

Beckett Pte Ltd v Deutsche Bank AG and Another
[2005] SGHC 105

Case Number : Suit 326/2004, SIC 2432/2005, 2433/2005
Decision Date : 27 May 2005
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Quentin Loh SC, Ronald Choo, Sim Kwan Kiat and Kelvin Poon (Rajah and Tann) for the plaintiff; Stanley Lai and William Ong (Allen and Gledhill) for the first defendant; Kenneth Tan SC, Soh Wei Chi (Kenneth Tan Partnership) and Corrine Taylor (Ng Chong and Hue LLC) for the second defendant; Molly Lim SC and Ambrose Chia (Wong Tan and Molly Lim LLC) for the intervener; Philip Jeyaretnam SC (Rodyk and Davidson) for Rudy Investments

Parties : Beckett Pte Ltd — Deutsche Bank AG; PT Dianlia Sety Amukti

*Civil Procedure – Injunctions – Application for interim injunction restraining sale of shares
– Whether court should grant injunction*

27 May 2005

Choo Han Teck J:

1 I begin with the conspiracy theory that Mr Ronald Choo, counsel for the plaintiff, had outlined with such clarity that I was able to understand and appreciate the corporate history between the two opposing factions, and one that was played out by a large cast, through a labyrinth of corporate bodies, some of whom have yet to be identified; and perhaps never will. Conspiracy theories, however, are usually not believed, except by the hero of the story and his ally.

2 The story as Mr Choo narrated was fascinating, and utterly intriguing; and at this moment, I am persuaded that many questions will have to be asked at trial and that a strong *prima facie* case for an injunction had been made out on the issues. But it is still unclear whether the conspiracy, if ultimately proved, was a conspiracy to injure the plaintiff in a way that renders the defendants liable in law, or whether it was a series of complex manoeuvres by corporate Jedis. That is the serious matter for the trial judge to decide.

3 I will now deal with the issues that will determine whether an injunction order against the second defendant from disposing of shares in two Indonesian companies ought to be granted as prayed for. In this regard, I have not demarcated the individual tests and have not considered them separately. Instead, I considered them side-by-side, adding and subtracting the points made by counsel as I went along; amalgamating the points and arguments into a whole so that the final decision of whether to grant the order could be made as fairly as possible.

4 There is no question of the urgency of this interim application because there is a likelihood that the Adaro shares would be disposed of shortly. But that is not to say that they would be put completely out of the plaintiff's reach. It means that, in the workings of the corporate world, the plaintiff would need to have a longer, firmer reach if it wishes to see the Adaro shares secured in its stable of companies.

5 This case concerns a great amount of money. It concerns the value of a certain coalmine in Indonesia, and the reflection of that through the value of shares in Adaro and IBT, the port terminal company. It concerns the ability to satisfy damages by the party who loses this suit.

6 And here is where all the factors that require to be considered appear to blend inextricably together. The result is this: I am satisfied that there is a serious and intriguing case for trial, and because it is a complex case, many obstacles are likely to surface from now till the trial that may stymie either side. The key factor that rises above this blend of pros and cons is the question of the adequacy of damages. On the balance, I find this in favour of the defendants, not only in terms of the prospect of the plaintiff's ability to recover the damages, if awarded, or the ability to quantify such damages, but also in terms of the plaintiff's slightly fainter ability to satisfy any award of damages against it.

7 Lastly, I revert to the primary question, whether an order granting the injunction prayed for would create more prejudice or unfairness than an order not granting it. In this regard, I lean in favour of not granting the injunction.

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