Wee Kah Lee v Silverdale Investment Pte Ltd
[2000] SGHC 165

Case Number : Suit 600044/2000

Decision Date : 11 August 2000

Tribunal/Court : High Court

Coram : Tay Yong Kwang JC

Counsel Name(s) : Tang Khin Wai (Tan Kok Quan Partnership) for the plaintiff; Leslie Yeo Choon Hsien (LJ Wong & Yeo) for the defendants

Parties : Wee Kah Lee — Silverdale Investment Pte Ltd

Contract – Contractual terms – Implied terms – Loan of money – Test of necessity – Plaintiff lending money to company with no express term as to time of repayment – Whether term that loan should be repayable on demand to be implied into contract for loan

: The plaintiff claimed the repayment of loans totalling $341,250 granted by him on various dates to the defendants. In their amended defence, the defendants averred that they were the developers of a property at 20B Balmoral Park (the `Jewel of Balmoral`) and that there were eight shareholders who had agreed to invest in this project, seven of whom were also directors of the company. Each shareholder contributed towards the paid-up capital and advanced loans to the defendants for the purchase of the land in question, the development expenses and the payment of interest on the bank loans.

Paragraphs 3 to 5 of the amended defence went on to plead:

> *3 It was agreed among the directors/shareholders that such loans advanced to the defendants will be unsecured, interest free and with no fixed term of repayment. It was also expressly and/or impliedly agreed that such loans advanced to the defendants will not be repaid until such time that the moneys in the project account can be released pursuant to the Housing Developers (Project Account) Rules (`the Rules`).*
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> *4 All the shareholders/directors are aware that the progress payments received from the purchasers for the project is required to be paid into the project account with Overseas Union Trust Ltd and cannot be released unless it is permitted under the Rules. As such, it was also expressly and/or impliedly agreed among the directors/shareholders that the profits from the sale of the project and/or the repayment of the loans advanced by the directors/shareholders will be made only after the moneys in the project account can be released pursuant to the Rules.*
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> *5 The only asset of the defendants is the balance sale price to be paid by the purchaser into the project account and the existing moneys in the project account. Furthermore, as is expressly and/or impliedly agreed that the profits and/or the loans will not be repaid unless the Rules permit, the defendants deny that the sum of S$341,000 is due and owing to the plaintiff.*

The figure $341,000 in para 5 should read as $341,250.

The plaintiff`s case

The plaintiff was a director and shareholder of the defendants, holding 225,000 fully paid up shares (or 7.5% of the shareholding). At the request of the defendants, he made various payments on various dates to the defendants for payment of his shares and as loans advanced. According to the defendants` document termed `Schedule of Directors`/Shareholders` Fund Transfer and Loan`, he paid a total of $655,500 to the defendants between October 1995 and 31 March 1997. Out of this sum, $225,000 was deducted as payment for his 225,000 shares. On 8 July 1997, the defendants made a partial repayment of the loan in the amount of $89,250 to the plaintiff. The amount owing from the defendants to the plaintiffs was therefore $341,250 ($655,500 minus $225,000 and $89,250).

On 8 July 1997, the defendants also made five repayments of loans to the following directors/shareholders:

(1)		Mr Neo Sin Nam		$	500,000.00
(2)		Mdm Tok Yok Lian		$	455,000.00
(3)		Mr Poh Seng Soon		$	89,250.00
(4)		Mr Lim Wah Kiat		$	119,000.00
(5)		Mr Tey Kian Seng		$	45,000.00

On 27 July 1999, the defendants made two repayments of loans to:

(1)		Mr Neo Sin Nam		$	154,222.00
(2)		Mdm Tok Yok Lian		$	192,778.00

Including the repayment to the plaintiff, the defendants had therefore made eight repayments of loans.

On or about 6 December 1999, the defendants sent the plaintiff a `Confirmation of Balances` letter stating that the defendants owed the plaintiff $341,250 as at 31 August 1999 and this was confirmed by the plaintiff. The debt for this amount was therefore not in dispute.

All the loans granted by the plaintiff to the defendants were interest-free, unsecured and having no fixed term for repayment. In fact, the issue of interest was never discussed and the plaintiff never asked for interest to be paid nor was he paid any. There was also no discussion or agreement between the plaintiff and the other directors of the defendants on the terms of repayment.

The property in question was sold by the defendants on or about 11 July 1997.

On 5 December 1999, the plaintiff wrote to the board of directors of the defendants to ask for repayment of the loans as he `urgently required certain amount of cash flow` in his company. He also

offered to dispose of his 225,000 shares at $1 per share.

On 9 December 1999, the defendants replied as follows:

> *1 Your request for refund of your `advance` is, as you must be aware, premature because the sale of the properties at the above development has yet to be completed and all progress payments paid to the company up to now have been deposited in the project account in accordance with the Housing Developers` Rules and as such the moneys therein cannot at this stage be made out to the shareholders. In any case, your request for refund of $341,250 is subject to finalisation of accounts in due course.*
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> *2 As for your wish to dispose of your shares, we suggest that you take up the matter on your own without involving the Board of Directors.*

The plaintiff disputed the reasons stated for not repaying him.

On 17 December 1999, his former solicitors sent a letter of demand for the repayment of $341,250. This caused the defendants to issue an urgent notice dated 20 December 1999 to convene a directors` meeting on 21 December 1999 at 4pm. However, this notice was only faxed to the plaintiff on 21 December 1999 at about 1.30pm and he saw it only at about 1.30am on 22 December 1999. On 22 December 1999, the plaintiff contacted one Flora in the defendants to ask for a copy of the minutes of the meeting, which was subsequently faxed to him on 23 December 1999.

The minutes read:

Present	:	Eng Son Yam (Chairman)
		Neo Sin Nam
Wong Lee Juan		
Alan Poh Seng Soon		
Tey Kian Seng		
Lim Wah Kiat		
Chew Lay Seng		

Absent with apologies	:	Tann Frederic
		Wee Kah Lee
Tok Yok Lian		

> *1 The Chairman called the meeting to order at 4.30pm after attaining the necessary quorum.*

2 The Chairman informed the Board that this meeting was called by reason of Mr Wee`s solicitors` letter dated 17 December 1999 addressed to the Company demanding payment for $341,250.

3 Mr Neo Sin Nam informed the meeting that all progress payments paid to the company in respect of the sale of Jewel of Balmoral have been deposited into the project account with Overseas Union Trust Ltd in accordance with the Housing Developer`s Rules.

Mr Neo also informed the directors that TOP may be obtained around Jan/Feb 2000. He stressed that the moneys received upon issuance of TOP shall be used to repay the land loan and the term loan from the finance company and as for the moneys contributed by the shareholders/directors it will be refunded, subject to availability of funds, upon issuance of CSC and/or legal completion whichever occurs first in accordance with the agreement of all the directors (including Mr Wee) at the various times the said contributions were effected. All the directors present concurred with Mr Neo.

4 All the directors present agreed to instruct Miss Wong Lee Juan of M/S LJ Wong & Yeo to act for the Company in the matter relating to the said Mr Wee`s solicitors` letter and to reply to the letter reminding him (Mr Wee) of the aforesaid agreement.

5 The meeting ended at 6pm.

The plaintiff denied the `agreement` mentioned in para 3 of the above minutes. None of the directors, according to him, had suggested or obtained his agreement to those matters stated therein. He did not even know the meaning of `Certificate of Statutory Completion`, when such certificate would be issued or by whom. Apart from these minutes, there was no document evidencing such alleged agreement.

On 23 December 1999, the defendants` solicitors sent a reply to the plaintiff`s former solicitors stating as follows:

We act for M/s Silverdale Investment Pte Ltd (hereinafter referred to as the company) and refer to your letter of 17 December 1999 to our clients.

We are instructed that your client, a director and shareholder of the company is fully aware that, the only asset of the company is the development of the property at Balmoral Park. Progress payments received by the company have been paid into the project account with Overseas Union Trust in accordance with the Project Accounts Rules.

All the directors including your client have agreed that directors` loans to the company and shareholder`s funds will be repaid to the respective parties, upon the completion of the aforesaid development and after the repayment of all loans to the secured creditors, ie Oversea Union Trust and other creditors.

We have instructions to resist your client`s claim as premature and prejudicial

to the interests of the company.

Again, the plaintiff denied any agreement as indicated above. Accordingly, his former solicitors replied on 30 December 1999 to object to the meeting held on 21 December 1999 because of insufficiency of notice and to deny the arrangement or agreement stated by the defendants. The plaintiff also maintained that he did not consent to the sale of the property as stated in the Board`s resolution dated 29 September 1999.

On 31 January 2000, the other directors of the defendants issued a notice to request the plaintiff to vacate his office as director with immediate effect. On 11 February 2000, his former solicitors wrote to the defendants to ask for the reasons for the abovementioned request. The defendants` solicitors replied on 18 February 2000 stating that the power to remove the plaintiff as a director was provided for in the articles of association and they therefore saw no necessity to provide any reasons for his removal from office. On 21 February 2000, the plaintiff`s former solicitors wrote to the defendants` solicitors to reserve his rights.

The plaintiff alleged that the various reasons proffered on various occasions by the defendants to resist the repayment of his loans by the company were not only untrue but were contradicted by the fact of the eight repayments of loans stated earlier.

Under cross-examination, the plaintiff, now a taxi driver, agreed that he was a director and shareholder in three other companies. In one of these companies, Poh Seng Soon (one of the directors and shareholders in the defendants here) was also a director and shareholder and that company had purchased a property in Lorong 4 Geylang which was still being rented to some third party. The company had also bought and sold industrial and residential properties. All the deals were arranged by Poh Seng Soon. In another company, in which the plaintiff and Poh Seng Soon were equal shareholders, the business was also one of buying and selling properties. Some of the properties were completed ones while others were at various stages of construction.

The plaintiff also bought and sold properties on his own. Most of his income was from investments in properties. He was, however, not familiar with the term `project account` although he had heard of it. Neither was he familiar with the concept of Certificate of Statutory Completion.

In respect of the property development in issue here, the plaintiff said that he was invited to `join in` the project and he agreed to do so. He knew that the purchase price of the land was $22m and that it would be financed through a bank loan but did not find out the development expenses for the project. He was told that his investment would be $225,000 for his 7.5% stake in the defendants and that the balance of his contributions would be loans to the company. He was not told what his total payments to the company would be. He merely paid up whenever the defendants wrote to him for money, although he could only afford about half a million dollars in total. He did not know how much he would be getting in returns. His investment and his loans were quite different things. He expected his investment (ie the payment for his shares) to be paid out to him after the sale of the property. However, the loans were repayable on demand although there was no agreement on when they ought to be repaid.

The defendants` case

The principal witness for the defendants was Neo Sin Nam, a director and shareholder of the

defendants. He testified that the defendants were incorporated on 3 October 1992 and, after completing its first project, the present group of eight shareholders got together to acquire and to develop the Balmoral Park property. Neo came to know about this property from his business partner, Eng Son Yam. The eventual shareholding was as follows:

Directors/Shareholders		Share		Contribution to paid-up capital
Tok Yok Lian		25%		750,000
Neo Sin Nam		20%		600,000
Wong Lee Juan		15%		450,000
Lim Wah Kiat		10%		300,000
Tey Kian Seng		10%		300,000
Poh Seng Soon		7.5%		225,000
Wee Kah Lee		7.5%		225,000
Fredric Tann		5%		150,000
		100%		13,000,000

Tok Yok Lian is Eng Son Yam`s wife.

Neo was aware that all the above shareholders, with the exception of Fredric Tann, were familiar with property transactions as they had been investing in properties. When the shareholders got together, it was understood by everyone concerned that the investment moneys contributed by them would be utilized to finance the purchase and the development of the property. As this was a development project, everyone also knew that the returns on their investments would come from the sale of the units in the project, whose funding was governed by the Housing Developers (Project Account) Rules. All the shareholders knew and agreed that the sales proceeds could not be released to them unless that was permitted under the said Rules. On this understanding and agreement, the shareholders agreed to invest in the property.

It was not agreed that the loans advanced to the defendants would be repayable on demand. That was not possible as all the funds were utilized for the project.

As the defendants` registered office was at his company`s premises, Neo was appointed by all the shareholders to handle the administrative and financial matters. Neo then referred to the Schedule of Directors`/Shareholders` Fund Transfer and Loan (referred to in [para] 3 of this judgment) which showed that out of the initial two rounds of contributions totalling $6.7m, $3m was treated as paid up capital and the balance as loans. Subsequent thereto, periodic calls for funds were made by the defendants from the shareholders.

On 11 July 1997, the defendants entered into an agreement to sell all the units in the project to two companies for $40.5m. However, the deal fell through and the defendants forfeited $9.6m from the abortive sale. On 8 July 1997, the partial repayments mentioned earlier were made to the respective shareholders as the total of those amounts represented the interest payments on the bank loans and payment of such interest out of the project account was permitted by the Rules.

In 1997, due to the poor economic climate, the defendants faced great difficulties in selling the property which required continued financing. The defendants` call for further funds was not met. Neo and Tok therefore had to advance further loans totalling $357,000 between January to May 1999 to the defendants to keep the project going.

On 15 July 1999, the defendants managed to sell all the units in the project to other purchasers for $28m. On 27 July 1999, $347,000 was repaid to Neo and Tok for their additional contributions stated above.

Everyone knew that the project was the only asset of the defendants and that the only way for the shareholders to be repaid was when all purchase moneys were received and then released pursuant to the said Rules. Only 85% of the purchase price had been paid thus far, leaving another 15% to be paid after the issue of the Certificate of Statutory Completion, expected at the end of this year.

After the second sale of the project, the shareholders did enquire about the repayment of the loans. However, as everyone knew that no repayment would be made until after all the moneys were released under the Rules, the issue of repayment was never pursued at the general meetings. All the shareholders were aware of the fact that the defendants had no money at present to repay their loans. None of them, save for the plaintiff, made any demand or claim for such repayment as it had been agreed that repayment would take place only after all the sales proceeds have been received. This was evidenced by the minutes of the directors` meeting held on 21 December 1999.

In the result, Neo asked that the plaintiff`s claim be dismissed with costs to be taxed on an indemnity basis.

Under cross-examination, Neo admitted that the subject of the Certificate of Statutory Completion or of any other condition pertaining to the repayment of the loans was brought up only after June 1999 when the plaintiff asked when he could be repaid. Neo also claimed that there were meetings where the subject of when repayment could be made was broached but as nothing pertaining to such discussions was recorded in the minutes, he could not remember when these meetings were. He agreed that even if he did inform the plaintiff about these conditions, the plaintiff`s agreement was not obtained. Neo also added that since this was a development project, the defendants had to settle all outstanding debts with the contractors and other creditors before they could pay the shareholders.

Neo agreed that there was never any agreement among the shareholders concerning the repayment of the loans but stated that anyone investing in such a company would know that he could only get his investment back after the project was completed and the moneys received.

As far as the notice of the directors` meeting dated 20 December 1999 was concerned, Neo believed that his employee, Flora, had notified all the directors and shareholders. He did not know that the notice was not received by the plaintiff in time. Subsequently, the plaintiff did not tell them that he had not attended the meeting because he was not notified. He could not recall whether anyone asked about the plaintiff`s absence or suggested that the meeting be postponed so that the plaintiff could be asked to attend. Some time later, three of the directors did go to speak to the plaintiff about the loans. Neo added that the `agreement` mentioned in the minutes of the meeting should read as `understanding` and the understanding was that common to all the shareholders save for the plaintiff. He agreed that the minutes should not therefore have stated `... the agreement of all the directors (including Mr Wee) ...`. At that time, it did not occur to him that the plaintiff had no knowledge about property development matters such as certificate of statutory completion and temporary occupation permit.

The draft of the defendants` solicitors` letter dated 23 December 1999 was approved by Neo before it was despatched to the plaintiff`s former solicitors.

Although the defendants had no funds at the moment to repay the shareholders, there were another 15% of the purchase price due to the company. This would amount to $4.2m.

In re-examination, Neo explained that the first repayment on 8 July 1997 was withdrawn from the project account and that the amount represented the interest that was paid to the bank from October 1995 to about June 1997. The interest for this period had been paid by the defendants out of other funds and not from the project account and it was therefore permissible to withdraw this amount from the project account. The amounts reimbursed to the respective shareholders were based on their contributions made after June 1996 (it should actually be after August 1996, according to the Schedule of Directors`/Shareholders` Fund Transfer and Loan table mentioned earlier). Before that month, each contributed according to the percentage of his shareholding. After that month, not everyone contributed. The contributions that came were also not necessarily according to the proportion of the shareholding of the contributories. So, for instance, Wong Lee Juan and Fredric Tann, who made no contributions after that month, did not receive any repayment, which was essentially to make the percentage of the respective investments accord with the proportions of the shareholding. After July 1997, the only two shareholders who answered the call for more funds were Neo himself and Tok Yok Lian. Accordingly, they were the only ones reimbursed on 27 July 1999 and even then, the reimbursement was $10,000, less than their additional contributions.

There was no agreed maximum or minimum amount of contributions. The shareholders were supposed to contribute as and when the defendants called for funds.

At the end of Neo`s testimony, it became quite clear that there was no formal agreement among the shareholders on the issue of when and how the loans were to be repaid to the contributories. The other five witnesses of the defendants merely stated in their affidavits of evidence-in-chief that they agreed with Neo`s affidavit of evidence-in-chief and that they had all agreed that the loans would only be repaid after the project was sold and the sale proceeds released pursuant to the aforesaid Rules. In the light of Neo`s evidence during his cross-examination, I suggested to both parties, who agreed with me, that the trial should proceed on the point of law as to whether there should be an implied term in respect of when the loans were repayable. The other five witnesses of the defendants were therefore not called upon to testify.

The decision of the court

The plaintiff highlighted the fact that the averment about an implied term first arose when the defendants amended their defence on 30 June 2000, after the action had proceeded on an O 14 application and the appeal therefrom to a judge-in- chambers. The plaintiff submitted that the alleged implied term presupposed an express agreement among the directors/shareholders that the moneys for repayment of the loans would come from the project account only. There was no averment of such express agreement in the amended defence and neither was any evidence of such adduced. Neo Sin Nam had also testified that there was no agreement that the moneys for repayment would be withdrawn from any particular account. Since that was so, the directors/shareholders could not have impliedly agreed that the repayment would be subject to the Rules governing the project account. Furthermore, the plaintiff had testified that he did not know what the project account was.

The defendants argued that, to give business efficacy to the agreement among the shareholders, it

was necessary to imply that the loans were repayable only after the moneys could be released under the Rules. To hold that they were repayable on demand would require the others in the deal to advance further loans to the defendants in order that the plaintiff could be repaid and that could not have been the intention of any of them. The other equally unviable alternative would be to obtain judgment and then proceed to wind up the company. The disbursement on 8 July 1997 was not partial repayment of the loans but reimbursement of the bank interest already paid by the shareholders. Such withdrawal from the project account was permitted under r 5(j) of the said Rules. Further, the reimbursement was made in such a way as to ensure that the outstanding loans advanced by the shareholders were proportionate to their respective shareholding in the defendants.

In **Bethlehem Singapore Pte Ltd v Ler Hock Seng & Ors** [1995] 1 SLR 1 , the Court of Appeal had to consider whether a term relating to certain retrenchment benefits had to be implied into the respondents` contracts of employment. The appellants (the employers) contended that no term could be implied into the employment contracts from their previous course of conduct of paying one month`s wages for each year of service as retrenchment benefits. Karthigesu JA, who delivered the judgment of the court, said (at pp 8 and 9 of the report):

> *In our respectful opinion before a court seeks to imply a term into a contract, and it does not matter whether the contract is an employment contract or not, the court must, to quote Scrutton LJ in* ***Reigate v Union Manufacturing Co (Rams Bottom) Ltd and Elton Cop Dyeing Co Ltd*** *at p 605:*
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> *`... see what the parties have expressed in the contract; and then an implied term is not to be added because the court thinks it would have been reasonable to have inserted it in the contract. A term can only be implied if it is necessary in the business sense to give efficacy to the contract; that is, if it is such a term that it can confidently be said that if at the time the contract was being negotiated some one had said to the parties "What will happen in such a case?" they would both have replied, "Of course, so and so will happen; we did not trouble to say that; it is too clear." Unless the court comes to some such conclusion as that, it ought not to imply a term which the parties themselves have not expressed.`*
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> *This is the test of necessity and was restated by the Law Lords in the House of Lords in* ***Liverpool City Council v Irwin & Anor****.*

Applying the test of necessity to the facts of that case, the Court of Appeal found it unnecessary for business efficacy to imply the term in question.

I now apply the same test of necessity to the case before me. The defendants were in the business of property development. The eight shareholders were assembled for a common goal - to purchase and develop the land on which the Jewel of Balmoral now stands. They had an agreement in respect of their respective shareholding. They advanced moneys to the defendants according to the proportion of their shareholding until around August 1996. They said absolutely nothing about the terms governing the loans although knowing that they were interest-free, unsecured and having no fixed period of repayment. If the first deal had not gone awry, the project would probably have been completed earlier, the accounts finalized and the excess moneys remaining returned to the shareholders as repayment for the advances and as profits from the joint investment.

In ordinary circumstances, payment of money imports a prima facie obligation to repay the money in the absence of circumstances from which a presumption of advancement can or may arise (see

Seldon v Davidson [1968] 2 All ER 755). That decision also held that such a loan, in the absence of any term governing the time for repayment, would be repayable on demand or at least repayable within a reasonable time of a request for repayment. In my opinion, the two apparent alternatives in this context mean the same thing as a debtor could hardly be expected to pull out the requisite amount of cash from his wallet or to write a cash cheque instantaneously upon a demand or request for repayment. What would be reasonable depends on all the circumstances surrounding the loan, including the relationship between the parties, the purpose and the size of the loan.

Coming back to the facts here, supposing during the initial discussions among the eight potential investors, one of them had asked, `When can I expect the loans to be repaid?`, the rest would in all probability have answered in unison in words to this effect, `Of course after the project has been completed and all accounts have been finalized`. In other words, there should necessarily be an implied term that the loans would be repaid only after all moneys due to the defendants have been received and all creditors have been paid their dues. The loans were meant to finance the development project. It was not a case of loans being extended indefinitely - the defendants had to complete the project by a certain deadline. They intended to sell the units at a profit. There were therefore a beginning and an end to the financial commitment of the shareholders. Similarly, although they did not say anything about the amount of contributions each had to make, it seemed clear to all that the contributions would be proportionate to their respective shareholding.

Put another way, supposing someone had asked, `If for any reason one or more shareholders want their money back or wish to pull out of this investment, can they do so upon notice?`. I have no doubt that everyone would have told him that he or they could not do so unless the rest agreed. This must be necessary for any joint investment in a development project. If a team of eight persons of differing strengths had come together and agreed to carry a heavy piece of log from one location to another, how could they have contemplated that any one or more of them could decide to withdraw from the enterprise whenever he/they wished? The heavy log would probably crush the remaining members of the team if they did not abandon the enterprise. Similarly, in this case, if Tok Yok Lian or Neo Sin Nam (the persons with the largest shareholding in the defendants) or any or all of the rest had decided to quit the defendants while the project was still ongoing, surely the plaintiff would have cried foul. The same principle must, of commercial necessity, apply to all the shareholders here whatever their stake in the defendants is.

I accept the plaintiff`s evidence that he did not know what exactly the project account or the Certificate of Statutory Completion was and therefore could not have impliedly agreed that the loans would be repaid only when the moneys could be released from that account or only upon issuance of the said Certificate. Nevertheless, the term as to repayment indicated by me (in [para] 43) must of necessity be implied into the agreement among the eight partners in order to fulfil their common intention of bringing the development project to fruition. As I have said earlier, if nothing untoward had happened in 1997 and the project was brought to completion profitably sometime thereafter, the plaintiff would not even have raised this issue of repayment of the loans because the profits would have been distributed proportionately among all the investors.

The distinction sought to be drawn by the plaintiff between his investment (the shares) and his loans is, with respect, a highly artificial one insofar as the time for repayment of the contributories` moneys is concerned. I accept Neo`s explanation concerning the two reimbursements on 8 July 1997 and 27 July 1999 and agree that they were not partial payments for some of the loans but were done simply to restore everyone`s investment position to accord with the original common intention.

The plaintiff`s claim for repayment at this time must therefore fail. Ordinarily, costs would follow the event and the plaintiff should be ordered to pay the costs of the proceedings to the defendants.

However, while the defendants were correct in their averment that the loans were not repayable on demand, they have been prevaricating as to what the implied term on repayment ought to be. This can be seen from their letter dated 9 December 1999 to the plaintiff, the minutes of the meeting held on 21 December 1999, their solicitors` letter dated 23 December 1999 to the plaintiff`s former solicitors, their amended defence, their opening statement and the testimony of Neo Sin Nam. Accordingly, the defendants should not be awarded the costs of defending this action and certainly not costs on an indemnity basis as claimed.

I therefore dismissed the plaintiff`s claim and ordered each party to bear its own costs.

Outcome:

Plaintiff`s claim dismissed.