

RE Chan Yoo Tuck (Tony Chandra)
[2000] SGHC 94

Case Number : Bankruptcy No 716 of 1999
Decision Date : 25 May 2000
Tribunal/Court : High Court
Coram : Choo Han Teck JC
Counsel Name(s) : Thomas Lei [Chor Pee & Partners] for the debtor/appellant; Lok Vi Ming with Chow Min Wei [Rodyk & Davidson] for the judgment creditors/respondent
Parties : —

FACE="CG Times (W1),Times New Roman">) for the Judgment Creditors/Respondent.

JUDGMENT:

ORAL JUDGMENT

1. The onus is on the creditor to satisfy the court that the obligations under s 96 of the Bankruptcy Act have been complied with.
2. In this case, the Petition was based on the failure to pay after a statutory demand was served. It behoved the creditor to satisfy the court that the statutory demand was served, and if not, all reasonable steps had been taken to ensure that it was brought to the debtor's attention.
3. It was not disputed here that there was no personal service of the statutory demand. The creditors sent the demand by post on 26 August 1998 to an address given by the debtor in his affidavit. That address was not the residential address but that of his place of work. The demand was returned post-marked "Burnt House". Another demand was sent to an hotel in Batam where the debtor had sought temporary refuge at some point (to escape the social turmoil prevailing in Jakarta at the time). That letter was also returned. Subsequently, an advertisement was placed in the Indonesian newspaper "Kompas" on 7 December 1998. The debtor deposed in his affidavit that he was not in Indonesia at that time. He had been out of Indonesia from 2 December 1998.
4. The creditors were aware at all material times that the debtor had a residential address in Jakarta. There was also evidence that the creditors had reason to believe that the debtor had a PO Box number at the material time as that was part of the information provided to them by the debtor's daughter in Singapore.
5. In spite of all that, the creditors did not send a copy of the statutory demand to either his residential address or the PO Box.
6. In these circumstances, I do not think that the "reasonable steps" obligation had been sufficiently discharged. The sending of the statutory demand to two additional places is a simple and inexpensive exercise which ought to have been done. The consequences to the debtor, on the other hand, were serious and therefore, I am of the view that the appeal must be allowed and the bankruptcy order filed on 26 May 1999 set aside.
7. The appeal is allowed. The costs of the appeal is fixed at \$2,000. The costs below (if paid) is to be refunded to the debtor and costs of the application below is awarded to the debtor and fixed at \$700.

Choo Han Teck

Judicial Commissioner

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