious. The application was not retrospective and in any event, the court can order the validation of transactions retrospectively, as per *Carringbush* and *Centaurea International Pte Ltd (in liquidation) v Citrus Trading Pte Ltd* [2017] 3 SLR 513.[20] In contrast, the cases relied upon by the second respondent did not assist.[21] As for the allegations of prejudice, s 130 seeks to protect the interest of the company and its creditors, and not the shareholder; this explains why the section does not avoid agreements to sell or transfer shares between parties: *Jordanlane Pty Ltd v Kimberley Jane Elizabeth Kitching Andrew* [2008] VSC 426 at [14].[22] In any event, no prejudice would result to the second respondent aside from his loss of the Shares (which was not out of the ordinary for a debtor whose assets are seized and sold); the second respondent already had his day in court, and had commenced a fresh suit against the applicant and OTC which was not dependent on his ownership of the Shares.[23]

10 In oral arguments, the applicant emphasised that the mischief behind s 130 of the IRDA was to ensure there was no escape from liability; that issue did not affect the second respondent as the Shares were fully paid up. The

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19 AWS at para 31.

20 AWS at paras 36 and 37.

21 AWS at para 38.

22 AWS at paras 41 and 42.

23 AWS at para 43.

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applicant also pointed out that the second respondent was the author of the whole situation as he had not paid his debts, though he managed to raise funds to pursue the proceedings. The second respondent had further deposed previously that the Shares would be worth a substantial amount despite the Company being in liquidation. If the order is granted, the applicant would obtain a valuation of the Shares. As for matters against the applicant or other directors, the Liquidator would be able to pursue them if they so decide.

Summary of the respondents' case

11 The second respondent alleged that the true intention behind the present application was for the collateral purpose of protecting the applicant and OTC from being held to account for breaches of fiduciary duties committed against the Company, by taking away the second respondent's shares and severing his nexus with the Company to prevent him from pursuing his action.[24] Central to the second respondent's position was that the applicant and OTC had indeed committed breaches of fiduciary duties. To this end, he went into various matters pursued previously in the proceedings, and sought to rely on, among other things, comments raised in CA 29.

12 Section 130 of the IRDA, the second respondent contended, seeks to prevent a shareholder from evading liability by transferring their shares in a company when the company is in liquidation.[25] As such, the court needs to determine if the transfer is *bona fide* or an attempt by the shareholder to evade liability.[26] Though the seizure and sale would not result in any evasion of any possible liability by the second respondent (as the Shares were fully paid up),

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24 Respondent's written submissions dated 9 March 2022 ("RWS") at paras 23 and 24.

25 RWS at para 48.

26 RWS at para 49.

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the second respondent urged the Court to go further and prevent a transfer which would enable a person who has committed a wrong against a company from getting away with it.[27] The application is one such transfer: it would result in the applicant and OTC effectively controlling the Company such that they would be to ratify any wrongdoings they have committed.[28] The second respondent also pointed to *Seah Teong Kang* at [53] for support, where the Court of Appeal had referred to the need to avoid detriment to any other party.[29] Similarly, in *Re Gray's Inn Construction Co Ltd* [1980] 1 All ER 814 ("*Re Gray's Inn Construction*"), the English Court of Appeal held that a disposition of assets not in good faith in the ordinary course of business would not be validated.[30]

13 Additionally, the second respondent alleged that the applicant and OTC, by the present application, intended to frustrate the action that he seeks to bring against them with the help of the Liquidators.[31] To discern the applicant's intent, the second respondent enjoined the court to look behind the application, citing the cases *In re a Debtor* [1928] 1 Ch 199 ("*In re a Debtor*"), *Lai Shit Har and another v Lau Yu Man* [2008] 4 SLR(R) 348 ("*Lai Shit Har*"), and *Re John Waymouth Ahern v Deputy Commissioner of Taxation* [1987] FCA 312 ("*Re John Waymouth Ahern*").[32]

14 To demonstrate the true intent of the applicant, the second respondent relied on the timing of the application of the WSS. According to him, it was not

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27 RWS at para 50.

28 RWS at para 53 and 54.

29 RWS at para 55.

30 RWS at paras 58 and 59

31 RWS at para 61, 65, 66, and 67.

32 RWS at paras 68 to 70.

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a mere coincidence that the applicant applied for the WSS shortly after the Liquidators were informed of the second respondent's intention to obtain funding to pursue proceedings against the applicant for breach of his fiduciary duties.[33] If the applicant were acting *bona fide*, he would have sought to enforce his judgment earlier. Moreover, the Liquidators did file a protective writ in Suit 906 on 5 November 2021 against the applicant and OTC (following correspondence with the second respondent), which showed a more than likely chance that there were breaches of fiduciary duties.[34]

15 The second respondent also highlighted that on the applicant's account, the Company was hopelessly insolvent and thus the Shares would not be worth anything. If so, the applicant's position that he would monetize the Shares is a fabrication, and constituted evidence of the applicant's true motivations.[35] The respondent also pointed out that the Shares may only be sold to family members and cannot be sold to any third parties. This means that the applicant or OTC are likely to purchase the Shares, thus strengthening their position in the Company such that they would be able to deny the second respondent from taking action against them.[36]

16 Other allegations were also made against the applicant, such as that he hid the truth and acted dishonestly in prior proceedings between the parties.[37]

17 Finally, after the Shares were seized on 9 November 2021, the Liquidator withdrew the protective writ in Suit 906. This, again, was not just a

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33 RWS at para 88.

34 RWS at paras 92–94.

35 RWS at para 96.

36 RWS at paras 106, 109 and 110.

37 RWS at para 123.

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coincidence; instead, it demonstrated the need for the second respondent to retain his Shares.[38]

The decision

18 Having considered the arguments and affidavits, I was satisfied that the application should be granted. I granted order-in-terms of prayer one of the originating summons for the sale and transfer of the Shares. As for the determination of the costs of the application, directions will be given separately.

Analysis

Operation of s 130 of the IRDA

19 The application was made under s 130 of the IRDA which reads:

> **Avoidance of dispositions of property and certain attachments, etc.**
>
> **130.**—(1) Any disposition of the property of the company, including things in action, and any transfer of shares or alteration in the status of the members of the company, made after the commencement of the winding up by the Court is, unless the Court otherwise orders, void.

20 The parties did not differ on the object of s 130 and its predecessors, namely that it is to ensure that there is no evasion of liability by contributories: *Seah Teong Kang* at [50]. Transfers should be allowed if there is no risk of evasion of such liability. Here, the shares were indeed fully paid up and no risk of evasion arose.[39]

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38 RWS at paras 136 to 138.

39 1OBC at Tab 1.

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21 The decision in *Seah Teong Kang*, a judgment of the Court of Appeal, is binding upon me. I would note though that the rationale underlying s 130 of the IRDA may need to be refined in future. The proposition that the rationale of the provision is to protect against evasion of liabilities by contributories can be traced back to the 19th century case of *Rudge,* which has been relied upon in various authorities in stating the same.

22 However, as noted in Andrew R. Keay, *McPherson's Law of Company Liquidation* (Sweet & Maxwell, 5th Ed, 2021) at para 7-062, in a discussion of the Cayman Islands Court of Appeal decision, *Tianrui (International) Holding Company Ltd v China Shanshui Cement Group Ltd*, 2020 (1) CILR 417, the Court therein observed at [22] that the use of partly paid shares is very rare in modern times:

> 22. Undoubtedly, there is authority that [the equivalent provision of s 130 of the IRDA in the Cayman Islands] did have that purpose in relation to calls on a shareholder in respect of partly paid up shares (see e.g., *Rudge v Bowman* (1868) LR 3 QB 689). But the days of partly paid up shares are long gone. The purpose of [the equivalent provision of s 130 of the IRDA in the Cayman Islands] cannot be so confined. The statutory analogue in the United Kingdom has been re-enacted many times, (in 1908, 1929, 1984 and 1985), into a period long after the days of partly paid up shares. …

As contributories rarely have to cough up anything anymore, the objective of s 130 as characterized in *Rudge* would be rarely frustrated, and s 130 should hardly ever bar any disposition. It would be effectively moribund.

23 It may be that a more appropriate rationale in present circumstances is the maintenance of *status quo* of a company's position pending resolution of the winding-up petition. I had previously noted in *Re Rooftop Group International Pte Ltd and another (Triumphant Gold Ltd and another, non-parties)* [2020] 4 SLR 680 at [34], citing Ian Fletcher, *The Law of Insolvency* (Sweet & Maxwell,

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5th Ed, 2017) at para 26-004, that the primary objective appears to be "to maintain the *status quo*" [emphasis added] and "any change of the membership of the company or transfer of its shares would go against the freezing of the position of the company as at the point of winding up by the court". Perhaps one benefit of maintaining the situation is that it reduces the burden on the liquidator in taking stock of the affairs of the company and allows examination of these dispositions to ensure that there is no undue prejudice in the winding-up of the company, particularly to its creditors. There may be, however, dispositions that are neutral in effect, or where there is some countervailing benefit: the court will have to weigh the circumstances. Such was similarly contemplated by Buckley LJ in *Re Gray's Inn Construction Co Ltd*, in the context of observing that certain disposals under s 227 of the Companies Act 1984, which is of the same language as s 130 of the IRDA, may be of benefit to the company and unsecured creditors, though this would ultimately be subject to the overarching consideration that the interests of unsecured creditors are not prejudiced: at 819H–820B.

24 As a rule of thumb, given the language of s 130 of the IRDA which renders dispositions void unless the court orders, to my mind the court should lean in favour of not granting the application under s 130 of the IRDA in order to maintain the *status quo*, unless an applicant can demonstrate reasons for the court to exercise its discretion otherwise.

Exercise of the Court's discretion on the facts

25 For the reasons set out below, I accepted that the applicant was able to demonstrate why the application should be granted and that the status quo would not be adversely affected.

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26 The power of the court to approve a transfer is not delimited by detailed conditions, and I would be hesitant to circumscribe it unnecessarily. There is language in *Seah Teong Kang* that, as the second respondent had argued, possibly broadened the consideration to cover matters going to the detriment of others. The second respondent, however, went further, essentially arguing that the court had a broader discretion, to prevent wrongdoing against the company. I did not think that the court's discretion could be exercised so widely, as to be unconstrained. The relevant factors ought to be limited to those that are related to the disposition of property in the context of winding up of the company; after all, s 130 of the IRDA is parked under Part 8, Division 2 of the IRDA, which concerns provisions applicable to winding ups by the court. The court cannot embark on an unconstrained exploration of allegations of wrongdoing if they are irrelevant or only tenuously connected to such a disposition of property. For these reasons, I was doubtful that a factor that was not tied to the insolvency of the company or the impact flowing out of it, would be material to the court's exercise of discretion. I did not understand the Court of Appeal in *Seah Teong Kang* as going as far as the second respondent had argued.

27 I was reinforced in my approach by the observations of the English Court of Appeal in *Re Gray's Inn Construction*, interpreting s 227 of the Companies Act 1948, which has the same language as s 130 of the IRDA. Buckley LJ said, at 819F, referring to *Re Steane's (Bournemouth) Ltd* [1950] 1 All ER 21, that any discretion should be exercised in the context of the liquidation provisions of the Companies Act 1948.

28 With this, I turn to the various allegations raised by the second respondent in resisting the application. They may be categorized as follows:

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(a) matters relating to the allegations of corporate wrongs by various persons including the applicant;

(b) whether the present application was made for a collateral purpose;

(c) matters relating to the Liquidators and conduct of the liquidation; and

(d) whether s 130 of the IRDA may be applied retrospectively.

29 I was satisfied that none of these issues should bar the granting of leave under s 130 of the IRDA by the Court.

Matters relating to allegations of corporate wrongs by various persons including the applicant

30 The second respondent argued that allowing the application would allow the applicant to perpetuate a wrong, as the loss of the second respondent's shares would prevent him from pursuing an action to hold the applicant and OTC accountable for breaches of fiduciary duties.

31 I rejected the second respondent's contentions. Firstly, the allegations of wrongdoings were already ventilated in previous proceedings and determined by the court, both in Suit 1086 (as well as CA 29) and SUM 5154. The subject matter of SUM 5154, *viz*, a stay of the WSS, was not before me, and I was only concerned with the question of the application under s 130 of IRDA. Put simply, these complaints made by the second respondent were irrelevant to the present determination.

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32 Furthermore, these allegations went to the relationship with the shareholders and did not appear to engage issues pertaining to the winding-up and distribution of assets to the creditors of the Company. If there are any unresolved matters remaining after the decision in CA 29, these should be pursued by the Liquidators. In so far as there are any other corporate actions that remain, those may also be pursued by the Liquidators. I would note that the second respondent can no longer bring a derivative action under s 216A of the Companies Act 1894 as that avenue for a minority shareholder is only available when the company is a going concern: *Petroships Investment Pte Ltd v Wealthplus Pte Ltd and others and another matter* [2016] 2 SLR 1022 at [35]. As the Company is in liquidation, the statutory derivative action is barred.

33 Thus, in considering whether there was reason to maintain the status quo in an application under s 130, I was doubtful that the pursuit of matters already considered and determined in the courts would be a relevant factor.

Whether the application was made for a collateral purpose

34 Related to the above point was the contention that the application was made for a collateral purpose, which the applicant has denied.

35 An abuse of process would be a bar to a grant of leave under s 130 of IRDA, but the evidence adduced must be sufficiently cogent to give rise to the conclusion that abuse was committed.

36 The second respondent referred to *Re Gray's Inn Construction* for the proposition that the disposition of assets needed to be carried out in good faith. The applicant, in turn, argued in oral submissions that *Re Gray's Inn Construction,* was distinguishable as it was concerned with the disposition of "pure assets", which would attract greater vigilance from the court.

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37 What I understood the applicant to be referring to was the context of *Re Gray's Inn Construction*, where the English Court of Appeal was concerned with payments of moneys into and out of the bank account of the company after the presentation of a winding up petition for the said company. In contrast, the present application concerned the transfer of shares between members of the Company. On the supposition that dispositions of shares would rarely engage the same issues as disposition of assets, the applicant submitted that a different level of vigilance would be applied.

38 In *Re Gray's Inn Construction,* Buckley LJ did state that a disposition carried out in good faith in the ordinary course of business when parties were unaware that a petition for winding up had been presented, would normally be validated. But that statement was made in the context of a wider discussion emphasizing that the interests of unsecured creditors were not prejudiced in the grant of validating orders, by ensuring there was no unfair or undue preference, and the need for *pari passu* distribution: at 820H-820J. It was in this specific context that the notion of good faith was raised. His Lordship's earlier statement, referenced above at [27], referring to the need to have the discretion exercised in the context of liquidation, must also be borne in mind. It is thus not a general duty of good faith, but good faith in the context of winding up and liquidation.

39 Other than this, I did not think a substantial distinction would arise whether the disposition is one of the shares of the company or its assets; on the approach I have outlined above at [23], the court would need to consider all the circumstances. A transfer of assets would have to be justified just as much as a transfer of shares. But I did not think that *Gray's Inn* encapsulated a different approach for disposition of shares *vis-à-vis* disposition of assets: the court's scrutiny would be one geared to the context of the winding up.

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40 The second respondent also referred to a number of other cases, including *In re a Debtor*, *Lai Shit Har,* and *Re John Waymouth Ahern.*

41 These cases stand for the proposition that a winding up application brought for a collateral purpose would be dismissed as an abuse of process. The circumstances of these cases, however, were quite different from the present one: the applicant here is able to point to outstanding cost orders, which remain unpaid. And as noted above, the Liquidators would in any case be able to pursue matters against the applicant and OTC for any misdemeanors in respect of the Company, if they determined it was desirable.

42 The cases cited by the second respondent involved egregious conduct. *Lai Shit Har* concerned a winding up petition against the backdrop of an ongoing suit just about to be heard after various delays; the Court of Appeal at [27] was able to readily infer that the winding-up application was brought to smother the suit. In the present case though, prior proceedings had been concluded, and costs had been outstanding for some time. In *re a Debtor*, the petitioners tried to foist on the debtor an obligation to pay someone else's debt and costs which he was not required to pay: at 205. The conclusion of the court that there was abuse of process is perfectly understandable. As for *Re John Waymouth Ahern*, that appears to be primarily concerned with the *bona fides* of a bankruptcy application as well.

43 In contrast, the present case was not about winding up of the Company but a transfer of its shares under s 130 of the IRDA, and as I have emphasized, the discretion of the court and what counts as abuse or an application made not in good faith, must be weighed in that context. The primary concern was the prejudice of the interests of the creditors and the Company. In any event, as I have similarly emphasized, in respect of the unhappiness of the second

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respondent in his relations with the other shareholders, and the Company's right to pursue matters against the shareholders, these proceedings may also be contemplated by the Liquidators if necessary. I did not see the present situation as raising any ready inference of the nature in *re a Debtor*, *Lai Shit Har*, or *Re John Waymouth Ahern*.

44 Thus, the evidence before me did not show that the application was made for a collateral purpose within the context of s 130 of the IRDA.

Alleged conduct of the Liquidators

45 The second respondent seemed to be imputing some possible misconduct on the part of the Liquidators. The applicant denied any collusion with the Liquidators and pointed out that the Liquidators chose not to be present at the hearing.

46 There was nothing to show that the Liquidators acted improperly. In any event, the proper course would have been to apply for relief against the Liquidators through the proper process. This, the second respondent did not do. And similarly, if there were any issues going to the winding up itself, it should have been raised in the proper way rather than in the course of resisting the present application.

Whether s 130 of the IRDA may be applied retrospectively

47 The second respondent characterized the present application as one seeking retrospective approval. The applicant denied this.

48 I accepted the applicant's arguments that there is nothing in the language of s 130 of IRDA to bar it from being applied retrospectively, though such a late

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application may be a reason for the court to refuse to grant the application. I note that in *Re Gray's Inn Construction*, Buckley LJ contemplated some situations in which retrospective leave may be granted: 820F–820J.

49 In any event, as argued by the applicant, the present application was not in fact sought late: the Shares had been seized but no transfer has purportedly been done to date.

Other matters

50 The fact that the Liquidators might have been inclined to continue the proceedings, by initially filing a protective writ did not assist the second respondent in the present application. Any such decision was by the Liquidators in their assessment at the time. And similarly, the fact that they discontinued thereafter once the present application was made, would also be a matter for the Liquidators to determine. These were all outside the ambit of the determination under s 130.

51 There were also some questions as to whether there would be anyone interested in the shares of an insolvent company. I noted, as argued by the applicants, the second respondent himself had on occasions alleged that the Shares were valuable.

52 The second respondent also argued that the transfer of shares would run up against the fact that the Company was, as I understood it, a family run entity, and there was an understanding that the shareholding of the Company would remain within the family. If the Shares were sold in the open market to a third-party *bona fide* purchaser for value, this would be a step that cannot be undone.[40]

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[40] RWS at para 112.

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Again, this is irrelevant to the grant of an order under s 130 of the IRDA, which is primarily concerned with matters relating to or flowing from the winding-up of the Company.

The exercise of the discretion

53 Thus, on the applicant's side, the Shares potentially offered an avenue for recovery of the unpaid cost orders. On the second respondent's side, none of the matters raised pointed to any prejudice or any other reason against the grant of the order. There was also nothing on the facts to show any impact on the Company's liquidation or the distribution of whatever assets there may be belonging to the Company. Assessing matters as a whole, I did not consider any adverse impact on the status quo, and thus exercised my discretion under s 130 of the IRDA and allowed the application.

Conclusion

54 In all, nothing required the Court's discretion to be exercised against the application, and it was accordingly granted.

Aedit Abdullah
Judge of the High Court

Chiok Beng Piow (AM Legal LLC) for the applicant;
Chua Sui Tong (Rev Law LLC) for the first respondent (watching brief);
The second respondent in person.

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