Low Leong Meng *v* Koh Poh Seng
[2012] SGHC 1

Case Number : District Court Appeal No 31 of 2011

Decision Date : 03 January 2012

Tribunal/Court : High Court

Coram : Chan Seng Onn J

Counsel Name(s) : Mr Simon Jones and Mr Jayagobi Jayaram (Grays LLC) for the Appellant; Mr Tan Tee Giam (TanLim Partnership) for the Respondent.

Parties : Low Leong Meng — Koh Poh Seng

Civil Procedure – costs

3 January 2012 Judgment reserved.

Chan Seng Onn J:

Introduction

1 This is an appeal against an order of costs made by a District Judge in a defamation action arising from an email sent by the Appellant to two managers of the parent company of the Respondent's employer. The District Judge had ordered that each party was to bear his own costs after dismissing the action.

Background

Parties to the dispute

2 The Appellant was a director and shareholder of Daifuku-Wis Technologies Pte Ltd ("DWIST"), a Singapore company. [note: 1] DWIST is a joint venture between the Appellant and Daifuku Mechatronics (S) Pte Ltd ("DMS"), the Singapore subsidiary of Daifuku Co Ltd ("Daifuku"), a Japanese company. [note: 2]

3 The Respondent was DMS's deputy general manager. At the time of the trial below, the Respondent had been promoted to the position of general manager. [note: 3]

Background to the defamation action

4 The Respondent sued the Appellant for defamation arising from an email in the Japanese language which the Appellant had sent to two members of Daifuku's "top management" on 6 August 2007 ("the Email"). [note: 4] An agreed [note: 5] English translation of the Email reads as follows: [note: 6]

> Attn: Inoue Director and Okuno General Manager
>
> I am sorry for sending you this letter abruptly.

It's been quite some time since we last met. I am Low, Ex-President of Singapore DWIST. Do you remember seeing me once in Japan about 2 years ago regarding the sale of DWIST shares?

About 3 years have passed already since I resigned as President of DWIST, but the transfer of DWIST shares has not been settled, and I am still in deadlock.

It is because DMS has been unilaterally pressing down the share value. I was told to keep the share value at zero if I wouldn't sell to DMS for $0.30 per share. (In fact, DWIST did not have any sales in 2005. All new jobs orders were given to IT Wireless, and orders under maintenance contract were given to sub-contractor of DWIST.)

About 3 years ago, I reported to Shimizu, President of DMS, that [the Respondent] and Ms Quek, both [of whom] were employees of DMS, seemed to be intentionally giving DMS' orders to a company called IT Wireless, and I showed evidence to him, but was ignored.

Form [*sic*] 2003, the order value from DMS to IT Wireless has increased continuously, and they achieved quite a large profit. Salaries of Eric Teo and Sam, both [of whom] are Directors of IT Wireless, have increased sharply to S$240,000 in 2006. (Their salaries were S$100,000 in around 2002.) (Sales of DWIST continued to decrease from 2003.)

[The Respondent] and Yong Yong of DMS are originally the founders of IT Wireless, and it appeared on the surface that all shares were sold to Eric Teo and Sam in 2001, but they received dividends payouts in around 2003, and in between 2005 and 2006, Eric Teo and Sam handed over money to [the Respondent] in several instalments. All these evidences [*sic*] were submitted to the judge by them as part of discovery process during the law suit against Koh, Eric Teo and Sam started last year. (Refer to the attached), the judge has already ruled that [the Respondent] was a Shadow Director of IT Wireless. There is a need for [the Respondent] to appear in court later to defend about Eric Teo and daily operation of IT Wireless. Among the evidences [*sic*] that were gathered, there were payment vouchers for the commission that IT Wireless paid to Yong Yong of DMS. A company called MobiSoft was set up under the names of Eric Teo and Sma [*sic*] in 2006, and orders from DMS were transferred to MobiSoft.

I always believe that Daifuku is not a company that bullies Partner [*sic*]. It is no point talking to Shimizu, Singapore local President. I have been thinking that there is no other way but to sue [the Respondent] and his lot, and show the evidences [*sic*] to the head office. I wish that I will receive fair treatment one way or another. For these 2 and half [*sic*] years, I am living a difficult life with debts and just a little income, and waiting for justice.

Looking forward to your kind attention.

DWIST

Ex President

LOW LEONG MENG

5 The Respondent claimed that the following portions of the Email were defamatory ("the Words"): [note: 7]

…

About 3 years ago, I reported to Shimizu, President of DMS, that [the Respondent] and Ms Quek, both were employees of DMS, seemed to be intentionally giving DMS' orders to a company called IT Wireless, and I showed evidence to him, but was ignored.

…

[The Respondent] and Yong Yong of DMS are originally the founders of IT Wireless, and it appeared on the surface that all shares were sold to Eric Teo and Sam in 2001, but they received dividends payouts in around 2003, and in between 2005 and 2006, Eric Teo and Sam handed over money to [the Respondent] in several instalments. … the judge has already ruled that [the Respondent] was a Shadow Director of IT Wireless. There is a need for [the Respondent] to appear in court later to defend about Eric Teo and daily operation of IT Wireless. …

…

6 The Respondent pleaded in his Statement of Claim (Amendment No 1) that the natural and ordinary meaning of the Words meant or were understood to mean the following:

(a) The Respondent, together with Ms Quek Yong Yong, an employee of DMS, had abused the power of his position and office at DMS to give business to a company called IT Wireless Pte Ltd ("IT Wireless"), a competitor of DWIST, for personal gain and enrichment.

(b) Despite his purported resignation from his position in IT Wireless in 2001, the Respondent had continued to be involved in the business of IT Wireless. Arising from that relationship, the Respondent received several secret commissions from IT Wireless for giving it business.

(c) The Respondent had breached his fiduciary duties to DMS.

(d) The Respondent is guilty of dishonourable conduct against DMS.

(e) The Respondent is untrustworthy.

(f) The court had already ruled against the Respondent.

7 The Appellant denied that the Email had any of the meanings set out in the Respondent's Statement of Claim (Amendment No 1) (see [6] above). [note: 8] Instead, the Appellant claimed that the plain and ordinary or innuendo meaning of the Words (see above at [5]) was as follows: [note: 9]

(a) The Appellant was a past President of DWIST.

(b) He owned shares in DWIST which he wished to dispose of to DWIST at a fair and reasonable price.

(c) DMS was the other majority shareholder of DWIST.

(d) A fair and reasonable agreement could not be reached for the sale of the Appellant's DWIST shares to DMS because the value of DWIST has been kept artificially low.

(e) One reason the value of DWIST shares was artificially low was because business which would otherwise have been booked by DWIST has been procured for IT Wireless by, *inter alia*, the Respondent who was and may still be a shadow director of IT Wireless. The Respondent was

and still is also an employee of DMS. The Appellant then set out the definition of the term "shadow director" under s 4(1) of the Companies Act (Cap 50, 2006 Rev Ed).

(f) The Appellant averred that the directors of IT Wireless were accustomed to acting on the Respondent's instructions after he resigned his directorship of IT Wireless on 30 June 2011.

(g) The Appellant had provided supporting evidence of the Respondent's involvement in IT Wireless to one Shimizu, the President of DMS, in an attempt to seek his assistance in obtaining a fair and reasonable price for the Appellant's shares in DWIST.

The Appellant then pleaded that the above understanding of the Words was true and therefore justified. [note: 10] He also raised the defence of qualified privilege. [note: 11]

The District Judge's first decision

8 The District Judge dismissed the Respondent's claim (see *Koh Poh Seng v Low Leong Meng* [2010] SGDC 256) ("the District Judge's First Decision"). He held that the Email was not defamatory. [note: 12] In his view, the substance of the Email was this (see the District Judge's First Decision at [21] [note: 13]):

> I ask for your intervention. The share value of DWIST has come down so that I can't get a reasonable price for it. The reason that the share value of DWIST has come down is because the plaintiff has been giving business that might have come to DWIST instead to [IT Wireless]. The [Respondent], although he appeared to have sold his shares in [IT Wireless] in 2001, remains financially connected to, and have [*sic*] profited from, [IT Wireless]. The [Respondent], with others, has been sued. The court has ruled that the [Respondent] still retains influence over [IT Wireless's] board of directors.

The District Judge did not consider this interpretation of the Email to be defamatory. He did not think that the Email suggested that the Respondent's influence over IT Wireless was such that he had "profited at the expense of, or in derogation of his fiduciary duties to DMS" (see the District Judge's First Decision at [22]). [note: 14] He did not consider that it was defamatory to call someone a shadow director "unless the context suggested otherwise, which was not the case here" (see the District Judge's First Decision at [23]). [note: 15]

9 The District Judge then ordered that each party was to bear his own costs. He made this decision without hearing the parties. [note: 16] He reached this decision because he felt that the Appellant's efforts at proving the "irrelevant fact" that the Respondent was a shadow director of IT Wireless (as part of his defence) took up almost the whole trial (see the District Judge's First Decision at [44]). [note: 17]

The first application for leave to appeal

10 The Appellant applied in Originating Summons No 724 of 2010 for leave to appeal against the following aspects of the District Judge's First Decision: [note: 18]

(a) The portions of the District Judge's First Decision in which he found that the question of whether the Respondent was a shadow director was an "egregious exercise in futility" ("Head A").

(b) The portion of the District Judge's First Decision where he did not make a finding on whether the Respondent had succeeded in proving his defence of qualified privilege at trial ("Head B").

(c) The portions of the District Judge's First Decision where he did not make a finding on whether the Respondent was a shadow director of IT Wireless, whether the Respondent was paid for the IT Wireless shares that he sold and whether the Appellant had published the Words maliciously, with a deliberate intention of injuring the Respondent, knowing or not caring whether it was true or false out of spite or ill will towards the Respondent as pleaded by the Respondent in claiming aggravated damages from the Appellant ("Head C").

(d) The portion of the District Judge's First Decision where he recorded that the Appellant's efforts at proving that the Respondent was a shadow director took most of the time at trial ("Head D").

(e) The District Judge's decision that he would not hear the parties on costs and that it was fair for each party to bear his own costs ("Head E").

11 I granted the Appellant leave to appeal on 5 August 2010. [note: 19]

The High Court's decision on the first appeal

12 The appeal (District Court Appeal No 43 of 2010 ("DCA 43/2010")) was fixed before Kan Ting Chiu J.

13 After hearing the parties, Kan J ordered that the matter was to be remitted to the District Judge to hear submissions from the parties on the question of costs and thereafter to make orders on costs arising before and in the trial. [note: 20]

14 I pause here to note that it appears that Kan J's order only concerned Head E of the appeal (see [10(e)] above). Kan J did not seem to have made any order on Heads A to D (see [10(a)]–[10(d)] above). Although Kan J did not provide written grounds of decision, it appears from the wording of his order that his concern was that the District Judge had made his order on costs *without hearing the parties*.

The District Judge's second decision

15 The District Judge then heard submissions on costs. He reaffirmed his decision that each party should bear its own costs (see *Koh Poh Seng v Low Leong Meng* [2011] SGDC 130) ("the District Judge's Second Decision"). [note: 21] He reasoned that although his remarks at trial may have suggested that he considered the issue of whether the Respondent was a shadow director to be relevant, he was bound to keep an open mind. His views on the meaning of the Email only crystallised as he reviewed the case for the purpose of making his decision (see the District Judge's Second Decision at [17]). [note: 22] The District Judge was also of the view that he was *functus officio* in relation to the substantive issues (see the District Judge's Second Decision at [20]). [note: 23] Hence, he believed that he could not revisit his findings, in particular, his finding that the Email was not defamatory. [note: 24] He nevertheless proceeded to explain that he saw no reason to disavow his primary findings (see the District Judge's Second Decision at [22]). [note: 25]

16 He also held that O 59 r 3 of the Rules of Court (Cap 322, R 5, 2006 Rev Ed) ("ROC") mandated that the costs of the interlocutory applications must, likewise, be borne by the parties respectively. [note: 26]

17 Finally, he ordered that each party was to bear his own costs in respect of the further hearing before him (see the District Judge's Second Decision at [27]).

The Appellant's attempts to reinstate the first appeal

18 The Appellant's solicitors then wrote to the Supreme Court Registry ("the Registry") on 26 April 2011 to request for DCA 43/2010 (ie. the first appeal before Kan J.) to be re-fixed for a hearing. [note: 27] The Registry replied on 29 April 2011 to inform the Appellant that Kan J had directed the parties to take whatever actions they considered to be appropriate on the basis of the District Judge's Second Decision. [note: 28]

19 The Appellant's solicitors followed up with another letter to the Registry on 29 April 2011. In this letter, they mentioned, *inter alia*, that Kan J had opined that "the appellate principles would apply" if the parties disagreed with the District Judge's decision after having been heard on costs. [note: 29] They also repeated their request for DCA 43/2010 to be re-fixed for a hearing. [note: 30] The Registry replied on 6 May 2011 to inform the parties that Kan J had directed that the Registry's letter dated 29 April 2011 was to stand. [note: 31]

The second application for leave to appeal

20 The Appellant applied in Originating Summons No 428 of 2011 for leave to appeal against the following aspects of the District Judge's Second Decision:

(a) The District Judge's ruling that the Email did not contain a "defamatory sting" ("Head F") and his ruling that the Appellant should not get costs for expending time to prove what the District Judge had ruled to be a "non-defamatory sting" ("Head G");

(b) The District Judge's ruling that he could not infer that the Email alleged that there was a conflict of interest on the Respondent's part ("Head H");

(c) The District Judge's ruling that the Appellant's pleaded defence failed to identify a false innuendo and failed to explain why it should be inferred from the text ("Head I");

(d) The District Judge's reference to a "*Lucas-Box* meaning" ("Head J"); and

(e) The District Judge's ruling that the orders as to costs for the interlocutory proceedings (that costs were to be in the cause) could not be taken into consideration in the court's exercise of discretion in respect of the costs of the trial ("Head K").

The Appellant also applied for leave to appeal against the District Judge's Second Decision on the ground that all the evidence adduced at trial in support of the Appellant's defence of justification was also essential to prove his alternate defence of qualified privilege ("Head L"). The Appellant deposed in his affidavit in support of his application for leave that this argument was raised to the District Judge. [note: 32] The District Judge did not, however, consider this argument in his judgment. [note: 33]

21 I granted the Appellant leave to appeal on 17 August 2011. [note: 34]

The arguments at the appeal

22 The Appellant argued that the Email was defamatory when it was read in context because it suggested that the Respondent placed his employer's business with IT Wireless of which he was a "shadow director". [note: 35] He asserted that he should have been awarded costs even if the Email was not held to be defamatory for the following reasons. *First*, the truthfulness of the statement in the Email that the Respondent was a "shadow director" of IT Wireless was an issue in the proceedings below. This is apparent from the District Judge's suggestions and comments during the trial [note: 36] and the Respondent's conduct at trial [note: 37]. *Second*, in defamation actions, costs should be awarded based on the success or failure of the defences advanced as long as the publication was adjudged as being capable of bearing a defamatory meaning. Otherwise, counsel would have to second-guess the judge's decision on whether the publication is defamatory. [note: 38] *Third*, the District Judge should have taken into consideration the fact that the parties had incurred considerable pre-trial costs for which the costs order was costs in the cause. [note: 39]

23 The Appellant also argued that although costs are in the discretion of the court, an appellate court may intervene if the discretion has been "manifestly exercised wrongly or exercised on wrong principles" (citing *Tullio Planeta v Maoro Andrea G* [1994] 2 SLR(R) 501 [note: 40] ("*Tullio Planeta*") at [22]). [note: 41] The District Judge's exercise of discretion was manifestly wrong. The Appellant did not waste any time at trial by pursuing the defence of justification. [note: 42]

24 The Respondent argued that the only portions of the District Judge's Second Decision which were of relevance were [24]–[25] where he had set out his decision to reaffirm his earlier decision that each party was to bear his own costs. [note: 43] The Respondent asserted that the Appellant has not appealed against those portions of the District Judge's Second Decision. [note: 44]

25 The Respondent further argued that this appeal was an abuse of process because the Appellant is having another bite at the cherry based on a fresh position that the Email was defamatory. [note: 45] If the Appellant was dissatisfied with the District Judge's primary finding that the Email was not defamatory, he should have appealed against that aspect of his decision in the First Appeal. [note: 46]

The scope of the appeal

26 The rather complicated procedural history of this matter raises interesting issues concerning the scope of the present appeal. The Appellant had *five* heads of appeal in DCA 43/2010 (see [10] above). As I observed earlier (see [14] above), Kan J's remission of the matter to the District Judge seemed to only touch on one of the heads of appeal, *viz*, Head E. On remission, the District Judge held that he was *functus officio* in relation to any substantive matters but he nevertheless expressed an opinion that his primary findings were correct (see [15] above). As a result, the present appeal before me also seemed to raise substantive issues. However, in the decision presently under appeal, the District Judge was merely expressing an opinion because he had ruled (correctly, in my view) that he was *functus officio* as regards his primary findings. These procedural complications raised two questions in my mind. First, was it within the scope of the present appeal for me to review the District Judge's primary findings? Second, were the *remaining* heads of appeal in DCA 43/2010 (*ie*, Heads A to D) still in issue at the appeal before me?

27 I do not, however, have to decide these questions because of a development during the hearing of the appeal. Counsel for the Appellant, Mr Simon Jones, withdrew his client's appeal on all substantive issues. In other words, he was only pursuing his client's appeal on the District Judge's affirmation of his earlier decision that each party was to bear his own costs.

28 This means that the scope of the appeal before me is limited to whether the District Judge erred in ruling that the Appellant should not get costs (*ie*, Head G). I should at this juncture mention that I do not think that the Respondent's contention that the Appellant has not appealed against the portions of the District Judge's Second Decision in which he affirmed his earlier order as to costs (see [24] above) had any merit. I considered that Head G of the Appellant's second application for leave to appeal plainly placed in contention the issue of whether the District Judge had erred in his order as to costs.

Analysis

The applicable legal principles

29 The Court of Appeal in *Tullio Planeta* adopted (at [24]) the following exposition of the principles governing cost orders from the headnote of the English Court of Appeal's decision in *Re Elgindata Ltd (No 2)* [1993] 1 All ER 232:

> ... The principles on which costs were to be awarded were (i) that ***costs were in the discretion of the court*** , (ii) that ***costs should follow the event except when it appeared to the court that in the circumstances of the case some other order should be made*** , (iii) that the general rule did not cease to apply simply because the successful party raised issues or made allegations that failed, but that he could be deprived of his costs in whole or in part where he had caused a ***significant increase in the length of the proceedings*** , and (iv) that ***where the successful party raised issues or made allegations improperly or unreasonably the court could not only deprive him of his costs but could also order him to pay the whole or part of the unsuccessful party's costs*** . The fourth principle implied, moreover, that ***a successful party who neither improperly nor unreasonably raised issues or made allegations which failed ought not to be ordered to pay any part of the unsuccessful party's costs*** ...
>
> [emphasis added in bold italics]

30 The second principle is also found in O 59 r 3(2) of the ROC. The third and fourth principles set out above are embodied, in a slightly different way, in O 59 r 6A of the ROC:

> (1) In addition to and not in derogation of any other provision in this Order, where a party has failed to establish any claim or issue which he has raised in any proceedings, and has thereby ***unnecessarily or unreasonably*** protracted, or added to the costs or complexity of those proceedings, the Court may order that the costs of that party shall not be allowed in whole or in part, or that any costs occasioned by that claim or issue to any other party shall be paid by him to that other party, regardless of the outcome of the cause or matter.
>
> [emphasis added in bold italics]

A summary of the applicable principles may also be found in my decision in *Raffles Town Club Pte Ltd v Lim Eng Hock Peter and others (Tung Yu-Lien Margaret and others, third parties)* [2011] 1 SLR 582 at [34]–[36].

My decision

My decision

31 I find that the District Judge was manifestly wrong in the exercise of his discretion. The Appellant's conduct of the litigation was reasonable for the following reasons.

32 First, the District Judge's comments during the trial suggested that he considered the issue of whether the Respondent was a shadow director of IT Wireless to be relevant. The Appellant cannot therefore be faulted for continuing to pursue the issue. As the Appellant has correctly pointed out, the following comments and indications from the District Judge would have reasonably led him to believe at that time that it was relevant to prove that the Respondent was a shadow director of IT Wireless:

(a) When the Respondent requested for the District Judge to make a preliminary ruling as to whether the words complained about were defamatory, the District Judge stated that he would have to hear the evidence. His view was that there would be "no time savings" with making such a preliminary ruling. [note: 47]

(b) When the Respondent was asked if he recalled signing IT Wireless' cheques, the Respondent replied that he could not recall. The District Judge then interjected and expressed his surprise that the Respondent would forget signing his cheques. [note: 48] The District Judge's interjection suggested that he felt that it was relevant for the Appellant to pursue the truth of whether the Respondent was a shadow director in IT Wireless.

(c) On the second day of the trial, the Respondent was further cross-examined on the issue of his signing IT Wireless' cheques. When the Respondent was asked whether he was aware that he remained as an authorised signatory for IT Wireless' cheques at the material time, the District Judge interjected again and stated that the issue was whether the Respondent signed cheques and not whether he remained as a signatory. [note: 49]

I should also mention that, at the hearing before me, I asked the Respondent's counsel to bring to my attention any part of the District Judge's notes of evidence in which he (*ie*, the District Judge) indicated that the issue of whether the Respondent was a shadow director was irrelevant. The Respondent was not able to refer me to any such indication.

33 Second, and perhaps more importantly, although the District Judge's finding that the Email was not defamatory is not on appeal, it was *at least arguable* that the Email was defamatory. It is well established that the test for determining the natural and ordinary meaning of allegedly defamatory words is the meaning that the words would "convey to an ordinary reasonable person, not unduly suspicious or avid for scandal, using his general knowledge and common sense" (see *Review Publishing Co Ltd and another v Lee Hsien Loong and another appeal* [2010] 1 SLR 52 at [27]). In my view, the natural and ordinary meaning of the Email was that the Respondent was diverting business from DMS (his employer) to IT Wireless, a company of which he was a shadow director and from which he was receiving dividends. It is arguable that this meaning of the Email was defamatory. It is, of course, not defamatory to simply call someone a shadow director. However, the Email goes beyond that. The suggestion is that the Respondent was engaged in self-dealing. In establishing the defence of justification which the Appellant had pleaded as one of his defences, the Appellant would have to prove, *inter alia*, at the trial that the Respondent was indeed a shadow director of IT Wireless, the company that the Respondent was diverting business to whilst as an employee of DMS. If it was arguable that the Email was defamatory, then the Appellant's conduct of the litigation in the proceedings below was reasonable. There was no reason therefore to depart from the general rule that costs should follow the event.

34 Since the Appellant's conduct of the litigation in the proceedings below was reasonable, the general rule that costs follow the event should have been followed.

Conclusion

35 For the reasons above, I allow the appeal. The District Judge's order that each party was to bear his own costs of the trial is set aside. I order the Respondent to pay the Appellant's costs of the trial.

36 Unless the parties wish to be heard on costs, the Appellant is further entitled to the costs of this appeal.

[note: 1] Appellant's Core Bundle ("ACB") at p 14 (the District Judge's First Decision).

[note: 2] ACB at p 13 (the District Judge's First Decision).

[note: 3] ACB at p 13 (the District Judge's First Decision).

[note: 4] ACB at p 14 (the District Judge's First Decision) and Record of Appeal ("RA") Vol II at pp 33–34 (Schedule A to the Respondent's Statement of Claim).

[note: 5] RA Vol II at p 42 (Defence (Amendment No 1) at [5]).

[note: 6] RA Vol II at p 38 (Schedule B to the Respondent's Statement of Claim (Amendment No 1)).

[note: 7] RA Vol II at p 28 (Respondent's Statement of Claim (Amendment No 1)).

[note: 8] RA Vol II at p 42 (Defence (Amendment No 1) at [6]).

[note: 9] RA Vol II at pp 42–43 (Defence (Amendment No 1) at [7]).

[note: 10] RA Vol II at p 42 (Defence (Amendment No 1) at [7]).

[note: 11] RA Vol II at p 44 (Defence (Amendment No 1) at [8]).

[note: 12] ACB at p 20C (the District Judge's First Decision at [20]).

[note: 13] ACB at p 20C (the District Judge's First Decision at [21]).

[note: 14] ACB at p 20D (the District Judge's First Decision at [22]).

[note: 15] ACB at p 20D (the District Judge's First Decision at [23]).

[note: 16] ACB at p 20K (the District Judge's First Decision at [45]).

[note: 17] ACB at p 20K (the District Judge's First Decision at [44]).

[note: 18] Respondent's Core Bundle ("RCB") at pp 20–22 (Notice of Appeal for DCA 43 of 2010).

[note: 19] See Order of Court No 4263 of 2010 in the EFS Case File for Originating Summons No 724 of 2010 read with the schedule to Originating Summons No 724 of 2010.

[note: 20] Respondent's Core Bundle ("RCB") at pp 112–113 (Order of Court No 6013 of 2010).

[note: 21] ACB at p 10 (the District Judge's Second Decision at [25]).

[note: 22] ACB at p 8 (the District Judge's Second Decision at [17]).

[note: 23] ACB at p 8 (the District Judge's Second Decision at [20]).

[note: 24] ACB at p 8 (the District Judge's Second Decision at [20]).

[note: 25] ACB at p 9 (the District Judge's Second Decision at [22]).

[note: 26] ACB at p 10 (2nd GD at [26]).

[note: 27] RCB at p 151 (Letter from Grays LLC to the Supreme Court Registry dated 26 April 2011).

[note: 28] RCB at p 152 (Letter from the Supreme Court Registry to Grays LLC and TanLim Partnership dated 29 April 2011).

[note: 29] *Ibid*.

[note: 30] *Ibid*.

[note: 31] RCB at p 155 (Letter from the Supreme Court Registry to Grays LLC and TanLim Partnership dated 6 May 2011).

[note: 32] Affidavit of Low Leong Meng dated 6 June 2011 filed in support of OS 428/2011 at [11(f)].

[note: 33] *Ibid*.

[note: 34] See Order of Court No 3880 of 2011 in the EFS Case File for OS 428/2011 read with [11] of the Affidavit of Low Leong Meng dated 6 June 2011.

[note: 35] Appellant's Skeletal Arguments at [10]; Appellant's Case at [191]–[194].

[note: 36] Appellant's Skeletal Arguments at [11]–[19]; [27]; Appellant's Case at [67]–[90].

[note: 37] Appellant's Case at [58]–[60].

[note: 38] Appellant's Skeletal Arguments at [24].

[note: 39] Appellant's Skeletal Arguments at [29]–[35]; Appellant's Case at [113].

[note: 40] Appellant's Bundle of Authorities ("ABOA") Vol I at Tab C.

[note: 41] Appellant's Case at [165].

[note: 42] Appellant's Case at [166].

[note: 43] Respondent's Case at [1]–[3].

[note: 44] Respondent's Case at [4].

[note: 45] Respondent's Case at [8].

[note: 46] Respondent's Case at [10] and p 24.

[note: 47] RA Vol III Part III at p 617.

[note: 48] RA Vol III Part III at p 641.

[note: 49] RA Vol III Part III at p 660.