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

[2023] SGHCR 23

Originating Application No 222 of 2023 (Summons No 1198 of 2023)

Between

DFD

… *Claimant*

And

(1) DFE
(2) DFF

… *Defendants*

GROUNDS OF DECISION

[Civil Procedure — Parties — Joinder]
[Arbitration — Award — Recourse against award — Setting aside]

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DFD
v
DFE and another

[2023] SGHCR 23

General Division of the High Court — Originating Application No 222 of 2023 (Summons No 1198 of 2023)
AR Huang Jiahui
23 June, 6 July 2023

20 July 2023

AR Huang Jiahui:

1 The enforcement of an arbitral award is typically a matter between the parties to the arbitration. Under what circumstances can a stranger to the arbitration seek to participate in the enforcement proceedings? That was the question raised in the application before me. This also required consideration of how the new provisions on the addition of parties under the Rules of Court 2021 ("ROC 2021") should be applied, as well as the new provision on the participation of interested *non*-parties. For the reasons that follow, I found that the applicant did not have a sufficient interest in the enforceability of the arbitral award to be permitted to participate in the present proceedings in any capacity, and I did not grant it permission to be added as a party to the proceedings or to participate as a non-party.

Background

2 In Originating Application No 222 of 2023 ("the OA"), which was an application without notice (formerly known as an *ex parte* application), the claimant ("the Claimant") obtained the permission of the General Division of the High Court to enforce an arbitral award ("the Award") against the two defendants ("the Defendants") under s 29 of the International Arbitration Act 1994 ("IAA").

3 The second defendant ("the Second Defendant") had been declared bankrupt in a foreign jurisdiction which I will refer to as Ruritania, and was under the administration of a curator appointed by the Ruritanian courts ("the Curator") – a position similar to a liquidator in Singapore. In Summons No 952 of 2023 ("the Setting Aside Application"), the Curator applied under s 31 of the IAA to set aside the order in the OA granting permission to enforce the Award.

4 The applicant in the present application, Summons No 1198 of 2023 ("the Intervention Application"), sought to be added as a party to the OA and the Setting Aside Application so that it could intervene in support of the Setting Aside Application.

The Shares

5 The present dispute revolved around the insolvency of the Second Defendant and the realisation of its assets: in particular, it concerned 12.1m shares ("the Shares") out of a total of some 40.1m shares in a company, [P], formerly held by the Second Defendant. The remaining 28m shares had been pledged by the Second Defendant as security for €250m of secured bonds ("the Bonds") which it had issued in 2018. The applicant in the Intervention Application serves as the trustee for the bondholders of the Bonds (and for that

reason, I will refer to the applicant as "the Trustee"). At the maturity of the Bonds, the Second Defendant failed to redeem the Bonds and to pay the interest that was due. Consequently, on 22 October 2021, the Trustee filed a bankruptcy petition against the Second Defendant in Ruritania. The petition failed at first instance but was eventually granted on appeal on 28 February 2023, resulting in the appointment of the Curator. Separately, the Trustee also commenced proceedings against the Second Defendant in Orsinia ("the Orsinian Proceedings"), in which it brought a claim in debt for the total amount due under the Bonds. On 17 October 2022, it obtained summary judgment against the Second Defendant for this claim in the sum of €263m plus interest.

6 Since the issuance of the Bonds, the value of the shares held by the Second Defendant had fallen considerably such that the pledged security fell far short of the amount due under the Bonds. For that reason, the Trustee claimed to be the largest genuine *unsecured* creditor of the Second Defendant. The Curator's counsel, Mr Jordan Tan ("Mr Tan"), stated at the hearing before me that the Curator accepted this characterisation.

7 In these circumstances, the Trustee was naturally concerned with the status of the Shares, being the primary remaining asset of the Second Defendant out of which its claim in debt could be satisfied. The Trustee discovered that on 27 October 2021, shortly after it had filed the bankruptcy petition against the Second Defendant, the Second Defendant had transferred the Shares to another company, [Q], for €1 ("the Transfer"). The Transfer took place pursuant to a share sale agreement ("the Share Sale Agreement") signed on behalf of the Second Defendant by one of its directors and managers, [A]. Consequently, as part of the Orsinian Proceedings the Trustee also brought claims against the Second Defendant, [Q] and [A] in relation to the Shares. The Trustee claimed, amongst other things, that the Transfer was a transfer at an undervalue for the

purpose of defrauding the Second Defendant's creditors under a provision in Orsinian law which is substantively equivalent to s 438 of the Insolvency, Restructuring and Dissolution Act 2018 ("IRDA") in Singapore. The trial of this aspect of the Orsinian Proceedings remained pending.

8 In the Second Defendant's Defence filed in the Orsinian Proceedings, which was signed by [A], the Second Defendant pleaded that it had entered into an agreement ("the Guarantee Agreement") with the Claimant and the first defendant ("the First Defendant") in July 2018, under which it had guaranteed a debt of RMB 1.4bn owed by the First Defendant to the Claimant, and pledged the Shares as security in favour of the Claimant for the guarantee. The Claimant exercised its right to call upon the security under the Guarantee Agreement on 8 and 9 October 2021 and directed the Second Defendant to transfer the Shares to [Q] as its nominee. As the Curator and the Trustee pointed out, the Claimant and the Second Defendant were both ultimately owned by the First Defendant, and the Claimant was represented by [A]'s father in the arbitration leading up to the Award. In addition, [Q] was controlled by [A].

9 Following the Transfer, the Shares were held in [Q]'s account with a bank in Singapore. On 19 November 2021, the Trustee obtained a *Mareva* injunction against the Second Defendant and [Q] before the Singapore courts, resulting in the freezing of the Shares. It also obtained a worldwide freezing order against the Second Defendant and [Q] before the Orsinian courts.

The Award

10 Meanwhile, the Claimant had taken further steps to enforce the Guarantee Agreement by commencing arbitral proceedings against the Defendants on 18 November 2022. In the arbitration, the Claimant sought from the Defendants the repayment of a loan of RMB 600m plus interest, the costs of

the arbitration, and the "pledge right" to the Shares, which entailed the Claimant having the right to be paid in priority from the proceeds of the sale of the Shares. (The Award referred to the Shares as comprising 12,027,751 shares, whereas the Curator and the Trustee referred to the Shares as comprising 12,106,939 shares. Nevertheless, it was common ground between the parties that these were intended to be references to the same set of shares.) In the Award, the Defendants were recorded as having "no objection" to the Claimant's claims or to the evidence it had submitted. The tribunal ordered the First Defendant to repay the loan and bear the costs of the arbitration, and ruled that the Claimant had "the priority right of compensation for the proceeds from the discount, auction and sale of [the Shares] held by [the Second Defendant]".

11 The Second Defendant was declared bankrupt and the Curator appointed on 28 February 2023, after the Award was issued. In the Setting Aside Application, the Curator has raised a number of bases for refusing the enforcement of the Award. Amongst other things, she argued that:

(a) The arbitration agreement upon which the Award was premised was invalid, as [A] was not authorised to act on the Second Defendant's behalf as a sole signatory.

(b) There was no dispute for the tribunal to adjudicate upon, as the Second Defendant's purported representative had not disputed any aspect of the Claimant's claim.

(c) There were circumstances which indicated that the Award had been procured by fraud. First, the Curator argued that the seat of the arbitration under the arbitration agreement had been varied under suspicious circumstances, and noted that she was unable to find any information about the arbitral institution that purportedly administered

the arbitration. Second, she considered the Guarantee Agreement and the Share Sale Agreement to have been concluded under suspicious circumstances. Besides the fact that the agreements were not signed by a "B Manager" of the Second Defendant as required by its articles of association, the Curator was also unable to locate any internal documents of the Second Defendant relating to these agreements. The Curator suggested that these agreements were fraudulently created and backdated after bankruptcy proceedings were commenced against the Second Defendant. Furthermore, no mention was made in the Award of the fact that the Transfer had taken place, such that the Shares were in any event already held by [Q] as the Claimant's nominee.

(d) For similar reasons, the Curator contended that enforcement of the Award would be contrary to public policy as the Award was an abuse of the arbitral system.

12 As a result of the Trustee's filing of the Intervention Application, the Second Defendant had not filed its reply affidavit in the Setting Aside Application. The First Defendant did not take any part in the present proceedings.

The parties' cases

13 In the Intervention Application, the Trustee sought to intervene in the proceedings by being added as a party under O 9 r 10(1) of the ROC 2021. It submitted that this would be just and convenient, as the enforcement of the Award would provide the Claimant with a right to be paid in priority from the proceeds of the sale of the Shares, which would then no longer be available to the Trustee. In addition, the Trustee's claims in the Orsinian Proceedings and the basis for the Setting Aside Application were both premised on the same case

theory of a fraudulent arrangement between the Second Defendant and various related parties to divert the Shares from the Second Defendant's creditors, and since the Trustee was the driving force behind the Orsinian Proceedings, it was best-placed to present the evidence it had uncovered to the Singapore court in the Setting Aside Application.

14 Against this, the Claimant submitted that the Trustee had a purely commercial interest in the Setting Aside Application, which overlapped with the Orsinian Proceedings only on a factual level. The points which the Trustee sought to raise in the Setting Aside Application were either repetitive of the points already being made by the Curator, or could simply be passed on to the Curator. The Claimant therefore submitted that it was not just and convenient to allow the Second Defendant to intervene. In addition, it argued that permitting the Second Defendant to intervene and therefore access the documents filed in the OA and the Setting Aside Application would compromise the confidentiality of the arbitration, and this meant that the court should not in any event exercise its discretion to allow the Trustee to intervene.

15 The Trustee submitted, on the other hand, that there would be no loss of confidentiality occasioned by its intervention in the proceedings as it was already in possession of the Award. The Trustee further submitted that any confidentiality in the arbitration should be overridden by the interests of justice, as embodied in the maxim that "there is no confidence as to the disclosure of iniquity" (see *X Pte Ltd and another v CDE* [1992] 2 SLR(R) 575 at [39], citing *Gartside v Outram* (1857) 26 LJ Ch 113 at 114).

16 The Curator indicated that it did not object to the Joinder Application. Nevertheless, Mr Tan made two main points in his oral submissions which the Curator wished to raise: First, the Curator did not agree with the Claimant that

the Trustee could speak through the Curator in bringing material to the court's attention in the Setting Aside Application. The Curator was entitled to exercise her independent judgment as to what to put forward to the court. In addition, the Curator was appointed at a relatively late stage of the Orsinian Proceedings, and might not have full access to what had transpired before its appointment. Secondly, Mr Tan noted that there was a middle ground available to the court of permitting the Trustee to participate in the proceedings as a *non*-party: a point which I will return to at [61] below.

Issues to be determined

17 The parties were in agreement that the test for determining whether the Intervention Application should be allowed hinged on whether it was "just and convenient" for the Trustee to be added as a party. In reaching this position, they relied on the existing case law relating to the joinder of parties under the Rules of Court 2014 ("ROC 2014"). I will therefore begin by considering the appropriate approach to take to the addition of parties under the ROC 2021.

18 I will then go on to consider the issue of whether it was "just and convenient" for the Trustee to be joined, which concerned whether the Trustee had a sufficient legal interest in the present proceedings, as well as the question of the court's exercise of discretion, which on the present facts revolved around the issue of the confidentiality of the arbitral proceedings.

19 Finally, I will consider the alternative possibility of the Trustee's participation as a non-party in the proceedings.

Whether the Trustee should be added as a party

The addition of parties under the Rules of Court 2021: the law

20 In proceedings governed by the ROC 2021, the addition of parties falls within O 9 r 10(1):

> The Court may add or remove one or more claimants or defendants, give permission for a defendant to issue a third party notice in accordance with Order 10, or give directions for the originating process to be served on any person who may have an interest in the action.

21 Order 9 rule 10(1) serves to ensure that all the appropriate persons in an action are parties before the court. It contains three limbs: (a) the addition or removal of claimants or defendants; (b) the issuance of a third party notice by a defendant, which is dealt with in detail in O 10; and (c) the service of the originating process on a person who may have an interest in the action.

22 As noted in *Singapore Rules of Court – A Practice Guide* (Chua Lee Ming gen ed) (Academy Publishing, 2023) ("*Rules of Court Practice Guide*") at para 09.027, the ambit of O 9 r 10(1) is wide enough to encompass a number of situations formerly contained in O 15 of the ROC 2014, including O 15 r 6 which dealt with the misjoinder or non-joinder of parties. In particular, O 15 r 6(2)(*b*) of the ROC 2014 provided that:

> (2) … at any stage of the proceedings in any cause or matter, the Court may, on such terms as it thinks just and either of its own motion or on application —
>
> …
>
> (*b*) order any of the following persons to be added as a party, namely:
>
> (i) any person who ought to have been joined as a party or whose presence before the Court is ***necessary*** to ensure that all matters in the cause or matter may be effectually and completely determined and adjudicated upon;

> (ii) any person between whom and any party to the cause or matter there may exist a question or issue arising out of or relating to or connected with any relief or remedy claimed in the cause or matter which in the opinion of the Court it would be ***just and convenient*** to determine as between him and that party as well as between the parties to the cause or matter.
>
> [emphasis added in bold italics]

23 The parties proceeded on the basis that the same principles under O 15 r 6(2)(*b*) of the ROC 2014 remained applicable to O 9 r 10(1) of the ROC 2021. In particular, the Trustee expressly relied on the "just and convenient" limb under O 15 r 6(2)(*b*)(ii) of the ROC 2014 to justify its addition as a party.

24 It is worth noting that O 9 r 10(1) of the ROC 2021 is not drafted in prescriptive terms, and it has been observed that this would indicate that the old provisions under the ROC 2014 and the case law surrounding them should not "unduly shackle the wide discretion that [O 9 r 10 of the ROC 2021] is meant to afford to the court" (*Rules of Court Practice Guide* at para 09.026). Nevertheless, it is fair to say that the existing case law provides at least the starting point for the approach to O 9 r 10(1) of the ROC 2021: the reasons for the court to be slow in allowing the addition of superfluous parties continue to apply under the ROC 2021. The principles contained in the existing cases therefore set the general parameters both for when it is appropriate to add a party, and when it is inappropriate to do so, under the ROC 2021 so far as the applicant seeks to be added due to its connection with the existing dispute.

25 The applicable test under O 15 r 6(2)(*b*) of the ROC 2014 was set out in *Ernest Ferdinand Perez De La Sala v Compañia De Navegación Palomar, SA and others and other appeals* [2018] 1 SLR 894 ("*De La Sala*"). The Court of Appeal held (at [195]) that the test was in two stages:

(a) First, the power to join parties only exists "at any stage of the proceedings", and not when the proceedings have concluded.

(b) Second, the court considers either the "necessity" limb (O 15 r 6(2)(*b*)(i)) or the "just and convenient" limb (O 15 r 6(2)(*b*)(ii)), and here the test is split into two further elements: a non-discretionary and a discretionary element.

(i) Under the "necessity" limb, the non-discretionary element is whether the action cannot be effectually and completely determined without the joinder (at [203]).

(ii) Under the "just and convenient" limb, meanwhile, the non-discretionary element is whether there is a question or issue between the person seeking to be joined and one of the existing parties which relates to an *existing question or issue* between the *existing* parties, such that in the court's opinion, joinder for the purpose of deciding that question or issue would be just and convenient (at [204]).

(iii) After the non-discretionary element is satisfied under either limb, the court considers the discretionary element. This includes a number of potential considerations, including issues of limitation, *res judicata*, abuse of process, delay, procedural fairness, and other forms of prejudice to the parties (at [205]–[210]).

26 In the present case, the Trustee relied on the "just and convenient" limb. Under this limb, it is not sufficient for there to be merely "some factual overlap between the main dispute and the question or issue involving the third party" (*De La Sala* at [204]). Instead, what is required is for the person seeking to be

joined to have a *legal* interest that is directly related or connected to the proceedings (see the decision of the Court of Appeal in *Shanghai Shipyard Co Ltd v Opus Tiger 1 Pte Ltd and another and other appeals and another matter* [2022] 1 SLR 643 ("*Opus Tiger 1*") at [28]).

27 The question of what constitutes a legally recognised interest in this context is not necessarily a straightforward one, and it was the central issue in the present case. In *Sanders Lead Co Inc v Entores Metal Brokers Ltd* [1984] 1 WLR 452 ("*Sanders*") at 460E, Kerr LJ noted that there was no prerequisite for there to be a cause of action between the person seeking to be joined and one of the parties (see also *Tan Yow Kon v Tan Swat Ping and others* [2006] 3 SLR(R) 881 ("*Tan Yow Kon*") at [58]); at the same time, a mere commercial interest in the outcome of the proceedings would not be enough (see, likewise, *Opus Tiger 1* at [28]). In cases falling between these two extremes, Kerr LJ suggested that "[i]t may well be impossible, and would in any event be undesirable, to attempt to categorise the situations in which the interests of would-be interveners are sufficient". A similar view was expressed by Lord Diplock in the decision of the Privy Council in *Pegang Mining Co Ltd v Choong Sam* [1969] 2 MLJ 52 at 55–56 (which was cited with approval by the High Court in *Tan Yow Kon* at [37] and the Court of Appeal in *Wee Soon Kim Anthony v Law Society of Singapore* [2001] 2 SLR(R) 821 ("*Anthony Wee*") at [13]).

28 In *Tan Yow Kon* at [44], Sundaresh Menon JC (as he then was) held that an indicative list of the relevant considerations included:

> (a) What are the respective interests of the party whose presence is sought and of the party who is resisting this and how do those interests stand to be affected by the order that the court is asked to make in relation to the subject matter of the action?
>
> (b) Is it appropriate to have the party in question included in the action so as to ensure that interested parties have had

> the opportunity to be heard and the subject matter of the action can be disposed of without the delay and expense of multiple actions?
>
> (c) How may other provisions of the Rules bear on the particular concerns of the parties?

29 These considerations were cited with approval by the Court of Appeal in *Turf Club Auto Emporium Pte Ltd and others v Yeo Boong Hua and others and another appeal and other matters* [2017] 2 SLR 12 at [179]. Further, while the analysis in *Tan Yow Kon* referred to the court's exercise of its discretion without reference to the division between the discretionary and non-discretionary elements of the test set out subsequently in *De La Sala*, in my view it is clear that the considerations set out above – especially (a) and (b) – would go towards the non-discretionary element of the "just and convenient" limb. This is consistent with the objective of the provisions for the addition of parties, which is (as endorsed by the Court of Appeal in *Anthony Wee* at [19]):

> (a) to prevent multiplicity of actions and to enable the Court to determine disputes between all parties to them in one action, and (b) to prevent the same or substantially the same questions or issues being tried twice with possibly different results.

30 The approach to the joinder of parties set out in *De La Sala* (see [25] above) should continue to guide the exercise of the court's discretion to add parties under O 9 r 10(1) of the ROC 2021. There are therefore at least two available routes for the addition of a party under O 9 r 10(1): by satisfying the "necessity" test or the "just and convenient" test. Under the "just and convenient" test, the approach to the "just and convenient" limb found in the existing cases under O 15 r 6(2)(*b*)(ii) of the ROC 2014 remains relevant.

31 Before I turn to the analysis of the case at hand, I pause to note that the ROC 2021 has also introduced a revised set of terminology in relation to parties to proceedings. Under the ROC 2021, any party bringing an originating claim

or originating application (such as the present OA) is known as the "claimant", and any party defending such a proceeding is known as the "defendant" (see O 6 rr 1 and 4 of the ROC 2021). The terms "applicant" and "respondent" are used to refer to the parties in interlocutory applications within an originating process (such as the Setting Aside Application). In addition, the terms "joinder" and "misjoinder" are no longer found in the main provisions of the ROC 2021, and the simpler language of "add[ing]" and "remov[ing]" parties is used instead in O 9 r 10(1). Finally, the ROC 2021 makes no express provision for a role known as an "intervener" in an ordinary civil matter, although it does provide for the possibility of intervention in appeals (see O 18 r 5 and O 19 r 5 of the ROC 2021), and continues to make express provision for the role of an intervener in admiralty actions (O 33 r 17). Indeed, O 9 r 10(1) of the ROC 2021 refers only to the addition or removal of "claimants or defendants". This appeared to have led to Claimant to take the view, in its written submissions, that the provision the Trustee was relying upon in its Intervention Application was the third limb of O 9 r 10(1), "for the originating process to be served on any person who may have an interest in the action".

32 The third limb of O 9 r 10(1) of the ROC 2021 had no precise equivalent in the ROC 2014, although it bears some relation to O 15 r 13A of the ROC 2014, which provided for notice of an action to be served on any person who will or may be affected by any judgment given in the action, but only in actions relating to the estate of a deceased person or property subject to a trust (O 15 r 13A(6)). That provision ensured that the relevant parties had notice of pending proceedings so that they would be bound by the outcome, and could apply to participate if they wished (see *Family Food Court (a firm) v Seah Boon Lock and another (trading as Boon Lock Duck and Noodle House)* [2008] 4 SLR(R) 272 ("*Family Food Court*") at [65]). The third limb of O 9 r 10(1) of the ROC 2021 extends this provision to proceedings in general. No purpose would be

served, however, by invoking it in respect of a person who already had notice of the proceedings, and it is not a substitute for obtaining an order for the addition of that person as a party.

33 Instead, any application for the addition of a party to the proceedings (save for the issuance of a third party notice) falls within the first limb of O 9 r 10(1) of the ROC 2021. As a starting point, where a person intervenes in an originating process and seeks to be added as a party, it would usually be appropriate to add that person as a defendant. This is also the practical result achieved by O 33 r 17(3) of the ROC 2021 in respect of interveners in admiralty actions. Indeed, the Trustee's prayer in the Intervention Application sought for it to be added as a "Respondent" (although, as I have explained at [31] above, the proper term for a respondent to the OA would be "defendant"). The present application was therefore correctly made under the first limb of O 9 r 10(1) of the ROC 2021.

Whether it is just and convenient for the Trustee to be added as a party

34 The parties did not dispute that the first stage of the test, that the Intervention Application was made "at any stage of the proceedings", was satisfied. I therefore turn to consider the non-discretionary element of the "just and convenient" test.

35 There are two main factors which made the Trustee's application appear attractive at first glance. The first factor concerned the actual overlap between the Setting Aside Application and any disputes between the Trustee and the existing parties, while the second factor related to a second-order concern over the consequences flowing from there being multiple proceedings involving these related disputes.

The overlap between the Setting Aside Application and the disputes involving the Trustee

36 Starting with the first factor, the present proceedings related to the enforcement of the Award, and so far as the Second Defendant was concerned, the Award purported to give the Claimant priority over the Second Defendant in respect of the proceeds of any sale of the Shares. If permission to enforce the Award were to be upheld in the Setting Aside Application, the Claimant would gain a *prima facie* entitlement to claim a priority right over the Shares in the Second Defendant's bankruptcy, and this would naturally affect the Trustee's interests as an unsecured creditor.

37 Furthermore, the Trustee also appeared poised to play a meaningful role in the present proceedings if it were added as a party. The factual substratum of the Curator's case in the Setting Aside Application – that the Award was procured fraudulently – was similar to, if not the same as, the factual substratum of the Trustee's claim in the Orsinian Proceedings: both proceedings were based on the case theory that the Second Defendant, [A], and their affiliates had engaged in a fraud designed to keep the Shares out of the reach of the Second Defendant's genuine creditors. It was fair to say that the Trustee had been the principal prosecutor of this case theory, and the Curator seemed to agree that the Trustee might be better-placed to present it to the court in the Setting Aside Application (see [16] above).

38 At the outset, however, it must be borne in mind that the Shares were *not* part of the security pledged by the Second Defendant for the Bonds, which were the Trustee's only connection to the Second Defendant for present purposes. Although the Trustee strenuously contended that it would be prejudiced if the Award were permitted to be enforced, it was not clear how this prejudice would amount to anything more than that suffered by a creditor which

found itself with a bad debt: which would be a paradigmatic case of a mere commercial interest.

39 This was illustrated by the case of *Sanders* ([27] *supra*). There, a company ("Metal") had brought a claim against another company ("SLI") for breach of contract. Metal came to know that a third company ("Entores") owed SLI a sum of money under an unrelated contract. Metal persuaded Entores to transfer the money it owed SLI into a special account, and obtained a *Mareva* injunction against SLI which covered the moneys held in the special account. It subsequently transpired that SLI's parent company ("SLC") claimed to be the proper party to the contract with Entores, and SLC commenced a claim against Entores to recover the sum due under the Entores contract. Metal applied to be added as a defendant to this claim, in essence because it, and not Entores, was the party that was truly concerned with whether Entores owed its debt to SLI or SLC, and it wished to vigorously pursue the case that Entores owed its debt to SLI – so that the moneys in the special account would continue to be the subject of the *Mareva* injunction and be available to satisfy Metal's claim against SLI.

40 The English Court of Appeal held that Metal's application should not be allowed, whether under the non-discretionary or the discretionary element of the test under a provision materially identical to O 15 r 6(2)(*b*)(ii) of the ROC 2014. Kerr LJ held that Metal had a mere creditor's commercial interest in the outcome of the action between SLC and Entores (at 460H); not only did the *Mareva* injunction not have the effect of giving Metal any proprietary claim over the moneys in the special account (see 456H–457B), the moneys in the special account would not in any event have been sufficiently connected with SLC's claim against Entores, which was merely a claim for payment of a debt (at 460C). Kerr LJ further held that the court's discretion to join Metal should not have been exercised. Amongst other things, a creditor who had obtained a

Mareva injunction should not be permitted to intervene in an action where the creditor's interest was limited to the fate of the injunction, except in the most exceptional circumstances (at 461C). An example of such an exceptional situation might be a case where there was collusion between the parties to the action to undermine the injunction, although even then Kerr LJ was doubtful that the appropriate remedy was to allow joinder of the third party (at 461D).

41 Mr Kelvin Poon SC ("Mr Kelvin Poon") contended on behalf of the Claimant that the facts of *Sanders* were analogous with those of the present case. On the other hand, Mr Keith Han ("Mr Han"), appearing on behalf of the Trustee, submitted that the distinguishing factor in the present case was that the Second Defendant was bankrupt, and the effect of the Award was to recognise the claim of a new secured creditor with priority over the Trustee's claim as an unsecured creditor. At the hearing before me, Mr Han accepted that the mere fact that the recognition of one creditor's claim in an insolvency would result in the dilution of the claims by the other creditors would not be sufficient to allow a creditor to intervene in litigation between the debtor company and the other creditors. He submitted, however, that the Claimant's claim of priority over the Trustee made all the difference.

42 I was not convinced that this distinction was sound. First, as I had pointed out in the course of the arguments, whether a competing claim was of the same or greater priority was not determinative of its impact on a creditor's interests: a priority claim much smaller than the debtor's available assets would only have a small impact on an unsecured creditor, while a vast unsecured claim could be seriously detrimental.

43 Secondly, and more importantly, it is not generally contemplated that a creditor in an insolvency should have a direct hand in the insolvent company's

recovery of assets, which is a task for the liquidator. There is also specific recourse for any creditor dissatisfied with the liquidator's conduct of these duties. For instance, it is for the liquidator to assess the proofs of debt filed by creditors, and a creditor dissatisfied with the liquidator's decision in respect of another creditor's proof of debt may apply to the court to review the liquidator's decision: see *The Royal Bank of Scotland NV (formerly known as ABN Amro Bank NV) and others v TT International Ltd and another appeal* [2012] 2 SLR 213 at [90], referring to what is now r 132(1) of the Insolvency, Restructuring and Dissolution (Corporate Insolvency and Restructuring) Rules 2020. Likewise, while a creditor who is a member of the committee of inspection might have a say in whether the liquidator commences or defends legal proceedings under s 144(1)(*e*) of the IRDA, there is no entitlement for a creditor to interject itself into any such proceedings. Instead, a creditor dissatisfied with the liquidator's conduct of any proceedings would have to challenge the liquidator's decisions under s 132(1) of the IRDA. The court also has a common law power to allow a creditor to bring a claim in the name of the company: see *Cape Breton Company v Fenn* (1881) 17 ChD 198 at 208, referred to in *Petroships Investment Pte Ltd v Wealthplus Pte Ltd and others* [2015] SGHC 145 at [163] (which was affirmed on appeal on different grounds in *Petroships Investment Pte Ltd v Wealthplus Pte Ltd and others and another matter* [2016] 2 SLR 1022). All of these involve challenging and substituting the liquidator's decisions, as opposed to a situation where a creditor seeks to act in parallel with the liquidator in pursuing proceedings. I found it doubtful that a creditor should be allowed to do so merely because the priority of its claims in the insolvency was at stake.

44 Of course, given that the Second Defendant was undergoing bankruptcy proceedings in Ruritania, there may well be a question of the legal status of a creditor under Ruritanian law and whether any remedies available to a creditor

under Ruritanian law might have any implications on the nature of the Trustee's legal interest in intervening in the present proceedings. But the parties were content not to raise any issues of Ruritanian law in the present application; instead, they noted that complex issues of law were likely to arise in the bankruptcy proceedings but suggested that these were matters for another occasion. On the materials before me, therefore, I could not accept that the present case involved anything more than a factual overlap between the present proceedings and the disputes involving the Trustee.

45 Meanwhile, the Trustee's contention that it was playing a central role in pursuing the allegations of fraud against the Second Defendant, [A] and their affiliates also did nothing more than reinforce the merely factual connection between the disputes at hand. Unlike the unexceptional situation contemplated in *Sanders*, of a case where the parties to a proceeding were colluding to defeat the third party's interests (see [40] above), there was no risk of collusion by the parties to the Setting Aside Application to perpetuate any fraud in the present case, because the Second Defendant was now under the control of the Curator, who was firmly aligned with the Trustee's view that the Award had been procured by fraud.

46 While it might be true that the Curator had only recently been appointed and might not be privy to events taking place before her appointment, it would be in the Trustee's interests to fully apprise her of these facts (and, presumably, the Curator's professional responsibility to become fully apprised of the facts). And while it might be more efficient for the Trustee to have carriage of both the Orsinian Proceedings and the Setting Aside Application, I was not given any reason to believe that the Curator, who was represented by Singapore counsel, would not be able to competently and diligently conduct the Singapore proceedings with the aid of any relevant information supplied by the Trustee

(see, in this regard, *Sanders* at 461G and 462B). Finally, while the Curator would be entitled to exercise her independent judgment and was not obliged to act as the Trustee's mouthpiece in these proceedings, the Trustee did not articulate any reason why its interests were not fully aligned with those of the Curator on the present facts. Indeed, even if the Curator were to take a position in the proceedings that the Trustee disapproved of, the Trustee's immediate recourse would lie elsewhere than participating directly in the proceedings: see [43] above.

The consequences arising from the multiple proceedings involving the parties

47 I turn next to the second factor I have identified, which concerned the multiple proceedings the parties were involved in and the potential implications this might have if the Trustee were not added to the present proceedings. This pertained to the possibility of the re-litigation of issues and the potential for inconsistent outcomes. Although Mr Han did not put his case in precisely this way, in my view it posed a legitimate concern that warranted closer examination.

48 This in turn required a closer look at the various proceedings the parties had been involved in, and their likely future steps. Thus far, the Trustee's actions had been directed primarily against the Second Defendant and [Q]. As I explained at [7] above, in the Orsinian Proceedings the Trustee claimed, amongst other things, that the transfer of the Shares from the Second Defendant to [Q] was a transaction to defraud creditors liable to be reversed. For completeness, I note that the Trustee had commenced a similar set of claims against the Second Defendant and [Q] in Singapore ("the Singapore Claims"), before the Trustee decided to stay these proceedings in favour of pursuing the Orsinian Proceedings. In the Singapore Claims, the Trustee had sought a remedy

under s 438 of the IRDA, which, as I have mentioned, is substantively equivalent to the provision relied upon in the Orsinian Proceedings.

49 The Orsinian Proceedings were pursued on the basis that [Q] held the Shares when they should rightfully belong to the Second Defendant and its creditors. The typical remedy under s 438 of the IRDA would be for the Shares to be restored to the Second Defendant, and not directly to the Trustee, even though it was the claimant in those proceedings (see *Perry, Tamar and another v Esculier, Jacques Henri Georges and another and another matter* [2022] 1 SLR 107 at [38], referring to s 73B of the Conveyancing and Law of Property Act 1886, which was the predecessor to s 438 IRDA). This would raise a quandary for the Trustee, because even if it succeeded in obtaining an order to restore the Shares to the Second Defendant in the Orsinian Proceedings, it would still have to contend with the Award, which upheld the pledge of the Shares from the Second Defendant to the Claimant. If the Setting Aside Application were unsuccessful, the Claimant would be entitled to enforce the Award as though it were a judgment of the General Division of the High Court (see s 19 of the IAA). As Mr Tan submitted, the Curator would be placed in an invidious position if it were faced with a claim from the Trustee supported by a judgment in the Orsinian Proceedings, and a claim from the Claimant based on the Award having the force of a Singapore judgment. While the parties did not wish to descend into the details, it seemed inevitable that a further set of proceedings would be needed in Ruritania or elsewhere to resolve this apparent conflict.

50 Here, it must be borne in mind that the Trustee, as a stranger to the arbitration between the Claimant and the Defendants, was not bound by the Award (see *Vale SA and others v Benjamin Steinmetz and others* [2021] EWCA Civ 1087 at [31]). As a matter of principle, this must remain the case even when the Award is given the force of a Singapore judgment. For that reason, if the

Trustee were not permitted to intervene in the present proceedings, it would remain open to it to raise issues pertaining to the validity and enforceability of the Award in any proceedings where these issues can be put into question, even if the same issues were to have been resolved in the Setting Aside Application. It did not appear likely that the Trustee would forego such a challenge, given its view that the Award was the result of a brazen fraud designed to deprive it of its share of the Second Defendant's assets. Thus, if the Trustee were not permitted to intervene in the Setting Aside Application and the Setting Aside Application fails, it seemed inevitable that the exact same issues litigated by the Curator in the Setting Aside Application would be re-litigated by the Trustee in a different forum, with potentially inconsistent results.

51 The situation would be different if the Trustee were added as a party in the Setting Aside Application. It would then be bound by the court's decision as to whether the Award is valid and enforceable. In the Ruritanian Proceedings and in the Second Defendant's bankruptcy proceedings, at least as a starting point one might expect that the Trustee would be barred from re-litigating these issues as a result of transnational issue estoppel (see, generally, *Merck Sharp & Dohme Corp (formerly known as Merck & Co, Inc) v Merck KGaA (formerly known as E Merck)* [2021] 1 SLR 1102). Mr Han accepted this proposition at the hearing before me. The addition of the Trustee as a party would therefore allow the serious issues raised in the Setting Aside Application to be presumptively disposed of in a conclusive manner in the present proceedings in respect of all the relevant parties: the Claimant, the Defendants, and the Trustee.

52 Bearing in mind the purpose of the court's power to add parties, which is to prevent a multiplicity of actions and the possibility of issues being re-litigated with potentially inconsistent results (see [29] above), the concerns I

have just outlined would at least be a *prima facie* reason for the Trustee to have a legally recognised interest in being added as a party to the present proceedings.

53 Nevertheless, despite the not insignificant impetus for the court to exercise its discretion in such a manner, I was not convinced that this justified adding the Trustee as a party to the present proceeding. While it might be expedient to facilitate the operation of transnational issue estoppel in this way, in my view it did not provide a basis to overcome the objection that the Trustee's interest in participating in the present proceedings was in reality merely a creditor's commercial interest, and one which was not materially different from that of any creditor who may be disgruntled with another creditor's claims against a common debtor. I was fortified in this view by the fact that the Trustee, not having been a party to the arbitration, could not in any event be prevented from challenging the Award *on its merits* in any proceedings where this might be relevant: and since the merits of the Award cannot be challenged in the Setting Aside Proceedings, no issue estoppel could arise in this regard even if the Trustee were added as a party to the present proceedings. There was therefore a degree of inevitability in at least some of the matters that were dealt with in the Award being litigated a second time in some future challenge.

54 In seeking to intervene in the present proceedings, the Trustee wished to buttress the Curator's case that the Award was procured by fraud and should not be enforced. This was because it was intimately familiar with this case theory of fraud, and because it had a strong interest as a major unsecured creditor of the Second Defendant to ensure that the Second Defendant's assets remained available for distribution to its unsecured creditors (such as the Trustee) in its bankruptcy. But on these grounds, the Trustee's interest in the present proceedings was purely a commercial interest, and the overlap between the present proceedings and the disputes between the Trustee and the Second

Defendant, such as those in the Ruritanian Proceedings, was a merely factual overlap. The proper recourse for the Trustee was to provide any material it considered relevant to the Setting Aside Application to the Curator, for it was the Curator's role, and hers alone, to pursue the Setting Aside Application. As such, I found that the Trustee failed to satisfy the non-discretionary element of the "just and convenient" test. *A fortiori*, it could not satisfy the "necessity" test, although it did not seek to rely on this test in any event. The Trustee therefore should not be allowed to be added as a party to the present proceedings.

The discretionary element: the confidentiality of the arbitration

55 Had the Trustee satisfied the non-discretionary element of the "just and convenient" test, it would then have had to go on to persuade the court to exercise its discretion in favour of adding it as a party. Under this discretionary element of the test, the dispute between the parties was essentially confined to a single question: whether the Trustee should be prevented from participating in the proceedings on the grounds of maintaining the confidentiality of the arbitration.

56 Given my conclusion on the non-discretionary element, it was not necessary for me to decide this question. Nevertheless, at least one key aspect of this question was fully ventilated at the hearing before me: namely, whether the confidentiality of the arbitration had in fact been lost as against the Trustee. For the reasons that follow, it was clear to me that the answer was in the affirmative, and confidentiality would therefore have provided no basis to prevent the Trustee from participating in the present proceedings.

57 The law recognises the interests of the parties to an arbitration in preserving the confidentiality of the arbitration, and to this end, an exception is made to the typically open nature of court proceedings in proceedings relating

to arbitration: see *The Republic of India v Deutsche Telekom AG* [2023] SGCA(I) 4 ("*Deutsche Telekom*") at [21]. However, the court "should not be made to go through an empty exercise to protect confidentiality when there is nothing left to protect" (*Deutsche Telekom* at [28]). Thus, in *Deutsche Telekom*, the Court of Appeal refused to grant orders to seal the case file and to redact the identities of the parties to the arbitration, as the arbitral award was already publicly available and the parties' identities were already publicly known (at [38]).

58 At the hearing before me, Mr Kelvin Poon conceded that confidentiality *over the Award* had already been lost so far as the Trustee was concerned. The Curator had disclosed the Award to the Trustee, together with copies of all the affidavits filed in the OA and the Setting Aside Application to date, to which a number of key pieces of evidence relied upon the arbitration had been exhibited. There was therefore no reason to exclude the Trustee from these proceedings to protect the confidentiality of those documents. However, Mr Kelvin Poon submitted that there remained other (unspecified) documents relating to the arbitration which had not been adduced in the present proceedings and which the Claimant might choose to adduce in its reply affidavit in the Setting Aside Application if it saw the need to do so. He argued that excluding the Trustee from the proceedings would protect the confidentiality of those undisclosed documents.

59 On the other hand, Mr Tan made clear that the Curator did not consider herself bound by any obligation of confidentiality in relation to the arbitration. This was because the Curator did not consider there to be any valid arbitration in the first place (for the reasons raised in the Setting Aside Application: see [11] above). Mr Tan added that the Curator considered herself entitled (and indeed, potentially under a duty) to share any future affidavits filed in the

proceedings with the Second Defendant's creditors (which would include the Trustee). The Claimant did not suggest that it had any basis to prevent the Curator from doing so. In these circumstances, it was difficult for the Claimant to maintain any realistic contention that the Trustee's participation in the present proceedings would compromise the confidentiality of the arbitration.

60 As such, *if* I had found the Trustee to have satisfied the non-discretionary element of the "just and convenient" test, there would not have been any basis to think that the addition of the Trustee as a party would cause any prejudice to the Claimant so far as the confidentiality of the arbitration was concerned. There would therefore have been no need to go on to consider the Trustee's further contention that the interest in exposing the fraudulent nature of the Award outweighed any considerations of confidentiality. The Trustee would have satisfied the *discretionary* element of the test.

Whether the Trustee should be permitted to participate as a non-party

61 For the reasons I have given, the Trustee was not entitled to be added as a party to the present proceedings. This was the only relief expressly sought by the Trustee in the Intervention Application. However, the ROC 2021 also makes provision for the participation of interested non-parties under O 9 r 22(3). I therefore asked the parties to address me on whether O 9 r 22(3) may afford an alternative route for the Trustee to participate in the proceedings without being added as a party. Order 9 rule 22 provides:

> **Independent witnesses and interested non-parties**
>
> **22.**—(1) The Court may order, on its own accord, a person not named as a witness for any party to give evidence orally or by way of affidavit as an independent witness.
>
> (2) The Court may give directions for the cross-examination of an independent witness.

> (3) *The Court may invite any natural person or entity who has an interest or is able to assist in the issues in the case to give the person's or entity's views in writing on specific issues.*
>
> (4) The interested person or entity is not subject to cross-examination and need not attend the hearing.
>
> (5) The Court may order one or more of the parties to pay for the reasonable expenses incurred by an independent witness or an interested person or entity.
>
> [emphasis added]

62 Order 9 rule 22 had no analogue in the ROC 2014. It contains two distinct parts: rr 22(1) and (2), which relate to the calling of an *independent witness* by the court to give factual evidence; and rr 22(3) and (4), which relate to an invitation by the court to an *interested non-party* to give its views on specific issues in the proceedings.

63 Mr Han submitted on behalf of the Trustee that it would be content to participate as a non-party under O 9 r 22(3) of the ROC 2021 if it were not permitted to be added as a party. He added that in such a case, the Trustee would request to attend the hearing and make oral submissions notwithstanding O 9 r 22(4).

64 As was foreshadowed at [16] above, Mr Tan had also indicated that the Curator wished to raise the possibility of the Trustee participating as a non-party in order to assist the court. To this end, Mr Tan tendered a number of cases arising from the series of proceedings involving the judicial management of HTL International Holdings Pte Ltd ("HTLI"), including the decision of the Court of Appeal in *Golden Hill Capital Pte Ltd and others v Yihua Lifestyle Technology Co, Ltd and another* [2021] 2 SLR 1113. The judicial managers of HTLI had wanted to sell HTLI to Golden Hill Capital Pte Ltd ("Golden Hill"), but HTLI's shareholders, dissatisfied with the sale, applied to the court to declare the sale void. The Court of Appeal observed that Golden Hill and its

owners had been permitted to participate in those proceedings as non-parties pursuant to the court's discretion (*Golden Hill Capital* at [42]).

65 On the Claimant's part, Mr Kelvin Poon submitted that the Trustee should not be permitted to participate as a non-party under O 9 r 22(3). He argued that the Trustee did not have a sufficient "interest" within the meaning of the first limb of O 9 r 22(3), and submitted that in the event that the Trustee were permitted to participate as a non-party, O 9 r 22(4) should be applied strictly to prevent it from attending the hearing and making submissions.

The participation of interested non-parties under the Rules of Court 2021: the law

66 Order 9 rule 22(3) of the ROC 2021 contemplates two potential categories of interested non-parties (which may be persons or entities): first, a non-party who *has an interest* in the issues in the case; and second, a non-party who *is able to assist* in the issues in the case (see *Rules of Court Practice Guide* at para 09.075).

67 The first category of interested non-parties bears a close resemblance to the terms of the third limb of O 9 r 10(1) of the ROC 2021, which allows the court to direct the originating process to be served on "any person who may have an interest in the action". The objective of the third limb of O 9 r 10(1) would clearly be linked to the addition of parties under the first limb of O 9 r 10(1): see [32] above. As a matter of principle and in the interests of clarity, a person whose rights are to be determined by the court and whom it is intended to be bound by the court's decision should be given the opportunity to become a party instead of remaining a non-party (see *Rules of Court Practice Guide* at para 09.076). That said, the fact that such a person remains a non-party does not necessarily mean that the person is *not* bound by the court's decision: as the

Court of Appeal noted in *Family Food Court* at [65], "if a person who has an interest in the proceedings decides not to be a party, he is bound by the court's decision in those proceedings and cannot seek to re-open the case." Besides this, whether a person participates as a party or non-party can have a number of procedural implications, including, for instance, the applicable threshold for the court to award costs against that person: see *Golden Hill Capital* at [41].

68 Given the distinction between parties and non-parties in terms of their anticipated roles and liabilities, it could perhaps be argued that the test under O 9 r 22(3) might not need to be as stringent as the test for the addition of a party under O 9 r 10(1) (*cf* [25] above). In this regard, in *Golden Hill Capital* (which was a case under the ROC 2014), the Court of Appeal expressed the view (at [40]) that:

> … It is *not uncommon* for courts to allow persons to file affidavits, make submissions or even bring applications in proceedings to which they are not party: see for example *Oro Negro Drilling Pte Ltd and others v Integradora de Servicios Petroleros Oro Negro SAPI de CV and others and another appeal (Jesus Angel Guerra Mendez, non-party)* [2020] 1 SLR 226 ["*Oro Negro*"]; and *Beluga Chartering GmbH (in liquidation) and others v Beluga Projects (Singapore) Pte Ltd (in liquidation) and another (deugro (Singapore) Pte Ltd, non-party)* [2014] 2 SLR 815. … [emphasis added]

69 This should not be taken to mean, however, that the role of a non-party will readily be available as a fallback position for those who fail to meet the test to be added as a party so long as they are able to articulate some kind of interest in the proceedings. For instance, in *Oro Negro* (referred to in the passage from *Golden Hill Capital* set out above), a foreign lawyer ("Mr Mendez") filed an application as a non-party to proceedings before the High Court, in essence seeking clarifications as to the scope of interim injunctions which had been granted by the High Court in those proceedings and whether they bound him and his firm. Separately, the applicants in the proceedings suggested that

Mr Mendez should be added as a party. The Court of Appeal held that Mr Mendez did not meet the test to be added as a party (at [110]), but also expressed disapproval of Mr Mendez's participation in the proceedings as a non-party:

> 113 … [T]he fact that Mr Mendez had actively participated in the proceedings below cannot, in and of itself, satisfy the requirements under O 15 r 6(2)(*b*). It appeared that his participation in the proceedings below was not seriously resisted even though the status of his participation was not properly explained. The proper response to this unsatisfactory state of affairs was to prevent Mr Mendez from further participating in these proceedings unless he applied to add himself as a party, at which time, the court will consider the propriety of his application. …

70 Conversely, in the proceedings in *Golden Hill Capital*, the parties' dispute concerned the sale of the assets of a company under judicial management, in which the non-parties were the intended buyers. The intended buyers had a clear interest in participating in the proceedings as non-parties.

71 The second category of interested non-parties under O 9 r 22(3), meanwhile, might be compared with the role of an independent counsel under O 9 r 23 of the ROC 2021 (formerly known as an *amicus curiae*). As suggested in *Rules of Court Practice Guide* at para 09.077, this would be a person or entity whose views the court would like to hear before determining a certain factual or legal issue in the case, without the need to ensure that such a non-party met the formal requirements for the expertise of an independent counsel under O 9 r 23.

72 Finally, for the avoidance of doubt, I did not accept the Claimant's submission regarding the extent of participation that would be permitted under O 9 r 22(3): it is clear that O 9 r 22(4) is not intended to prevent an interested non-party from attending the hearing and making oral submissions if it so

wishes, provided that the court grants it permission to do so. It relates to the floor and not the ceiling for the non-party's participation.

Whether the court should exercise its discretion under O 9 r 22(3)

73 As I have explained at [35]–[54] above, the Trustee's reasons for wishing to participate in the present proceedings were understandable, even though they did not rise to the level required for the Trustee to be added as a party. Nevertheless, this did not mean that it would be appropriate for the Trustee to be invited to participate in the proceedings as an interested non-party.

74 First, although the Trustee and the Curator's positions in the application amounted to a submission that the Trustee was "able to assist in the issues in the case", for the reasons I have explained at [46], on the material before me I was unable to see any aspect of the Setting Aside Application in which the Trustee would be able to assist the court in a way that the Curator could not.

75 Secondly, in my view the strongest reason in favour of recognising the Trustee's interest in participating in the present proceedings would be in order to allow the court's decision in the Setting Aside Application to bind the Trustee such that the validity and enforceability of the Award would be presumptively disposed of conclusively in respect of all the relevant parties (see [51] above). Even though participation as a party is not strictly speaking a prerequisite for a person to be bound by the court's decision (see [67] above), that proposition contemplates a situation where a person is given the opportunity to participate as a party but fails to take up the opportunity. It would be inapposite for the court to direct a person to participate in the proceedings specifically as a non-party where the objective is to ensure that the court's decision is binding upon that person.

76 For these reasons, I did not exercise my discretion to invite the Trustee to participate in the present proceedings as an interested non-party under O 9 r 22(3) of the ROC 2021. Of course, considering that the focus of O 9 r 22(3) is on the court issuing an invitation to an interested non-party in a situation where the court is of the view that it may be assisted by that non-party's participation, it would naturally be open to the court hearing the Setting Aside Application to issue an invitation under O 9 r 22(3) if it sees fit.

Conclusion

77 As such, I dismissed the Intervention Application and refused permission to the Trustee to participate in the present proceedings in any capacity. It remains for me to thank Mr Han, Mr Kelvin Poon and Mr Tan for their helpful and measured submissions.

Huang Jiahui[1]
Assistant Registrar

[1] This judgment was redacted by Assistant Registrar Bryan Ching pursuant to the order in HC/ORC 5324/2023.

Poon Kin Mun Kelvin SC and Devathas Satianathan (Rajah & Tann Singapore LLP) (instructed), Tan Ky Won Terence and Liang Liwen (Genesis Law Corporation) for the claimant;
The first defendant absent and unrepresented;
Tan Zhengxian Jordan and Damien Chng Cheng Yee (Audent Chambers LLC) (instructed), Poon Guokun Nicholas and Chan Michael Karfai (Breakpoint LLC) for the second defendant;
Han Guangyuan Keith and Angela Phoon Yan Ling (Oon & Bazul LLP) for the applicant in HC/SUM 1198/2023.
