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

[2023] SGHC 327

Suit No 170 of 2014 (Summons No 2036 of 2023)

Between

(1) Lim Siew Fern

… Plaintiff

And

(1) Tan Beng Yong
(2) Ho Shen Shen
(3) Agile Accomm Pte Ltd

… Defendants

And

(1) Tan Meng Hin

...Third Party

GROUNDS OF DECISION

[Civil Procedure — Experts — Principles for court intervention in valuation]
[Civil Procedure — Disclosure of documents — Confidential documents referred to in independent expert's report]
[Companies — Oppression — Minority shareholders — Valuation of shares for buyout — Principles for court intervention]

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Lim Siew Fern
v
Tan Beng Yong and others
(Tan Meng Hin, third party)

[2023] SGHC 327

General Division of the High Court — Suit No 170 of 2014 (Summons No 2036 of 2023)
Wong Li Kok, Alex JC
29 September 2023

17 November 2023

Wong Li Kok, Alex JC:

Introduction

1 This present summons is the latest in a series of summonses taken out by the plaintiff in a long-running dispute between the plaintiff and the defendants. The plaintiff, who held shares in the third defendant as a nominee of Seaquest Enterprise Pte Ltd ("Seaquest"), had previously succeeded in an action against the defendants for minority oppression. That decision was published in *Seaquest Enterprise Pte Ltd v Agile Accomm Pte Ltd and another suit* [2016] SGHC 51 ("*Seaquest (GD)*"). The court in that suit had ordered that the plaintiff be bought out to enable her to realise the value of her shares at a

fair value, as valued by an independent valuer.[1] This purchase of the plaintiff's shares was to be made by the first defendant or the second defendant.[2]

2 KPMG Services Pte Ltd ("KPMG") was appointed by the parties to carry out the said valuation (the "Original Valuation").

3 As the valuation was being conducted, KPMG was also asked to make an additional assessment as to whether related party transactions ("RPT") between the third defendant and Exquisite Accomm Pte Ltd (a related party of the third defendant) ("Exquisite") were arm's length transactions for fair value (the "RPT Review").

4 In the course of this additional assessment, KPMG identified four invoices (numbered 30157, 30158, 30159 and 30160) issued by Exquisite to the third defendant (the "Four Invoices") which were relevant to the RPT Review.

5 KPMG's work on the RPT Review was however hampered by the unavailability of electronic and physical documents from the third defendant as a result of a server crash and the disposal of physical documents by employees of the third defendant respectively. Further details of this loss of data are provided at [44] below.

6 KPMG issued its final report on the RPT Review on 26 June 2023.

7 The plaintiff applied for an order for the Four Invoices to be disclosed to allow the plaintiff to provide inputs to KPMG on the RPT Review (based on

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1 HC/JUD 419/2016 at para 1.

2 HC/JUD 419/2016 at para 5.

the plaintiff's market knowledge of similar transactions and pricing) so that a supplementary report could be produced by KPMG.

8 I dismissed the plaintiff's application for the reasons set out below and the plaintiff has appealed against the decision.

Facts

The parties

9 The plaintiff in this present summons, Mdm Lim Siew Fern ("Mdm Lim"), was the plaintiff in HC/S 170/2014 and the registered owner of 45,000 shares in the third defendant, Agile Accomm Pte Ltd ("Agile") (*Seaquest (GD)* at [5]). She held the shares as a nominee for Seaquest (*Seaquest (GD)* at [11]). Seaquest was incorporated in 2003 and had been in the business of, *inter alia*, shipbuilding and ship repairing (*Seaquest (GD)* at [3]).

10 The third defendant, Agile, was incorporated in 2009 to carry on the business of marine accommodation work for shipbuilding. The first defendant, Mr Tan Beng Yong, was a director and majority shareholder of Agile. His wife, Mdm Ho Shen Shen, was also a director and shareholder of Agile and she was the second defendant in the suit (*Seaquest (GD)* at [4]).[3]

11 Seaquest and Agile were once business partners (*Seaquest (GD)* at [6]). Their relationship subsequently broke down, which led to the commencement of litigation by Seaquest and Mdm Lim against Agile (*Seaquest (GD)* at [9]).

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[3] Affidavit of evidence-in-chief filed by Mdm Ho Shen Shen dated 27 April 2015 at paras 1 and 4.

Background to the dispute

12 In HC/S 170/2014, the plaintiff (as nominee of Seaquest) had alleged that the first and second defendants had conducted themselves in relation to the third defendant's general meetings in a commercially unfair manner. Resolutions had been passed notwithstanding the lack of quorum and, as a result, the plaintiff's interest (as a nominee of Seaquest) in the third defendant was diluted from 45% to 9%. An additional 400,000 shares in the third defendant were also issued, which were never offered to the plaintiff, and both of these actions were in breach of the third defendant's articles of association. Further, the first and second defendants, as directors of the third defendant, chose to pay a large amount of directors' remuneration for the financial year 2012 without the concurrent declaration of any dividends, thus preferring the directors' interests at the expense of shareholders. The court found that there had been a breach of the plaintiff's legal rights under the articles. In an oral judgment dated 3 December 2015 (*Seaquest (GD)* at [1]),[4] the court ordered the plaintiff to be bought out pursuant to s 216(2)(*d*) of the Companies Act (Cap 50, 2006 Rev Ed) ("Companies Act") to enable her to realise the value of the shares held as a nominee of Seaquest at a fair value as determined by an independent valuer. The valuation was to be conducted on the basis that the 400,000 new shares had not been issued and the excessive directors' remuneration had not been made (*Seaquest (GD)* at [12]).

13 On 3 October 2016, KPMG was jointly engaged by the parties to value the plaintiff's shares.[5]

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4 HC/JUD 419/2016.

5 Affidavit of Tan Beng Yong dated 17 June 2017 ("TBY-2017 06 17") at para 36.

14 The valuation process was not smooth. On 18 May 2017, the plaintiff filed HC/SUM 2313/2017 seeking an order for the defendants to provide to KPMG and to the plaintiff the defendants' responses to certain requests for documents and information.[6] HC/SUM 2313/2017 was heard by Kannan Ramesh J (as he then was). Ramesh J ordered the plaintiff to seek KPMG's view on the summons. KPMG did not take a position on the plaintiff's summons because the plaintiff's summons pertained to matters that were outside KPMG's scope of work.[7] The plaintiff withdrew HC/SUM 2313/2017 on 7 August 2017.[8]

15 On 29 September 2017, the plaintiff took out HC/SUM 4540/2017 seeking, *inter alia*, an expansion of KPMG's scope of work to include expressing a view on whether and/or to what extent the information provided to KPMG was reliable, and to perform an investigation of the documents made available to KPMG in the course of the valuation exercise.[9] HC/SUM 4540/2017 was dismissed by Ramesh J on 20 April 2018.[10]

16 On 29 May 2019, the plaintiff took out HC/SUM 2735/2019. This summons is the genesis of the events that led to the present summons. In HC/SUM 2735/2019, the plaintiff sought orders for, *inter alia*, either KPMG or another independent expert to review and provide an opinion on the RPTs and a determination of whether these transactions had been conducted on an arm's length basis (*ie,* the RPT Review). In addition, the plaintiff sought an order for KPMG to take into account the findings from the RPT Review in its valuation

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6 HC/SUM 2313/2017.

7 Affidavit of Tan Meng Hin dated 29 September 2017 ("TMH-2017 09 29") at para 15.

8 Minute Sheet of the court for HC/SUM 2313/2017 dated 7 August 2017.

9 HC/SUM 4540/2017.

10 HC/ORC 4389/2018.

exercise and valuation report. The plaintiff's chief complaint was that the third defendant's Audited Financial Statements for the Year Ending 30 June 2016 ("FY2016 Audited FS") showed that a large part of the third defendant's trade payables consisted of a "[p]urchase of goods" worth $4,957,891, which was recorded in the "[r]elated party transactions" section of the FY2016 Audited FS.[11] These transactions were carried out between the third defendant and Exquisite.[12] While the defendants assert that the transactions were conducted on an arm's length basis and involved the supply of materials by Exquisite to the third defendant,[13] the plaintiff was dissatisfied with this assertion. The plaintiff noted that Exquisite was a company in which the second defendant was the sole director, and the first and second defendants were the only shareholders.[14] Moreover, Exquisite apparently utilised the same office premises and same staff as the third defendant, and any purchase of materials by the third defendant should have been done by the third defendant directly, instead of using Exquisite as a middleman.[15] The plaintiff also complained about the suspicious timing and pricing of the RPTs. The RPTs were entered into, according to the defendants, for projects known as "Projects H1112 and H1118".[16] The plaintiff asserted that it was suspicious that significant trade payables to Exquisite were incurred in financial year 2016 for projects that were apparently completed in January 2015.[17] The plaintiff also complained that the RPTs, which were supposedly for material purchased for the aforesaid projects, were for a commercially

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11 Affidavit of Tan Meng Hin dated 29 May 2019 ("TMH-2019 05 29") at para 48(e).

12 TMH-2019 05 29 at para 50.

13 TMH-2019 05 29 at para 50.

14 TMH-2019 05 29 at para 53(a).

15 TMH-2019 05 29 at paras 53(d) and (e).

16 TMH-2019 05 29 at para 50.

17 TMH-2019 05 29 at para 53(f).

impossible amount, given that the material costs for the aforesaid projects would have constituted more than two-thirds of the total contract value if the pricing of the RPTs was true.[18] Ramesh J largely granted the orders sought by the plaintiff in HC/SUM 2735/2019. The material terms of Ramesh J's orders are set out below at [24].

17 On 20 May 2022, the plaintiff took out HC/SUM 1901/2022. This was an application for orders varying the terms of KPMG's appointment for the valuation exercise for the plaintiff's shares, and fixing the terms of KPMG's RPT Review. In summary, KPMG had proposed a higher charge for the valuation exercise in view of delays in the valuation exercise.[19] Prior to the hearing of HC/SUM 1901/2022, parties agreed to the higher charge, so this issue fell away.[20] The live issue before the court for HC/SUM 1901/2022 was the terms of the RPT Review, including the scope of work to be undertaken by KPMG and the timelines for KPMG's review.[21] For present purposes, it suffices to mention that on 30 August 2022, Ramesh J gave orders for the variation of the terms of appointment of KPMG for the valuation exercise for the plaintiff's shares to revise the fees payable to KPMG,[22] and also fixed the terms of the RPT Review.[23]

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18 TMH-2019 05 29 at paras 54(e) and 55.

19 Affidavit of Tan Meng Hin dated 20 May 2022 ("TMH-2022 05 20") at para 21.

20 TMH-2022 05 20 at paras 32 and 37.

21 Plaintiff's submissions for HC/SUM 1901/2022 dated 5 August 2022 at para 6.

22 HC/ORC 4522/2022 at para 1.

23 HC/ORC 4522/2022 at para 2.

18 The letter setting out the finalised engagement terms for KPMG to carry out the RPT Review, as signed by the parties, was dated 22 September 2022.[24] On 31 May 2023, KPMG e-mailed the draft RPT Review report to the parties[25] and gave them one week to comment on the draft report, after which no further comments would be accepted. At para 5.1.2 of the draft RPT Review report,[26] KPMG flagged the existence of the Four Invoices, which appeared *prima facie* relevant to the RPT Review. On 7 June 2023, the plaintiff's solicitors e-mailed KMPG to convey her position, with accompanying reasons, that three identified suppliers which had supplied materials to Exquisite in relation to the Four Invoices should be contacted by KPMG for further investigation.[27] That same e-mail from the plaintiff's solicitors further indicated that the plaintiff could help put KMPG in touch with said suppliers, if needed. Thereafter, on 26 June 2023, KPMG e-mailed the solicitors for the respective parties the finalised RPT Review Report and explained why KPMG did not find it helpful to take up the plaintiff's suggestion of contacting the said suppliers.[28]

19 On 7 July 2023, the plaintiff took out HC/SUM 2036/2023, which is the present summons before this court. In this summons, the plaintiff sought (a) disclosure by KPMG to the plaintiff of all versions of the Four Invoices in KPMG's possession; (b) that the plaintiff be given an opportunity to provide her comments on KPMG's report after KPMG's disclosure of the Four Invoices;

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24 Affidavit of Tan Beng Yong dated 2 August 2023 ("TBY-2023 08 02") at pp 26–45.

25 TBY-2023 08 02 at para 13; Affidavit of Tan Meng Hin dated 7 July 2023 ("TMH-2023 07 07") at p 182.

26 TMH-2023 07 07 at p 215.

27 TBY-2023 08 02 at p 24.

28 TBY-2023 08 02 at p 47.

and (c) that KPMG accounts for the plaintiff's comments in the revision of its report or in a supplementary report.[29]

The parties' cases

20 The plaintiff's case may be summarised as follows:

(a) Whilst KPMG had finalised its report on the RPT Review, the plaintiff contended that she was able to provide additional information (such as contact with the suppliers involved with the Four Invoices) to KPMG which might help KPMG arrive at a different conclusion on the RPT Review. The plaintiff argued that she had substantial industry knowledge that could be helpful in allowing KPMG to reach a different conclusion. Amongst other things, the plaintiff submitted that Seaquest carried out projects similar to the projects to which the RPT Review relate.[30]

(b) There was no prejudice in allowing the plaintiff to take this additional step and to prolong the RPT Review as the plaintiff had already waited this long for a proper valuation.[31]

(c) The plaintiff added that the information she wanted to provide was not intended to interfere with the independence of the RPT Review, but was merely information which KPMG could use to update the RPT Review which had already been finalised, should they wish to do so. The plaintiff also submitted that she would not object should any of the

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29 HC/SUM 2036/2023.

30 Plaintiff's Written Submissions dated 23 August 2023 ("PWS") at paras 25–30.

31 Plaintiff's oral submissions on 29 September 2023 ("POS").

defendants wish to also provide additional information to KPMG for the same purposes.[32]

(d) Connected with [20(a)] above, the plaintiff made reference to a data loss incident involving the third defendant (which included data related to the RPT Review and which prevented KPMG from undertaking a more detailed examination of the Four Invoices) which appeared convenient.[33] The plaintiff expressed suspicion[34] as to the separate incidents that had led to the loss of both softcopy and hardcopy records relating to a substantial number of documents related to the RPT Review (collectively the "Data Loss Incidents").[35]

21 The defendants made the following points in their arguments resisting this application:

(a) This application is the fifth in a long line of applications on the part of the plaintiff that has delayed and prolonged the valuation of the plaintiff's shares in the third defendant. KPMG was first appointed in October 2016 for the valuation exercise and the cost of the exercise was intended to be $45,000. This has now ballooned to $440,000 for the RPT Review alone.[36]

(b) The application was an indirect way for the plaintiff to obtain confidential information on the third defendant's operations and

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32 POS.

33 PWS at paras 15–23.

34 PWS at para 16.

35 TMH-2023 07 07 at paras 8–13.

36 Defendants' Written Submissions dated 23 August 2023 ("DWS") at paras 4–6.

proprietary pricing information in contravention of the spirit of Ramesh J's orders in HC/SUM 2735/2019, one of which being that information made available to KPMG by Agile for the purpose of the RPT Review should not be disclosed to the plaintiff unless otherwise directed by the court.[37]

(c) The points and issues that the plaintiff wanted to share with KPMG had already been covered in KPMG's review.[38]

(d) The plaintiff was not in a position to replace KPMG as the forensic investigator appointed by the court for the RPT Review.[39]

(e) KPMG had conducted an evaluation and determined that there was no foul play with respect to the Data Loss Incidents.[40]

(f) This application was a last-ditch attempt by the plaintiff to change the decision that KPMG had already made in the RPT Review.[41]

Issue to be determined

22 The single issue to be determined is whether the court should intervene in the RPT Review and order the Four Invoices to be disclosed to the plaintiff in order to provide KPMG with additional information, if any, for the purposes of the RPT Review and thus require KPMG to revise its report or to produce a supplementary report.

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37 DWS at paras 7–12.

38 DWS at paras 13–17.

39 DWS at paras 18–23.

40 DWS at paras 24–30.

41 DWS at paras 31–34.

23 In order to address this issue, I considered the following points:

(a) the basis of the RPT Review, *ie,* the Orders of Court which established the scope of the RPT Review and the appointment of KPMG to undertake the RPT Review; and

(b) the review carried out by KPMG leading up to the release of the document titled "HC/SUM No. 1901 of 2022 Report of Owen M. Hawkes" dated 26 June 2023 (the "RPT Final Report") including the review of the Data Loss Incidents.

Basis of the RPT Review

24 The basis of the RPT Review was the order of Ramesh J, dated 13 February 2020, in HC/SUM 2735/2019 and it is useful to set out the order in full:

> 1. That, for the purposes of the valuation of the shares of the 3rd Defendant (the "Company") as contemplated in the Judgment dated 3 December 2015 in these proceedings, KPMG Services Pte Ltd ("KPMG") be appointed to review and provide an opinion on the related party transactions amounting to SGD 4,957,891 as recorded at Note 18 of the Company's Audited Financial Statements for the Year Ended 30 June 2016 and a determination of whether such transactions had been conducted on an arm's length basis (the "Related Party Transactions Review") under expanded terms of reference subject to the following conditions:
>
> > a. costs of the Related Party Transactions Review shall be borne initially by the Plaintiff subject to final directions by the court following the conclusion of the Related Party Transactions Review;
> >
> > b. information that is made available to KPMG by the Company for the purpose of the Related Party Transactions Review shall not be disclosed to the Plaintiff unless otherwise directed by the court;
> >
> > c. the Company shall provide KPMG such information as may be relevant and necessary for the purpose of the

> Related Party Transactions Review as requested by KPMG; and
>
> d. the parties shall not unilaterally offer representations to KPMG during the course of the Related Party Transactions Review, such representations to be made only as regards the draft report of KPMG, as provided in paragraph A.5.1 of Appendix A of KPMG's letter of engagement dated 3 October 2016.
>
> 2. Further, that KPMG shall take into account the findings from the Related Party Transactions Review in its valuation exercise and valuation report, and the scope of work of KPMG be expanded accordingly, if necessary.
>
> 3. There be no order on prayer 3 [*ie*, an alternative prayer rendered moot by Order 1 above].
>
> 4. The costs of the Related Party Transactions Review and this application to be reserved to after the conclusion of the Related Party Transactions Review by KPMG.

25 The plaintiff had stated in her application that the application was made pursuant to para 1(b) of Ramesh J's order of 13 February 2020.

26 For the sake of completeness, it is also useful to set out the original judgment of the court, issued by Edmund Leow JC (as he then was), dated 3 December 2015 ordering the Original Valuation:

> 1. The Plaintiff is to be bought out to enable the Plaintiff to realise the value of her shares held as a nominee of Seaquest Enterprise Pte Ltd at a fair value pursuant to section 216(2)(d) of the Companies Act, as valued by an independent valuer on the basis of a fair market value as of the date of the oral judgment (ie. 3 December 2015).
>
> 2. Parties are to agree on the appointment of an independent valuer and if they are unable to do so within 6 weeks hereof they are to write to this court to appoint the same.
>
> 3. The independent valuer is to assess the value of the 3rd Defendant's shares on the basis of the fair market value on the assumption that the 400,000 new shares had not been issued, and the excessive directors' remuneration for the financial year 2012 was not paid out.

> 4. The independent valuer is to assess what would be a reasonable remuneration for the directors to have paid themselves in light of the 3rd Defendant's profits and the non-declaration of shareholder dividends so as to enable the valuer to determine the excess remuneration which would be deemed to be refunded to the 3rd Defendant for the purpose of determining the fair market value of the Plaintiff's shares in the 3rd Defendant.
>
> 5. The purchase of the Plaintiff's shares in the 3rd Defendant can be made by the 1st Defendant or the 2nd Defendant, and should be completed within three months of the valuation being made.
>
> 6. The Plaintiff is to receive the purchase price on trust for Seaquest Enterprise Pte Ltd.
>
> 7. The Defendants' claim against the Third Party is dismissed.
>
> 8. The 1st Defendant and the 2nd Defendant are to pay the costs of the proceedings, including the costs of the third party proceedings, to Seaquest Enterprise Pte Ltd.
>
> 9. Costs to be taxed if not agreed.
>
> 10. Parties are at liberty to apply in relation to the modalities involved in implementing the directions.

27 In compliance with the order given by Ramesh J dated 13 February 2020 in HC/SUM 2735/2019, the parties jointly agreed on engagement terms appointing KPMG for the RPT Review, which included a detailed scope of work and methodology. KPMG's appointment took some time to complete as there was disagreement between the parties as to the engagement terms and scope of the review. In fact, the appointment was not finalised until 22 September 2022, after a further Order of Court dated 30 August 2022 was issued where Ramesh J ordered the parties to execute KPMG's engagement letter for the provision of forensic advisory services ("KPMG's Engagement Letter").[42]

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42 TBY-2023 08 02 at pp 26–45.

KPMG's work on the RPT Review

28 By their very nature, forensic investigations are intended to be detailed and thorough. In that pursuit, the methodology behind the investigation is just as important as its substantive objectives. This explains the detailed scope of work and methodology set out in Appendices A through C of KPMG's Engagement Letter for carrying out the RPT Review.

29 It is not necessary to set out here all the details of the RPT Review, but the summary below is helpful to understand the key aspects of the review.

(a) KPMG's methodology for gathering evidence relevant to the RPT Review included interviews with personnel relevant to the RPT Review – for example, the first defendant was interviewed on three occasions[43] – and the extraction of documents in both physical and soft copies.[44]

(b) As part of the RPT Review, KPMG also conducted a thorough analysis of the Data Loss Incidents and this is addressed at [37]–[45] below.

(c) Finally, and based on the evidence obtained, KPMG identified the Four Invoices as being relevant to the RPT Review, *ie,* relevant to whether the third defendant had overpaid Exquisite for the materials purchased under each of these invoices.[45]

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43 TMH-2023 07 07 at pp 27–28 (RPT Final Report) at para 3.3.1.

44 TMH-2023 07 07 at pp 30–35 (RPT Final Report) at paras 3.4 and 3.6.

45 TMH-2023 07 07 at p 22 (RPT Final Report) at para 2.3.1.

30 I will summarise briefly the analysis undertaken by KPMG with respect to the Four Invoices.

(a) Due to the Data Loss Incidents, only one of the Four Invoices revealed sufficient information to allow KPMG to undertake the arm's length analysis – invoice 30158 ("Invoice 30158").

(b) Invoice 30158 (and its accompanying purchase order) had specific line items (descriptions) of particular materials purchased by the third defendant from Exquisite. KPMG did not have corresponding documentation that showed the cost at which Exquisite purchased the same materials from its suppliers. There was thus no direct line by line (or material by material) comparison of the price at which Exquisite paid for materials and the price at which it sold those same materials to the third defendant, which could be used to determine the price mark-up.[46]

(c) KPMG did, however, have access to pricing spreadsheets which the third defendant had used for certain projects and which contained pricing information for materials which were the same as or similar to the materials in Invoice 30158 ("Individual Pricing Spreadsheets").[47]

(d) KPMG organised the various line items for materials from Invoice 30158 into groups (or brackets). KPMG then compared the pricing for these brackets ("RPT Bracket Prices") against the pricing for the same or similar brackets derived from the Individual Pricing Spreadsheets ("Reference Bracket Prices") to ascertain the difference in

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46 TMH-2023 07 07 at p 22 (RPT Final Report) at paras 2.3.1 and 2.3.2.

47 TMH-2023 07 07 at pp 22–23 and 54–59 (RPT Final Report) at paras 2.3.3, 2.3.5 and 5.4.

prices (after making calculations for the same amount of materials purchased as in Invoice 30158) and summarised its findings in the RPT Final Report.[48]

(e) For the sake of completeness, KPMG also had 2,253 supplier invoices from the third defendant's other suppliers for the period from 2018–2022 from which it wanted to extract a similar bracket comparison as that used for the Individual Pricing Spreadsheets, but KPMG was unable to do so.[49]

31 Based on KPMG's analysis as described in [30], KPMG concluded that the RPT Bracket Prices exceeded the Reference Bracket Prices by between 5% to 20%, depending on the brackets in question.[50] Specific to Invoice 30158, KPMG concluded that the RPT Bracket Prices exceeded the Reference Bracket Prices by $233,051.32 which comprises 13.33% of the total invoice value of $1,748,104.40 for Invoice 30158. KPMG noted that the third defendant did not appear to have made a loss on the transaction involving the materials purchased under Invoice 30158 but the profit would have been lower.[51]

32 When this conclusion was extrapolated and compared against the total value of transactions subject to the RPT Review ($4,957,891.00), KPMG

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48 TMH-2023 07 07 at p 23 (RPT Final Report) at para 2.3.5.

49 TMH-2023 07 07 at pp 21–22 and 48–54 (RPT Final Report) at paras 2.2.1(second sub-paragraph), 2.3.2, 2.3.4 and 5.3.

50 TMH-2023 07 07 at pp 23 and 24–25 (RPT Final Report) at paras 2.3.6 and 2.3.12(b).

51 TMH-2023 07 07 at pp 25 and 62 (RPT Final Report) at paras 2.3.14 and 5.5.9.

concluded that the value of the third defendants' transactions with Exquisite would exceed equivalent arm's length transactions by $660,969.10.[52]

33 Whilst being cautious on the strength of its conclusions given the paucity of evidence, and bearing in mind that the first defendant had given explanations in his interviews with KPMG as to why there was a difference between the RPT Bracket Prices and the Reference Bracket Prices,[53] KPMG concluded that there was some evidence that some of the RPTs were not carried out on an arm's length basis[54] but stressed that its extrapolations as set out at [32] were a reasonable assumption rather than a concrete conclusion.[55]

34 KPMG prepared a draft report which was shared with the parties for comment on 31 May 2023. Comments on the draft report were received by KPMG on 7 June 2023 and those comments were considered by KPMG before the RPT Final Report was finalised on 26 June 2023.[56]

35 Specifically, there was an e-mail dated 7 June 2023 from the plaintiff's counsel to KPMG where the plaintiff first broached the idea of KPMG contacting some of Exquisite's suppliers in relation to the Four Invoices (identified as Staco, Sungmi and Morgan Technical Ceramics) to verify their invoices to Exquisite.[57]

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52 TMH-2023 07 07 at pp 25 and 64 (RPT Final Report) at paras 2.3.14, 2.3.15, 5.6.9 and 5.6.10.

53 TMH-2023 07 07 at p 63 (RPT Final Report) at para 5.6.6(b).

54 TMH-2023 07 07 at pp 25 and 64 (RPT Final Report) at para 2.3.14 and 5.6.9.

55 TMH-2023 07 07 at pp 25 and 64 (RPT Final Report) at para 2.3.15 and 5.6.10.

56 TMH-2023 07 07 at p 18 (RPT Final Report) at para 1.2.4.

57 TBY-2023 08 02 at p 24; TMH-2023 07 07 at paras 18–20.

36 KPMG responded to this e-mail on 26 June 2023 where it stated:[58]

> We wish to highlight two matters:
>
> > 1. Regarding the Plaintiff's proposal to contact the three overseas vendors, we do not have information as to the complete list of specific line items from the Four Invoices were supplied by the three vendors. We have endeavoured to use transactions that are both contemporary and with Agile Accomm, in providing the closest possible analogues in the circumstances. We do not expect these vendors to be required to retain records which would be relevant to the Four Invoices (i.e. sales to Exquisite/Agile on or before 23 November 2015), as it has been more than 7 years since the relevant transactions. In addition, more recent transactions will be less relevant, and we consequently have used them only where necessary. We are therefore of the view that it would not likely be useful to send blanket confirmation of prices relevant at that time.
> >
> > 2. We note the Plaintiff's application to file for the disclosure of documents. We will await the Court's instructions on such disclosures, and/or whether a subsequent supplementary report should be issued on the basis of further procedures to be performed.

The Data Loss Incidents

37 The plaintiff relied on the Data Loss Incidents as one of the reasons why she should be allowed to review the Four Invoices and to provide KPMG with the plaintiff's inputs, if any. Put in another way, the plaintiff argued that if the Data Loss Incidents had not occurred, KPMG would have had sufficient information to enable it to carry out a more thorough RPT Review.[59]

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58 TBY-2023 08 02 at p 47.

59 PWS at paras 19–23.

38 The RPT Final Report[60] pointed to the general absence of documents (including e-mails relating to the Four Invoices):[61]

> 2.2.1 A summary of the absence of documents relevant to the RPT Review, arising from the Data Loss Assertions, is as follows:
>
> — Apart from the Hardcopy Invoice 30157, there are no further hardcopy Relevant Documents available, purportedly due to the Document Disposal;
>
> — There are no emails for the Relevant Period found in Mr Tan's Email and Ms Lim's Email, purportedly due to the Provider Switch. From the NAS, we have identified only 82 emails from the abovementioned period, none of which is relevant to the RPTs; and
>
> — Apart from the Relevant Documents listed at paragraph 3.6.12 of this Report, we have not identified further Relevant Documents stored on the NAS, purportedly due to the NAS Crash.

39 This led to KPMG only being able to carry out the RPT Review on the basis of limited documents, as set out in the RPT Final Report:[62]

> 2.2.6 In order to ascertain whether the RPTs were conducted on an arm's length basis, a cost comparison between the purchase price of materials from Exquisite, and the third-party supplier prices for the same stock would be relevant. However, there is again an absence of relevant information to perform such a comparison, purportedly explained by the Data Loss Assertions.
>
> 2.2.7 Consequently, the RPT Review relies on the limited documents identified from the evidence gathering procedures summarised at paragraph 2.1.1 above. There are therefore significant limitations to the RPT Review set out at section 5 of this Report.

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60 TBY-2023 08 02 at pp 49–101.

61 TMH-2023 07 07 at p 21 (RPT Final Report) at para 2.2.1.

62 TMH-2023 07 07 at pp 21, 44 and 62 (RPT Final Report) at paras 2.2.6 and 2.2.7 (summary) and at paras 4.6.4, 4.6.7 and 5.6.1.

40 In the plaintiff's view, this hampered KPMG's conduct of the RPT Review.[63]

41 When preparing the RPT Final Report, KPMG conducted a detailed investigation of the Data Loss Incidents and how they occurred including:

(a) three interviews with the first defendant;[64]

(b) interviews with the third defendant's employees allegedly present at the third defendant's warehouse at the time the hardcopy records were disposed of;[65] and

(c) interviews with Ever Higher Data Recovery Centre Pte Ltd ("Ever Higher") whom the third defendant had engaged to assist with data recovery of the softcopy records following the Data Loss Incidents.[66]

42 KPMG's findings on the Data Loss Incidents were ultimately inconclusive as to whether there had been any intentional actions by the defendants that led to the Data Loss Incidents. The RPT Final Report states:[67]

> 4.6.2 The statements made in Interviews by Mr Yeow, Mr Lim, Mr Pang of Agile Accomm are consistent with, without being conclusive of, Mr Tan and Ms Lim's statements during their Interviews, insofar as they state that (i) specific Agile Accomm employees had stayed in Agile's Warehouse during the Circuit Breaker period; and that (ii) there were no explicit instructions

63 PWS at para 22.

64 TMH-2023 07 07 at pp 27–28 (RPT Final Report) at para 3.3.1.

65 TMH-2023 07 07 at pp 27–28 and 36–38 (RPT Final Report) at para 3.3.1, 4.3.1 and 4.3.2.

66 TMH-2023 07 07 at pp 35 and 41 (RPT Final Report) at para 3.7.2 and 4.5.3.

67 TMH-2023 07 07 at p 43 (RPT Final Report) at paras 4.6.2 and 4.6.3.

> to dispose of the Relevant Documents, in the course of the Document Disposal.
>
> 4.6.3 The (i) Interview with Mr Tan and Mr Chua of Ever Higher; together with the (ii) Data Recovery Assessments Report; are consistent with Mr Tan's statements during his Interviews insofar as efforts to recover the lost data were made pursuant to a NAS Crash.

43 For the sake of completeness, the defendants had argued that their innocence in the Data Loss Incidents was further supported by the fact that the RPT Review was initiated by Ramesh J's order in February 2020, and while KPMG had submitted its terms of engagement in April 2020, the plaintiff had persistently delayed the RPT Review through various attempts to adjust KPMG's scope of work for the RPT Review.[68] The Defendants reasoned that if the RPT Review had started in 2020, then the Data Loss Incidents would not have impacted KPMG's work on the RPT Review.[69]

44 I disagreed. Even though the plaintiff was notified of the Data Loss Incidents in July 2021,[70] the Data Loss Incidents actually occurred in 2020. The softcopy records were lost in the "NAS Crash" (crash of the third defendant's server) on 7 April 2020.[71] The hardcopy records were lost during the "Circuit Breaker Period" (*ie,* a period of societal lockdown in view of the COVID-19 pandemic) which started in Malaysia on 18 March 2020 such that the third defendant's employees had to stay in the third defendant's warehouse (as they presumably could not return to Malaysia) and allegedly disposed of the hardcopy records to make space for their stay.[72]

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68 DWS at para 26.

69 DWS at para 27.

70 PWS at para 15.

71 TMH-2023 07 07 at pp 40–41 (RPT Final Report) at paras 4.5.2.

72 TMH-2023 07 07 at pp 36–38 (RPT Final Report) at paras 4.3.1 and 4.3.2.

45 It is plain from the RPT Final Report that the lack of data and documents hampered KPMG's review. The plaintiff's position is that if Seaquest is allowed to review the Four Invoices, it may have information that KPMG would find useful because Seaquest is in the same business as the third defendant and has undertaken similar projects.[73]

Basis for the court's intervention

46 The Original Valuation was to be made in relation to s 216(2)(*d*) of the Companies Act (see [12] and [26] above). Ramesh J's further order of 13 February 2020 was made pursuant to the original judgment. The plaintiff's current application was made pursuant to para 1(b) of the order of 13 February 2020.

47 Neither para 1(b) nor any other part of Ramesh J's order of 13 February 2020 required any information made available by the third defendant to KPMG to be disclosed to the plaintiff. It merely stated that no such information shall be disclosed to the plaintiff unless otherwise directed by the court. In that regard, I did not see how the plaintiff can rely on this paragraph alone (and no such submission was made) as grounds that she should be entitled to disclosure of the Four Invoices without also asking the court to exercise its powers to intervene and grant such disclosure.

48 The Court of Appeal decision of *Feen, Bjornar and others v Viking Engineering Pte Ltd and another appeal and another matter* [2021] 1 SLR 497 ("*Feen*") confirmed at [21] that, in cases where there was a court order for the buyout of shares at a price to be valued, even though the appointment of the

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[73] PWS at paras 29–31.

independent valuer was made by the parties, there remains a basis for judicial intervention derived from s 216(2) of the Companies Act (so the basis of the court's powers in this regard did not derive solely from the parties' contractual bargain). The facts of *Feen* bear resemblance to the current case, so it was worth exploring them in brief.

49 *Feen* was a case where the respondent, Viking Engineering, had succeeded in its minority oppression action brought against the appellants, one of whom was Mr Feen. The court below had ordered Mr Feen to purchase Viking Engineering's shares in a joint venture company at a price to be determined by an independent valuer (*Feen* at [3]–[5]). An expert valuer, one Mr Hayler, was jointly appointed by the parties to conduct the valuation. The appellants in *Feen* contended that Mr Hayler had materially departed from his instructions when preparing his expert report, and that his valuation was in manifest error (*Feen* at [2]). The appellants thus sought an order to set aside the expert valuation. The appellants' complaints against Mr Hayler's valuation were discussed by the Court of Appeal at [26]–[31] of *Feen*.

50 First, the appellants contended that Mr Hayler had relied on assumptions to arrive at his valuation, and that this was inconsistent with certain paragraphs of the court's buyout order. The Court of Appeal found that Mr Hayler's mandate was to have regard to such financial information as was necessary for him to carry out the valuation and the buyout order did not stipulate what specific information he was to have regard to. The determination of what financial information was necessary for the valuation was a matter entirely within Mr Hayler's discretion (*Feen* at [26]).

51 Second, the appellants submitted that Mr Hayler materially departed from his instructions when he relied on assumptions to adjust the valuation to

account for the business that a party had diverted from the joint venture company. The Court of Appeal noted that Mr Hayler had stated that he was not able to identify "the exact dates, amounts, and the entities involved" in relation to the business diverted from the company, and further that the buyout order did not require Mr Hayler to have regard to the "actual value" of business diverted. The buyout order gave Mr Hayler a wide discretion to make the necessary adjustments when carrying out the valuation, and Mr Hayler did not exceed his terms of reference (*Feen* at [27]).

52 Third, the appellants had complained that Mr Hayler had allegedly failed to take into account certain information in his assessment of the business that a party had diverted from the joint venture company. Some of this information had been raised by the appellants to Mr Hayler by way of a letter dated 7 September 2018, which was before the valuation report was finalised by Mr Hayler on 2 November 2018 (*Feen* at [6]). The Court of Appeal found that Mr Hayler had properly considered the appellants' submissions in their 7 September letter. In Mr Hayler's valuation report, he addressed the appellants' key arguments in the letter and had considered the relevant evidence before him (*Feen* at [29]).

53 Importantly, the Court of Appeal in *Feen* at [22] and [23] decided that where a buyout order from the court did not provide for an independent valuation to be final and binding and where the parties had appointed the independent valuer by consent, the principles applicable to challenging an expert's determination before a court ought to apply by analogy. In the Court of Appeal's view, these principles had been set out by the court in *The Oriental Insurance Co Ltd v Reliance National Asia Re Pte Ltd* [2009] 2 SLR(R) 385 ("*Oriental Insurance*"). In *Oriental Insurance* at [47], the court had opined that a long line of authorities supported the proposition that "short of fraud,

corruption, collusion, dishonesty, bad faith, bias or the like, the only two main grounds on which this court can set aside [an independent adjudicator's] determination are as follows: (a) where the [independent adjudicator] materially departed from his instructions; or (b) where there is a manifest error in his determination that justly requires judicial intervention".

54 The Court of Appeal also made the following comments at [23] of *Feen* when discussing the principles in *Oriental Insurance*:

> … The court can intervene if the valuation is not in accordance with the terms of reference, or if the valuation is patently or manifestly in error. However, the court will be slow to find that the valuation is in error, since by delegating the task of valuation to an expert, the court has taken the position that the matter is best left to the expert … That the court should not readily overturn court-ordered valuations also promotes the public interest in the finality of litigation.

55 The decision in *Feen* made reference to how the valuation exercise by an independent valuer should, by analogy, be considered to be akin to an expert determination (see [53] above). In that regard, the decision by the Court of Appeal in *Ngee Ann Development Pte Ltd v Takashimaya Singapore Ltd* [2017] 2 SLR 627 ("*Ngee Ann*") was also relevant. In *Ngee Ann*, the Court of Appeal laid out the principles that would apply in a situation "where the court's involvement is sought *before* the expert has made his determination" [emphasis added] (*Ngee Ann* at [41]). The Court of Appeal explicitly noted at [41]–[42] that *Oriental Insurance* and related cases set out the principles that apply where the court was invited to intervene *after* an expert's determination had been rendered. This suggests that *Ngee Ann* is part of the same line of case law as *Oriental Insurance* relating to the principles undergirding curial intervention in the work of experts. Since the *Oriental Insurance* principles on *post-valuation* interventions were held to be applicable in the context of a s 216(2) Companies

Act share valuation, the *Ngee Ann* principles on *pre-valuation* interventions applied similarly by analogy.

56 The Court of Appeal in *Ngee Ann* at [43] opined that Hoffmann LJ in *Mercury Communications Ltd v The Director General of Telecommunications* [1994] CLC 1125 ("*Mercury Communications*") had "set out a useful statement of principle" on the permissible scope of curial intervention. The Court of Appeal went on at [44] to cite the relevant passage from Hoffmann LJ's decision in *Mercury Communications* at 1139–1140. For present purposes, the relevant portion of Hoffmann LJ's decision is as follows:

> On the other hand, even in cases in which the parties have agreed principles of valuation, their application may involve questions of judgment which they have left to the decision of the accountants. In the last example, the question of what counts as 'net profits' may be something on which different accountants could hold different views. Here again, as a matter of substantive law, the court will not interfere. As a matter of contract, the parties have agreed that 'net profits' are to be whatever the accountants honestly consider them to be.
>
> *So in questions in which the parties have entrusted the power of decision to a valuer or other decision-maker, the courts will not interfere either before or after the decision.* This is because the court's views about the right answer to the question are irrelevant. On the other hand, *the court will intervene if the decision-maker has gone outside the limits of his decision-making authority*.
>
> [emphasis in *italics* added by the Court of Appeal in *Ngee Ann*]

57 The Court of Appeal's endorsement of Hoffmann LJ's statement of principle ties in well with the Court of Appeal's *dicta* at [23] of *Feen*, which has been extracted above at [54]. Both *before* and *after* an expert's valuation has been completed, the professional competence of the expert still, on a *prima facie* level, deserves respect from the parties and from the court. By delegating the task of valuation to an expert, the court and, where the parties have consented to the appointment of that expert, those parties too, take the position that the

matter is best left to the expert. A cautious attitude towards interfering in or overturning court-ordered valuations would promote the public interest in minimising unnecessary litigation by allowing the experts to do their work, bar extraordinary circumstances such as fraud, manifest error, or an excess of jurisdiction.

Is the Court's intervention justified in this case?

58 The RPT Review was derived from the Original Valuation where KPMG was appointed to carry out the valuation of the plaintiff's shares in the third defendant following the original trial of HC/S 170/2014. Neither the court order for the Original Valuation nor the court order for the RPT Review provided that the respective valuations were to be final and binding. Pursuant to para 2 of Leow JC's 3 December 2015 oral judgment, KPMG was appointed by the parties for the Original Valuation on an agreed basis.[74] Even though an additional court order was required to finalise the scope of KPMG's work for the RPT Review (see [17] above), this focused on specific issues in KPMG's Engagement Letter which could not be considered fundamental, and so did not detract from the parties' agreement to KPMG's engagement. In this regard, I noted that in HC/SUM 2735/2019, under prayer 3 (which was granted by the court), the plaintiff had in fact specifically prayed for *KPMG's* scope of work in performing the Original Valuation to be expanded to include the RPT Review. Evidently, the plaintiff had considered KPMG's professional expertise to be useful in conducting the RPT Review. I further noted that the first defendant, in his affidavit filed to resist the present summons, had annexed a copy of the finalised engagement terms, bearing the signatures of the first and

[74] TBY-2017 06 17 at para 36 and pp 173–185; Affidavit of Tan Meng Hin dated 17 May 2017 at paras 17–18.

second defendants, for KPMG to carry out the RPT Review.[75] The court's jurisdiction therefore continued to be engaged pursuant to s 216(2) of the Companies Act and the guidance offered in *Feen* was relevant.

59 It should be noted that the plaintiff did not make any explicit submissions in this application that she was challenging the RPT Review based on any of the three principles in *Oriental Insurance*. The plaintiff had not challenged the veracity of the RPT Final Report, but simply made a bare request for disclosure and review of the Four Invoices so that she could comment.[76] In that respect, this application did not sit squarely with *Oriental Insurance*. Therefore, in my view, both *Oriental Insurance* and *Ngee Ann* provided relevant guidance for the disposal of the present matter.

60 The plaintiff's application implied a disagreement with KPMG's decision (in its e-mail of 26 June 2023) not to pursue contact with the vendors the plaintiff had identified. This at least implied that there had been an error on KPMG's part or that KPMG had acted contrary to its terms of reference in choosing not to further investigate the Four Invoices in the manner suggested by the plaintiff.

61 Based on such an implication, I failed to see that there had been any manifest error on KPMG's part or actions taken that were contrary to KPMG's terms of reference. As summarised at [28]–[36] and [38]–[42] above, KPMG had undertaken a thorough review of the Four Invoices including the circumstances leading to the Data Loss Incidents. In order to overcome the lack of documentation and data, KPMG had used other well-documented methods to

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75 TBY-2023 08 02 at pp 26–45.

76 PWS at paras 24–29.

determine whether the Four Invoices had been transacted on an arm's length basis.

62 As the defendants had pointed out,[77] KPMG were already at liberty to question third parties and suppliers of the third defendant as part of their methodology and scope of work:[78]

> A.1.3 Based on the objective above, we set out below our scope of work in three phases (the "Procedures"):
>
> ***Phase One: review of accounting records and interviews***
>
> …
>
> – From the review of available documents and interviews, identify third parties that appear relevant to the matter(the "Identified Third Parties").
>
> – Conduct background checks on the Identified Third Parties using public domain databases and privately maintained databases to which we have access.
>
> – Request information, further documents or conduct interviews with the Identified Third Parties where it appears that such Identified Third Parties may have information or documents relevant to our procedures.

63 KPMG declined to do so. KPMG knew that these invoices were from identified third parties (Staco, Sungmi and Morgan Technical Ceramics) who were suppliers to Exquisite, but chose not to contact them. That was a decision that KPMG made as forensic investigators. Crucially, it bears mention that KPMG had the benefit of considering the plaintiff's solicitors' 7 June 2023 e-mail stating the plaintiff's suggestion, with accompanying reasons, that the said

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77 TBY-2023 08 02 at para 14.

78 TBY-2023 08 02 at pp 31–33 (KPMG's Engagement Letter for RPT Review), Appendix A, para A.1.3.

suppliers should be contacted by KPMG,[79] and conveying that the plaintiff could help put KMPG in touch with the suppliers if needed.

64 KPMG's e-mail of 26 June 2023 to the plaintiff made it clear that KPMG did not expect that these vendors would have kept records dating so far back and that more recent pricing was less relevant to the RPT Review. KPMG therefore did not find it useful to seek any blanket confirmation of prices relevant at the time of the RPTs. The situation that I had before me bore some resemblance with the situation in *Feen* (see [52] above), where the Court of Appeal noted that the valuer in that case had properly considered submissions made by one of the parties via letter before finalising his valuation report.

65 Following the Court of Appeal's decision in *Feen* (at [23]), I was slow to find error on KPMG's part as the court had delegated the task of forensic investigation in this instance to them as experts and their decisions should not be readily overturned.

66 In a similar vein, as *per Ngee Ann*, where an expert was acting within the parameters of his terms of reference, I also avoided interfering with the expert's judgment in how it made its valuation decision. KPMG had been appointed as independent experts in a detailed forensic exercise in connection with the RPT Review. So long as they acted within their terms of reference, they should be allowed to carry out their work independently and without interference from the parties or the courts. The decision not to pursue further queries with Exquisite's vendors (Staco, Sungmi and Morgan Technical Ceramics) was a judgment call that KPMG was allowed to make under their

[79] TBY-2023 08 02 at p 24.

terms of reference (see at paragraph [62]) and the court should not question this decision.

67 There is a final point to be made to close the discussion on the Data Loss Incidents (see [41]–[42] above). Even if the plaintiff had made a fair case that any additional information or inputs she could provide might be relevant to KPMG in the RPT Review, KPMG's e-mail of 26 June 2023 showed that KPMG, in not inviting further information from the plaintiff, had weighed the potential for additional useful insights that could be gleaned from further investigations, against the insights and conclusions that could already be arrived at using the available information, and came to the conclusion that the RPT Final Report could stand ready. Again, this was a judgment call that KPMG should be allowed to make without interference from the court.

68 For these reasons, I dismissed the plaintiff's application.

Other issues

69 For completeness, while my decision to dismiss the application did not turn on these issues, I briefly address some of the other points raised in arguments by counsel.

70 The defendants raised the concern that the plaintiff's attempt to obtain the Four Invoices was an indirect way to obtain the third defendant's confidential and proprietary pricing information (see [21(b)] above). There had been a specific order by Ramesh J that information made available by the third defendant to KPMG was not to be disclosed to the plaintiffs by KPMG without the court's sanction for this specific reason. This was acknowledged by the plaintiff and the plaintiff conceded that it would be willing to review the Four Invoices with any confidential and proprietary information redacted. The

plaintiff however doubted if pricing information that was seven or eight years out of date would retain any commercial sensitivity. It would have been open to me to review and order the redaction of any sensitive information on the Four Invoices if the plaintiff had succeeded in its application.

71 The defendants also contended that this application was the latest in a long line of applications that had delayed the Original Valuation (see [21(a)] above). This was not a consideration relevant to my decision to dismiss this application, as the fact that there were earlier applications by the plaintiff does not, in this case, detract from the merits of other applications.

Conclusion

72 It has been more than seven years since KPMG was first appointed as independent valuers (albeit a shorter period of time had been spent on the RPT Review) and eight years since the conclusion of the trial in HC/S 170/2014. $440,000 has been spent on the RPT Review alone – almost ten times the original cost estimate ($45,000) of the entire valuation exercise.[80]

73 Whilst it is entirely possible to go down every rabbit hole in the hope of finding another lead or some other fact or issue that would allow for a reconsideration of what has already been found, there needs to be finality at some point and perfection cannot always be achieved. Given the amount of time and money that has been spent on the RPT Review (not to mention the wider valuation), it is time for KPMG to be allowed to continue with and finalise their work for the Original Valuation.

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80 DWS at paras 6.2 and 35.

Costs

74 The defendants had asked the plaintiff to pay costs of this application on an indemnity basis on the grounds that this application was without any *bona fides*, unnecessary, frivolous, vexatious and was an abuse of the process of the court.[81] I ordered costs to be paid by the plaintiff on a standard basis in the amount of $10,000 (inclusive of disbursements). Bearing in mind the frustration caused by the lack of documentation for the RPT Review occasioned by the Data Loss Incidents and bearing in mind that the RPT Review itself has been ongoing for a comparatively short period of time (compared to the Original Valuation), I was of the view that the plaintiff was not on the wrong side of the line of good faith when she made this application.

Wong Li Kok, Alex
Judicial Commissioner

Derek Kang Yu Hsien and Ashok Kumar Rai (Cairnhill Law LLC)
for the plaintiff;
Lakshanthi Kumari Fernando, Tan Wei Ming and Os Agarwal
(Holborn Law LLC) for the defendants.

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81 DWS at para 36.