Forward Food Management Pte Ltd and Another v Public Prosecutor
[2002] SGHC 46

Case Number : MA 244/ 2001

Decision Date : 07 March 2002

Tribunal/Court : High Court

Coram : Yong Pung How CJ

Counsel Name(s) : Uthayasurian Sidambaram (Surian & Partners) for the appellants; Christina Koh (Deputy Public Prosecutor) for the respondents

Parties : Forward Food Management Pte Ltd; Another — Public Prosecutor

Immigration – Employment – Foreign worker – Work permit stipulating employment as 'Waiter/Waitress Supervisor' – Whether employers in breach of condition by employing worker as stall supervisor – Whether term 'waiter' ambiguous – Whether dictionary meaning appropriate – Whether strict construction rule applicable – Whether conviction acceptable as Ministry of Manpower contributed to confusion

Statutory Interpretation – Construction of statute – Whether strict construction rule for penal statutes applicable to executive orders and conditions – Proper approach to construction of penal provisions

Words and Phrases – "waiter"

Judgment

GROUNDS OF DECISION

Introduction

This was an appeal from the decision of the district court convicting the first appellant, Forward Food Management Pte Ltd ("Forward Food") and the second appellant, Tan Hwee Kiang ("Tan"), of employing a foreigner, one Kuan Chwi Mei ("Kuan") otherwise than in accordance with the conditions stipulated in her work permit. This is an offence under s 5(3) of the Employment of Foreign Workers Act (Cap 91A) (the "Act") and punishable under s 22(2) of the Act. After considering the submissions and evidence before him, the district judge held that Kuan had been employed by the appellants for work other than as a "Waiter Supervisor/Waitress Supervisor", as provided in her work permit, and accordingly sentenced the appellants to a fine of $2,500 each. The appellants appealed against their conviction as well as their sentence. After hearing arguments from counsel, I allowed the appellants' appeals against their conviction and now set out the reasons for my decision.

The facts

2 The facts relevant to this appeal were not in dispute. On 16 January 2001, officers from the Ministry of Manpower conducted a raid at a food court outlet at Causeway Point, which was allegedly owned by a company known as The Chef's Sam Pte Ltd ("Chef's Sam"). Four workers were seen within the stall, one of whom was Kuan, a Malaysian. It was later revealed that Kuan was under the employ of Forward Food, having been recruited by Tan, who was a director of that company. In addition to supervising the workers at the various outlets which Forward Food managed, Kuan's job also entailed checking stocks at these outlets. Upon ascertaining the supply requirements of these outlets, Kuan would then make arrangements for the delivery of the necessary supplies.

3 Under Kuan's work permit, her occupation was described as a "Waiter Supervisor/Waitress Supervisor" and this was also reflected in the application form for her work permit, which was signed by Tan on behalf of Forward Food. On the same form, Forward Food was described as Kuan's employer.

The trial

4 In the court below, the prosecution's case was simply that the work permit had been issued to Forward Food under two conditions and that these had been breached by the appellants. The first condition was that Kuan had to be employed by Forward Food and the second condition was that she had to be employed as a "Waiter/Waitress Supervisor". With regard to the first condition, the prosecution alleged that the food court outlets where Kuan worked belonged to Chef's Sam and Kuan was under Chef's Sam's employ. This assertion was rejected by the trial judge, who was not satisfied that there was any evidence that Kuan was not in fact employed by Forward Food. Instead, he found that there was evidence which went to show that the said food court outlets were in fact licensed to Tan and that Forward Food had been appointed to manage these outlets. As such, it could not be said that that condition had been breached.

5 However, the trial judge agreed with the prosecution that Kuan was not employed as a "Waiter/Waitress Supervisor" as stipulated in the work permit. Instead, he felt that she was more of a stall supervisor, highlighting that as Tan had conceded in his evidence that there were no waiters or waitresses at the food court outlets, Kuan could not have been working as a "Waiter/Waitress Supervisor". Coming to this conclusion, the district judge amended the charge by deleting the reference to Chef's Sam and convicted the appellants on the amended charges. He then sentenced the appellants to a fine of $2,500 each as this was the usual tariff fine for such an offence.

6 In addition to the foregoing, four other points of evidence, which were not apparent from the district judge's judgment, caught my attention. First, the prosecution's witness from the Ministry of Manpower, investigating officer Mr Ng Ngak Shim ("IO Ng"), did not seem very certain as to whether Kuan's duties were outside the scope of a "Waiter/Waitress Supervisor". Second, it was IO Ng's evidence that the Ministry did not have any defined job scope in relation to a "Waiter/Waitress Supervisor". The third point pertained to the application process for Kuan's work permit. At the trial, Tan testified that, when he was completing the application form for the permit, he noticed that there was no relevant category listed in the form other than "Waiter/Waitress Supervisor". There was certainly no "Stall Supervisor" category and, as such, he chose the former category. Moreover, after making the application for Kuan, he was not told of the limited scope of work that Kuan, as a "Waiter/Waitress Supervisor", would be allowed to do. The fourth point was that it was apparent from the notes of evidence that the prosecution's main line of attack in the court below was that Kuan was actually not in the employ of Forward Food. This was rejected by the district judge, who proceeded to convict the appellants on what was clearly a collateral and technical ground.

The appeal

7 Before me, the appellants advanced several arguments which went to challenging the trial judge's finding that, based on the job which Kuan was employed to do, the appellants were in breach of the work permit condition that Kuan be only employed as a "Waiter/Waitress Supervisor".

8 First, the appellants argued that the trial judge erred in failing to consider that the prosecution had not produced any evidence to show that there was a specific job description known as a "Stall

Supervisor" for which a work permit could have been applied for and the scope of duties of such a job description, if it existed. Second, the appellants contended that it could well be that a "Stall Supervisor" had the same duties as a "Waiter/Waitress Supervisor "and, as the prosecution did not lead any evidence as to what the duties of a "Waiter/Waitress Supervisor" were, they argued that the prosecution had not proven its case beyond reasonable doubt.

9 The appellants' third submission was that the trial judge erred in not considering the evidence of IO Ng, who gave some evidence of what he perceived to be the scope of duties of a "Waiter/Waitress Supervisor". During cross-examination, IO Ng stated that there was no job scope set out by the Ministry of Manpower in relation to a waiter supervisor. Significantly, he also conceded that if Kuan simply checked the stocks of her official employer, served customers at its outlets and supervised its employees working there, there would have been no breach of the work permit conditions. The appellants argued that this evidence clearly showed that the duties carried out by Kuan were within the job scope permitted by the Ministry of Manpower.

10 The appellants then argued that the district judge erred in failing to consider Tan's evidence that he was given no information as to the scope of work Kuan was allowed to do. The prosecution responded by saying that in the court below there was a form, signed by Tan, which stated the conditions of the work permit. But as the prosecution did not produce this form, the appellants submitted that an adverse inference should have been drawn against the prosecution in this respect. Through this argument, the appellants contended that no conditions were attached to their employment of Kuan and there could therefore have been no breach of such conditions.

11 Finally, the appellants asserted that the trial judge erred in finding that there were no waiters or waitresses at the food outlets because he drew this conclusion from Tan's evidence. They contended that it was clear from Tan’s evidence that he was confused over the use of the words ‘waiter’ and ‘waitress’ and the trial judge should not have placed too much weight on his evidence with regard to this point.

12 The prosecution's main response to the appellants' arguments was that Tan himself had admitted that there were no waiters or waitresses working at the food court outlets. Therefore the trial judge was right to come to the conclusion that it could not be said that Kuan was employed to supervise waiters or waitresses there. In addition to this argument, the prosecution claimed that the trial judge was correct not to draw an adverse inference against the prosecution for failing to produce the form containing the conditions of the work permit. In support of this submission, the prosecution cited *Yeo Choon Huat v PP* [1998] 1 SLR 217 for the proposition that an adverse inference could only be drawn against it, under s 116 illustration (g) of the Evidence Act, if it had withheld or suppressed the evidence. As it did not withhold any evidence which was in its possession, the prosecution contended that an adverse inference should not be drawn against it.

13 As can be seen from the above arguments, the parties only addressed myself and the district court on issues pertaining to the actus reus of the offence. No evidence relating to the appellants’ mens rea was adduced and there were no submissions as to whether this offence was a strict liability offence. After reading the relevant provision, I had doubts as to whether the presumption of mens rea, as stated by the Privy Council in *Lim Chin Aik v The Queen* [1963] AC 160, had been rebutted and that the offence is necessarily a strict liability offence. However, as I came to the conclusion that the actus reus of the offence had not been made out and also I did not receive full arguments on the issue of mens rea, I considered it neither necessary nor appropriate to deal with this issue in the present case.

The issues

14 Considering the arguments raised by the parties, three issues had to be resolved in order for this appeal to be disposed of. First, there was the question of whether there were any conditions attached to the issuance of Kuan's work permit for her employment under Forward Food and, if so, whether one of these conditions was that Forward Food was only entitled to employ Kuan in the capacity of a "Waiter/Waitress Supervisor". Second, if the answer to the first question was in the affirmative, there was the issue of what scope of duties the occupation of "Waiter/Waitress Supervisor" entailed. Finally, there had to be a determination of whether Kuan's duties fell under the scope of duties of a "Waiter/Waitress Supervisor". If the answer to this last question was in the affirmative, the appellants were not guilty of the offence for which they had been charged.

15 As stated above, one of the appellants' arguments before me was that no conditions were attached to Kuan's work permit. While it is true that the prosecution did not produce any document which precisely stated the scope of duties which Kuan could engage in, Tan did sign the application form for Kuan's work permit. In that form, Kuan's occupation was stated as "Waiter Supervisor/Waitress Supervisor". Under the section on employer's particulars, Forward Food was stated as Kuan's employer and its primary activity was listed as "Restaurant/Restaurants-cum-nightclubs". It was implicit that two conditions were attached to Kuan's work permit. First, Forward Food was to be Kuan's employer and second, she was to be employed in the capacity of a "Waiter/Waitress Supervisor" in its restaurant business. Approval for the work permit was obtained on this basis and I found the appellants' argument that there were no conditions attached to the work permit to be without merit.

16 I now turn to the issue of the scope of duties of a "Waiter/Waitress Supervisor" and whether Kuan acted in this capacity at her job. In this regard, I must confess that I felt some sympathy for the appellants. This was a far cry from the usual case where employers were caught hiring a foreigner with an invalid work permit, or where the work permit was flagrantly and unequivocally breached in the sense that the foreigner was employed for a job that was not in any way related to the occupation stipulated in his work permit. In this case, the appellants applied for a valid work permit for Kuan. As Tan testified, there was no category labelled "Stall Supervisor" listed in the work permit application form or he would have chosen that category. Faced with this situation, Tan chose the category which he thought was the most relevant, i.e. "Waiter/Waitress Supervisor".

17 Ultimately, this appeal turned on the issue of whether Forward Food's staff at its food outlets could properly be termed 'waiters'. The appellants argued that a broader definition of 'waiter' should be adopted to include people who serve food at counters in a food court. If this was accepted, there would have been nothing objectionable about the appellants' deployment of Kuan to supervise Forward Food's staff at its food outlets. On the other hand, if, as the prosecution argued, the word 'waiter' should be given its ordinary meaning, i.e. a person who waits on customers at a restaurant or caf and serves food to its customers, then there was a breach of the work permit conditions.

The strict construction rule

18 Counsel for the appellants argued that the word 'waiter' was ambiguous and ought to be construed in the appellants' favour. While no authority was cited for this proposition, he obviously referred to the rule of statutory construction which provides that penal statutes should be strictly construed in favour of accused persons. As I shall discuss below, this rule has been the subject of great criticism and is no longer an absolute rule. However, before dealing with the application of that rule, there was of course the question of whether it was proper to apply the rule to the construction of a document

which was obviously not legislative in nature. Applying a common sense approach to this question, I did not see why a court should not apply a rule of statutory construction, providing for a construction in favour of accused persons, to executive orders and conditions. One would expect the quality of drafting to be poorer in the cases of executive orders and conditions as compared to normal legislation. If so, should not an accused be afforded the same, if not better, treatment when a court construed such documents, which could result in penal sanction stipulated in a parent statute?

19 Having established that the rule could be applied, I then considered whether I should nevertheless refuse to apply it in the present case. This was because there exists a considerable body of learned opinion which believes that the rule should not be applied as strictly and absolutely as it has been in the past. I further noted that this rule is so controversial that, when commentators suggested adding it to the English Law Commission's draft criminal code for England, the Commission openly declared in its report, *Criminal Law: A Criminal Code for England and Wales* (Law Com no. 177, 1989) at para 3.17, that it was

> ..... sceptical whether such a principle really exists. It is of course often referred to by the courts, but it is rarely applied in practice. This is because the "principle" cannot sensibly be used as a rule for the resolution of all ambiguities. We do not think it would be acceptable for the Code to provide in effect that whether some arguable point of doubt arose about the interpretation of an offence the point should automatically be resolved in favour of the accused.

20 I was not surprised by the English Law Commission's reaction to the rule as the English courts have defined and applied it very liberally from the onset of its development. The passage most often quoted on this rule is taken from Lord Esher's judgment in *Tuck & Sons v Priester* (1887) 19 QBD 629 at 638, where he stated that:

> If there is a reasonable interpretation which will avoid the penalty in any particular case, we must adopt that construction. If there are two reasonable constructions we must give the more lenient one. That is the settled rule for construction of penal sections.

The rule, as expressed in the above passage, is unreasonably absolute and has therefore been criticised by many academics and judges. In fact, many courts have refused to apply the rule as it is stated above, adopting purposive, wider interpretations of penal statutes in the cases before them, even when these interpretations were detrimental to accused persons; see for example *Smiths v Hughes* [1960] 2 All ER 859; *A-G's Reference (No. 1 of 1988)* [1989] AC 971 and *R v Par* [1987] 2 SCR 618.

21 To my mind, it was therefore important to consider the theoretical basis of the rule and its applicability in the modern legal environment, where courts are more disposed to applying the purposive approach to statutory interpretation. The origins of the strict construction rule can be found in capital cases where the courts construed ambiguous statutory provisions *in favorem vitae* as this was regarded as a form of fairness to the individual. According to Professor Andrew Ashworth, "Interpreting Criminal Statutes: A Crisis of Legality?" (1991) LQR 419 at 432, the principle was subsequently carried over into other areas of criminal law, probably because criminal proceedings were viewed as an unequal contest between the individual and the State. This seems to be supported by the dicta of Wilson J in *R v Par* (1987) 60 CR (3d) 346 at 368. Furthermore, the editors of *Cross on Statutory Interpretation* (3rd ed.) opined, at 173, that the application of this rule in earlier cases like *R v Harris* (1836) 7 C & P 446 was justified on humanitarian grounds because of the manifest injustice brought about by other interpretations of a statute. These, however, have been rendered

unnecessary by the mitigation of the rigours of the criminal law. Moreover, courts have increasingly taken the view that an extreme slant in favour of the accused is not always desirable because it often defeats the purposes of the legislation and this in turn leads to some other form of injustice.

22 Having said the above, this does not mean that the rule has been, or should be, abolished. On the contrary, the rule has been affirmed, albeit in a modified manner, by many courts across the Commonwealth over the past few decades; see for example *Sweet v Parsley* [1970] AC 132 at 165; *DPP v Ottewell* [1970] AC 642 at 649; *R v Green* [1992] 1 SCR 614; *Beckwith v R* (1976) 12 ALR 333 and *Deming No 456 Pty Ltd v Brisbane Unit Development Corp Pty Ltd* (1983) ALR 1 at 15. The Singapore courts have also applied the rule on a number of occasions; see for example *Re Sim Khoon Seng's Application* [1963] 1 MLJ 9 and *Teng Lang Khin v PP* [1995] 1 SLR 372. More recently, I referred to the rule in two cases, *Choy Tuck Sum v PP* [2000] 4 SLR 665 and *PP v Tsao Kok Wah* [2001] 1 SLR 666, although I felt that it was not applicable in those cases.

23 I did not apply the strict construction rule in *Choy Tuck Sum v PP* and *PP v Tsao Kok Wah* as there was no ambiguity in the provisions that were being construed in those two cases. In such a situation, the rule would not be applicable and this position was supported by the various authorities which I have cited above. There is, in any event, another qualification which significantly narrows the application of this rule. As stated by Professor Glanville Williams, "Statute Interpretation, prostitution and the rule of law" in C.F.H. Tapper, *Crime, Proof and Punishment: Essays in Memory of Sir Rupert Cross* at 72,

> Nowadays the criminal courts rarely apply the rule of strict construction. They will still apply it if they are in genuine doubt as to the intention of the legislature and if there are no considerations indicating the desirability of a wide interpretation of the statute. But if the statute admits of alternative interpretations and public policy suggests that the wider interpretation should be preferred, the courts will usually apply the wider one.

The cases lend support to this view. In the English case of *DPP v Ottewell* at 649, Lord Reid stated:

> The Court of Appeal (Criminal Division) refer to the well established principle that in doubtful cases a penal provision ought to be given that interpretation which is least unfavourable to the accused. I would never seek to diminish in any way the importance of that principle within its proper sphere. But it only applies where after full inquiry and consideration one is left in real doubt.

The House of Lords then adopted a purposive interpretation of the relevant provision, taking the view that the strict construction rule was not a rule for the resolution of all ambiguities. This also seems to have been the position taken by Lord Parker in *Bowers v Gloucester Corporation* [1963] 1 QB 881.

24 The Australian courts have come to the similar conclusion that in construing penal statutes, Parliament's intent is important and its commands should not be weakened by an unduly open-handed approach to statutory interpretation: see *Scott v Cawsey* (1907) 5 CLR 132 at 154-5. In *Beckwith v R* at p 339, Gibbs J stated that:

> [t]he rule formerly accepted, that statutes creating offences are to be strictly construed, has lost much of its importance in modern times. In determining the meaning of a penal statute the ordinary rules of construction must be applied, but if the language of the statute remains ambiguous or doubtful the ambiguity or doubt may be resolved in favour of the subject by refusing to extend the

> category of criminal offences; see *R v Adams* (1935) 53 CLR 563 at 567-8; *Craies on Statute Law* 7th ed, pp 529-34. *The rule is perhaps one of last resort*. [emphasis added]

25 As for the Canadian position, Cory J held, in *R v Hasselwander* [1993] 2 SCR 398 at 413, that:

> … the rule of strict construction becomes applicable only when attempts at the neutral interpretation suggested by s.12 of the Interpretation Act still leaves reasonable doubt as to the meaning or scope of the text of the statute. As Professor Ct has pointed out, this means that even with penal statutes, the real intention of the legislature must be sought, and the meaning compatible with its goals applied.

26 As the above passages show, the strict construction rule is only applied to ambiguous statutory provisions as a tool of last resort. The proper approach to be taken by a court construing a penal provision is to first consider if the literal and purposive interpretations of the provision leave the provision in ambiguity. It is only after these and other tools of ascertaining Parliament's intent have been exhausted, that the strict construction rule kicks in in the accused person's favour.

Construction of the condition

27 Having determined the approach to be applied, I then considered the proper construction of the condition attached to Kuan's work permit. The first issue that had to be resolved was whether the use of the term 'waiter' in the condition was unequivocal. The obvious purpose of s 5(3) of the Employment of Foreign Workers Act is to ensure that the Ministry of Manpower is able to effectively regulate and monitor foreign employees. By laying down conditions to an employee's work permit, the Ministry would be able to monitor the places where they work as well as regulate the type of jobs which they do according to its prevailing policies. However, no meaningful interpretation of the condition could be made with this purpose in mind, since it was the manifestation of this policy which was the subject of construction and no evidence was led by the prosecution as to the Ministry's policy vis--vis "Waiter/Waitress Supervisors". That it was willing to grant work permits to foreigners for this job was clear since this was stated on its application form and such a work permit was in fact granted to Kuan. What was equivocal was the scope of duties of a "Waiter/Waitress Supervisor" and this, as I pointed out above, turned on the meaning of 'waiter'.

28 My first impression of the term ‘waiter’ was that its meaning was clear and that the actus reus of the offence had been made out. After all, 'waiters', as defined by most dictionaries, are people who wait on customers at a restaurant or cafes. However, the notes of evidence revealed that there is confusion amongst a segment of our population, and even in the Ministry of Manpower, as to its definition. Tan was obviously confused. And, as I have stated above, so was IO Ng. No doubt there are people who understand waiters to be persons who simply serve food to customers, whether over a counter or in a restaurant. The fact that there are people who hold a slightly different view on the definition of a term would not normally mean that a term is ambiguous in the sense that the strict construction rule should be applied. However, considering the special facts of this case, my view was that the term should be regarded as ambiguous.

29 The dictionary meaning of the words is not always the most appropriate meaning to accord to a word in a statute. Often, the meaning which should be accorded is that which would be understood by the reasonable person. This proposition was stated by Lord Diplock in *Black-Clawson International Ltd v Papierwerke Waldhof-Aschaffenberg AG* [1975] AC 591 at 638:

> The acceptance of the rule of law as a constitutional principle requires that a citizen, before committing himself to any course of action, should be able to know in advance what are the legal consequences that will flow from it. Where those consequences are regulated by a statute the source of that knowledge is what the statute says. In construing it the court must give effect to what the words of the statute would be reasonably understood to mean by those whose conduct it regulates. That any or all of the individual members of the two Houses of Parliament that passed it may have thought the words bore a different meaning cannot affect the matter. Parliament, under our constitution, is sovereign only in respect of what it expresses by the words used in the legislation it has passed.

In the present case, Tan, and no doubt a relatively significant proportion of our population, probably held the view that staff working at the counter of a food court outlet fell under the definition of 'waiter'. That an officer from the Ministry of Manpower, tasked with the investigation of the contravention of such conditions, proved unsure about the meaning of the term did not bode well for the prosecution's case since this made Tan's understanding all the more reasonable. It was unfair for the appellants to be convicted for the contravention of a condition, which the Ministry itself had no clear position on.

30 Considering the ambiguity of the term 'waiter' and the inapplicability of the other instruments of statutory interpretation, it was my opinion that the strict construction rule should be applied, and the ambiguity resolved in the appellants' favour. However, even if I had come to a different conclusion, I would nevertheless have allowed the appeal because of the Ministry's contribution to any misunderstanding that the appellants may have had. The appellants' understanding of the term "Waiter/Waitress Supervisor", at least vis--vis the Ministry of Manpower's position, was to a certain extent shaped by the form provided by the Ministry. The form misled the appellants, albeit not intentionally, into thinking that they fell within a category of applicants and they should accordingly not be faulted for such a belief. In this regard, I was mindful of Tan's testimony that the application form did not contain a category titled "Stall Supervisor" and he therefore chose "Waiter/Waitress Supervisor", that being the most similar or relevant category describing the job he wanted to employ Kuan for. Moreover he testified that after making the application, he was not informed of the scope of duties a "Waiter/Waitress Supervisor" was allowed to do. Presumably there was no indication on the application form on this, nor was there a note instructing uncertain applicants to refer to a Ministry officer to clarify if they were wrong to assume that they could then select the next most relevant category. In addition to this, there was probably no "others" category which could have been selected and followed up by the Ministry. It was unfortunate that the prosecution did not adduce a copy of the application form into evidence as this would have clarified whatever doubts I had on it. But in the circumstances, I felt that the appellants should be given the benefit of the doubt on this issue.

31 Considering the circumstances surrounding the work permit application, it was to my mind not unreasonable for the appellants to have formed the view that they could legitimately employ Kuan for the tasks of supervising counter staff at their food court outlets under the conditions laid down in her work permit. Tan's selection of the "Waiter/Waitress Supervisor" category was similarly unimpeachable. This was because people, when completing forms, usually select categories which best describe them or the information which they want to give. This would occur, even if their circumstances did not fall exactly within the literal meaning of any particular category. If the intention of the Ministry was to insist on exactitude, then it should have provided definitions of the various words, included an "others" category or directed applicants to enquire with a Ministry officer if there was any doubt. Employers should not be made to second guess the Ministry's policies that are

vaguely set out in its application form and be subsequently prosecuted for this.

32 To summarise, I found that there was ambiguity in the term 'waiter' which should be construed in the appellants' favour under the strict construction rule. The term 'waiter' should thus be taken to include counter staff working at food court outlets. As Kuan's tasks encompassed supervising such staff, the appellants had employed her in accordance with the conditions in her work permit. In addition to the above, I felt that it was unacceptable that the appellants should stand convicted because, to a certain extent, the Ministry contributed to their confusion. The Ministry was in a far superior position to procure accurate information. Instead, because of the miscommunication brought about by its application form, the appellants received what they reasonably perceived to be permission to employ Kuan as a stall supervisor. I would not go so far as to say that the Ministry's form had to be perfectly defined since this would have cumbersome and onerous consequences on the operations of the government. However, as I have stated above, there are other means through which information can be solicited from, and given to, applicants, who may be uncertain as to the categories in a form when their circumstances do not readily fall within the strict confines of those categories. These methods of ensuring that there was no miscommunication between the ministry and the appellants were not present and it would be unjust for them to be thus convicted.

33 For the above reasons, I allowed the appellants' appeals against their conviction.

Appeal allowed.

Sgd:

YONG PUNG HOW
Chief Justice