

BUN and another v BUP
[2018] SGHCR 17

Case Number : Suit No 791 of 2018 (Summons No 4344 of 2018)
Decision Date : 19 November 2018
Tribunal/Court : High Court
Coram : Justin Yeo AR
Counsel Name(s) : Decruz Martin Francis (Shenton Law Practice LLC) for the Plaintiffs; Louis D'Souza and Yong Hong Kit Clement (Legal Aid Bureau) for the Defendant.
Parties : BUN — BUO — BUP

Civil Procedure – Pleadings – Striking Out

Civil Procedure – Parties – Joinder

Family Law – Matrimonial Assets – Division

19 November 2018

Judgment reserved.

Justin Yeo AR:

1 In the recent decision of *UDA v UDB and another* [2018] 1 SLR 1015 (“*UDA v UDB*”), the Court of Appeal held that where a third party seeks to claim a legal or beneficial interest in an alleged matrimonial asset that is the subject of proceedings under s 112 of the Women’s Charter (Cap 353, 2009 Rev Ed) (“the Women’s Charter”), the matrimonial proceedings ought to be stayed pending the independent civil proceedings taken out to determine the property dispute involving the third party (*UDA v UDB* at [54]–[56]).

2 Following the approach in *UDA v UDB*, the present action (“the Action”) was commenced for the determination of proprietary interests as between the 1st Plaintiff (“the Husband”), the 2nd Plaintiff (“the Son”, who is the Husband’s son from a previous marriage), and the Defendant (“the Wife”). The Wife took out the present application (“the Application”), seeking to strike out the Action under O 18 r 19(1)(a) of the Rules of Court (Cap 322, R 5, Rev Ed 2014) (“Rules of Court”), on the basis that the Action disclosed no reasonable cause of action and claimed no relief against her.

Background Facts

3 In February 2018, the Husband and the Wife obtained an Interim Judgment of divorce, and proceeded to have ancillary matters heard in the Family Courts.

4 The ancillary matters dispute concerned two properties, which I shall refer to as “the First Property” and “the Second Property” (collectively, “the Properties”). It is undisputed that the Properties were purchased during the marriage, in the joint names of the Husband and the Son, and that the Husband and the Son hold the Properties as joint tenants. The Wife contended in the matrimonial proceedings that the Properties were matrimonial assets as they were acquired by the Husband during the course of the marriage. She therefore asked for an appropriate share of the Properties under s 112 of the Women’s Charter, seeking *inter alia* the following orders:

(a) that the First Property be sold in the open market, and the sale proceeds (less the costs and expenses of sale) be divided between the Husband and her in the proportion of 60:40; or, alternatively, if the Husband wished to retain the First Property, for the Husband to pay to her a sum equivalent to half of its open market value; and

(b) that the Second Property is a matrimonial asset for division between the Husband and her.

5 The Husband denied the Wife's claims on the Properties. In relation to the First Property, he pleaded that his intention at the time of the purchase was to ensure that his children and his aged parents would have a roof over their heads, and that upon his demise this property would go to the Son. As for the Second Property, he pleaded that it was purchased for the Son's benefit and interests, that the Son had repaid him the down payment, and that the Son has been paying the mortgage instalments. The Husband therefore claimed that he and the Son were beneficial owners of the First Property, while the Son was the beneficial owner of the Second Property.

6 The Family Courts stayed the ancillary matters proceedings, so that civil proceedings could be taken out to determine the proprietary interests in the Properties. The Husband and the Son thus commenced the Action to seek the following:

(1) A declaration [that] the [Husband] and [the Son] are the beneficial owners of [the First Property]; in the alternative

(2) A declaration [that] the [Wife] does not have any beneficial interest in [the First Property];

(3) A declaration [that] the [Son] is the beneficial owner of [the Second Property]; in the alternative

(4) A declaration [that] the [Wife] does not have any beneficial interest in [the Second Property];

(5) Costs; and

(6) Such further or other relief as this Honourable Court deems fit.

7 The Wife applied to strike out the Action under O 18 r 19(1)(a) of the Rules of Court, on the basis that there was no reasonable cause of action and no relief claimed against her.

Parties' Arguments

8 On 3 October 2018, I heard oral arguments by counsel for the Wife, Mr Yong Hong Kit Clement ("Mr Yong") and counsel for the Husband and the Son, Mr Decruz Martin Francis ("Mr Decruz"). Further written submissions were tendered in late October 2018 to address four queries that I had raised. On 19 November 2018, prior to the rendering of this judgment, I invited counsel to address me on O 15 r 16 of the Rules of Court, as this rule appeared to be of importance in determining the Application and neither set of counsel had argued on it (see [14] below). Counsel's arguments are summarised in the following paragraphs.

9 Mr Yong confirmed that the Wife was seeking a share of the Properties only in the context of the ancillary matters proceedings, and was not claiming any legal or beneficial interest in the Properties arising from property law. He raised numerous contentions for striking out the Action:

(a) First, prayers 1 and 3 seek declarations that the Husband and the Son are beneficial owners of the Properties and, as such, can only be sought against legal owners of the Properties. This is because unless and until there is a separation of the legal and equitable estate, there can be no separate equitable title (citing *Westdeutsche Landesbank Girozentrale v Islington London Borough Council* [1996] AC 669 at 706). [\[note: 1\]](#) The Wife, not being a legal owner of the Properties, has no capacity to divest equitable estate. As such, prayers 1 and 3 reveal no reasonable cause of action and no relief sought against the Wife. The proper approach is, instead, for the Son to be named as the plaintiff, bringing an action against the Husband as the defendant, with the Wife having the option of intervening in the proceedings; this would be more in line with the approach in *UDA v UDB* at [54]:

A third party claiming an interest in any property alleged to be a matrimonial asset is entitled to have his rights ruled on by the court and is, further, entitled to the benefit of a final ruling which he can assert against the rest of the world. If the third party wants to directly assert those rights, what should he do? *He can, of course, and should commence independent civil proceedings against either or both the spouses (depending on the factual situation) for a declaration as to his interest and other relief.* ... (emphasis added)

(b) Second, it is unclear how prayers 2 and 4 are alternatives to prayers 1 and 3, because if the court finds (under prayers 1 and 3) that the Husband and the Son are beneficial owners of the Properties, it would follow that the Wife has no beneficial interest in the Properties. In any event, the Action is the wrong forum for determining the Wife's beneficial interest in the Properties; rather, it is for the Family Courts to determine the Wife's share in the Properties under s 112 of the Women's Charter. The Action is therefore a "premature [attempt] to thwart the Family Court's jurisdiction to determine the Wife's beneficial interests in the [Properties], and is not helpful to the proceedings which will resume in the Family Court". [\[note: 2\]](#)

(c) Third, the court's power to grant declaratory relief is discretionary, and where the court is of the view that the declaration will serve "no useful practical purpose", it will not grant the declaration (citing *Latham Scott v Credit Suisse First Boston* [2000] 2 SLR(R) 30 ("*Latham Scott*") at [74]–[75]). The declarations sought in the Action serve "no useful practical purpose", for the following reasons: [\[note: 3\]](#)

(i) In relation to prayers 1 and 3, the approach in *UDA v UDB* impliedly requires the third party claiming an interest in alleged matrimonial assets to plead his exact interest in the properties. It would serve "no useful practical purpose" to have declarations which do not specify, in percentages, the Son's and Husband's respective interests in the Properties.

(ii) Prayers 2 and 4 would serve "no useful practical purpose" as the issue is not whether the Wife has a share in the Properties, but rather, what exactly the Husband's share in the Properties is.

10 Mr Decruz's arguments were as follows:

(a) First, the Action does not preclude the Family Courts from determining proceedings under s 112 of the Women's Charter. This is because the nature of the interest under s 112 of the Women's Charter is different from the nature of a beneficial interest that arises from the operation of property law. [\[note: 4\]](#)

(b) Second, there is no misjoinder of parties.

(i) The Husband and the Son were the legal registered owners of the Properties, and had consented to be joined as plaintiffs. [\[note: 5\]](#) As the issues arising in the Action involve common questions of fact and law, and the Husband and the Son are claiming relief to which they are jointly entitled, it is legitimate for them to be joined as plaintiffs under O 15 rr 4(1) and 4(2) of the Rules of Court.

(ii) The Wife had claimed interests in the Properties in the matrimonial proceedings. She has not filed her Defence in the Action, and as such has not taken any pleaded position as to any proprietary interest she may have in the Properties. [\[note: 6\]](#) In any event, the determination of the Husband's and Son's interests in the Properties would affect the Wife's ability to subsequently claim an interest in the Properties. [\[note: 7\]](#) She was therefore properly made a defendant pursuant to O 15 r 4(1) of the Rules of Court (citing *Singapore Civil Procedure 2018* vol 1 (Foo Chee Hock JC gen ed) (Sweet & Maxwell, 2018) ("*Singapore Civil Procedure*") at paragraph 15/4/6). [\[note: 8\]](#)

(c) Third, it is only in plain and obvious cases that recourse should be had to striking out under O 18 r 19 of the Rules of Court. [\[note: 9\]](#) Striking out of a claim is "draconian" and should only be done "if it is patently clear that there is no reasonable cause of action on the face of the pleadings" (citing *Ng Chee Weng v Lim Jit Ming Bryan* [2012] 1 SLR 457 at [110]).

11 For completeness, both sets of counsel confirmed that s 59 of the Women's Charter – which allows for the summary determination of property interests between spouses on the basis of property law – was irrelevant to the Action and the Application.

Decision

12 It is clear from *UDA v UDB* that a third party claiming an interest in any property alleged to be a matrimonial asset may have his or her rights ruled on in separate civil proceedings, with the matrimonial proceedings to be stayed pending the determination of the civil proceedings.

13 The key question in the Application is whether the Action ought to be struck out under O 18 r 19(1)(a) of the Rules of Court based on the arguments stated at [9] above. I disagree with those arguments and dismiss the Application, for the reasons that follow.

Should the action be struck out in view of O 15 r 16 of the Rules of Court?

14 While Mr Yong and Mr Decruz had crossed swords on whether there was a reasonable cause of action against the Wife, neither of them had raised arguments relating to O 15 r 16 of the Rules of Court. I found this rule directly relevant to the Application, and therefore invited their arguments prior to rendering this judgment.

15 In response to my invitation, Mr Yong acknowledged that O 15 r 16 of the Rules of Court would prevent prayers 2 and 4 for being struck out, but submitted that there was insufficient clarity as to whether those prayers sought declarations that would prevent the Family Courts from awarding the necessary beneficial interest in the ancillary matters proceedings. Mr Decruz's position was that prayers 2 and 4 related solely to the Wife's interests under property law, and clearly did not operate to prevent the Family Courts from determining beneficial interests at all. These arguments did not address the impact of O 15 r 16 of the Rules of Court on the Application; rather, they related to the question of whether the Action was an attempt to thwart the Family Courts' jurisdiction, a point which I address at [30]–[34] below.

16 I therefore turn to analyse O 15 r 16 of the Rules of Court and its implications for the Application. The rule provides as follows:

Declaratory judgment (O. 15, r. 16)

16. No action or other proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether or not any consequential relief is or could be claimed.

17 From a plain reading of the rule, it is clear that a claim would not be struck out on the ground that the plaintiff is seeking “merely declaratory judgment or order”, whether or not there are claims for “any consequential relief”. In *Karaha Bodas Co LLC v Pertamina Energy Trading Ltd and another appeal* [2006] 1 SLR(R) 112 (“*Karaha Bodas*”), the Court of Appeal elaborated on this rule and the requirements for obtaining declaratory judgment.

18 As explained in *Karaha Bodas*, while every claim must be founded on a reasonable cause of action, O 15 r 16 of the Rules of Court provides an exception where the plaintiff seeks only a declaration of right (*Karaha Bodas* at [13]). Conceptually, the rule does not mean that such a plaintiff has a reasonable cause of action by virtue of seeking declaratory relief; rather, it is an “exception to the general principle” that a claim must be founded on a reasonable cause of action (*Karaha Bodas* at [13]). There is good reason for this position: declaratory relief is generally superfluous where a plaintiff has a subsisting cause of action (*Karaha Bodas* at [13], citing Lord Diplock’s observation in *Gouriet v Union of Post Office Workers* [1978] AC 435 (“*Gouriet*”).

19 The requirements to be satisfied before a court would grant declaratory relief are (*Karaha Bodas* at [14]):

- (a) the court must have the jurisdiction and power to award the remedy;
- (b) the matter must be justiciable in the court;
- (c) as a declaration is a discretionary remedy, it must be justified by the circumstances of the case;
- (d) the plaintiff must have *locus standi* to bring the suit and there must be a real controversy for the court to resolve.
- (e) any person whose interests might be affected by the declaration should be before the court; and
- (f) there must be some ambiguity or uncertainty about the issue in respect of which the declaration is asked for so that the court’s determination would have the effect of laying such doubts to rest.

20 Element (d) in the cited passage bears further elaboration. In *Tan Eng Hong v Attorney-General* [2012] 4 SLR 476 (“*Tan Eng Hong*”), the Court of Appeal explained that the *Karaha Bodas* test laid down three elements for establishing *locus standi*, viz (*Tan Eng Hong* at [115]):

- (a) There must be a real interest in bringing the action.
- (b) There must be a real controversy between the parties concerned. This element goes to

the court's discretion (*contra* jurisdiction) to grant declaratory relief, and stems from the judicial function of adjudicating disputes between parties rather than determining hypothetical or academic questions (*Tan Eng Hong* at [115], [132], [137] and [143]; see also *Principles of Civil Procedure* at paragraph 25.033).

(c) There must be a violation of a right that is personal to the applicant.

21 The upshot of the principles above is that declaratory relief is unlikely to be available in situations such as the following:

(a) where the declaration sought is in relation to rights that the claiming party could not claim for itself (see, eg, *Karaha Bodas* at [19]–[20] and *Meadows Indemnity Co Ltd v Insurance Corporation of Ireland plc and International Commercial Bank plc* [1989] 2 Lloyd's Rep 298);

(b) where the rights between the parties have already been resolved by a judgment of court and therefore the controversy had ended, subject only to the right of appeal (see *Salijah bte Ab Latif v Mohd Irawan bin Abdullah Teo* [1996] 2 SLR(R) 80 ("*Salijah*") at [63]); and

(c) where the declaration sought is in relation to theoretical issues as opposed to real, subsisting problems, which would require the court to declare the law generally or provide an advisory opinion (*Salijah* at [60], *Karaha Bodas* at [19]–[21] and *Gouriet* at 501), unless the circumstances are such that the declaration will be of value to the parties or the public (*Tan Eng Hong* at [143]; see also *Principles of Civil Procedure* at paragraph 25.003).

22 Whether the requirements for declaratory relief as set out above are satisfied is to be considered and finally determined by the court hearing the Action. At this interlocutory stage, it suffices to note that there is presently no indication that the Statement of Claim fails to meet these requirements. The declarations sought are brought by the Husband and the Son, who are legal (and allegedly beneficial) owners of the Properties, and who therefore have a real interest in bringing the Action for a declaration of rights relating to the Properties. Prayers 2 and 4 seek declaratory relief *directly* against the Wife in the form of declarations that she has no beneficial interest in the Properties under property law, while prayers 1 and 3 *indirectly* affect the Wife's interests because, if granted, would have an effect similar to prayers 2 and 4, and would also have an impact on the Wife's interests in the pending matrimonial proceedings in relation to the quantification of matrimonial assets.

23 I would add for completeness that even if the Wife did not intend to assert any beneficial interest in the Properties under property law (which is not currently a pleaded position), this would not constitute a lack of "real controversy" in the context of the *Karaha Bodas* test (see [20(b)] and [21] above). As already alluded to, the determination of the Husband's and Son's interests in the Properties would affect the Wife's ability to subsequently claim an interest in the Properties under s 112 of the Women's Charter: depending on whether the declarations are granted, a significant part of the Properties may be taken out of the pool of matrimonial assets altogether. As such, Mr Yong's assertion that the Wife did not intend to claim any beneficial interest in the Properties under property law is no bar to the declaratory relief sought, and does not justify striking out the Action. Indeed, the Wife's pleading of such a position may well entitle the Husband and the Son to a judgment on an admission of facts (under O 27 r 3 of the Rules of Court) or summary judgment (under O 14 of the Rules of Court), at least in relation to prayers 2 and 4.

24 As such, in view of O 15 r 16 of the Rules of Court and the circumstances of the present case, I decline to strike out the Action under O 18 r 19(1)(a) of the Rules of Court.

Was there a misjoinder of parties?

Was there a misjoinder of parties:

25 I turn next to address Mr Yong's argument to the effect that there has been a misjoinder of parties. From the outset, it ought to be emphasised that a misjoinder of parties would not, in the ordinary course, justify a striking out of the Action. In this regard, O 15 r 6(1) of the Rules of Court provides:

Misjoinder and nonjoinder of parties (O. 15, r. 6)

6.—(1) No cause or matter shall be defeated by reason of the misjoinder or nonjoinder of any party; and the Court may in any cause or matter determine the issues or questions in dispute so far as they affect the rights and interests of the persons who are parties to the cause or matter.

26 This provision, as with other provisions in O 15 r 6 of the Rules of Court, seeks to "save rather than to destroy, to enable rather than to disable and to ensure that the right parties are before the court" (*Tan Yow Kon v Tan Swat Ping* [2006] 3 SLR(R) 881 at [36]; see also *Singapore Civil Procedure* at paragraph 15/6/2 and Jeffrey Pinsler SC, *Principles of Civil Procedure* (Academy Publishing, 2013) ("*Principles of Civil Procedure*") at paragraph 07.019).

27 As such, even if Mr Yong is correct that the situation envisaged in *UDA v UDB* at [54] is for the third party to commence independent civil proceedings against either or both of the spouses (see [9(a)] above), this ought not to be taken as laying down a hard and fast procedural rule on precisely how parties ought to be joined to the civil proceedings. Indeed, it bears noting that the Court of Appeal had also expressed the view that either spouse may commence the separate legal proceedings to determine the proprietary interests *vis-à-vis* a third party (see *UDA v UDB* at [56(b)]). Ultimately, the point is that all relevant parties should be before the court in determining the property dispute.

28 As against this backdrop, Mr Yong has not demonstrated how the fact that the Husband and the Son are joint plaintiffs would fall foul of O 15 rr 4 and 6 of the Rules of Court, or prejudice the Wife in the Action. The only argument mustered in support of Mr Yong's position (that the Husband ought to be a defendant rather than a joint plaintiff) was an assertion that the Husband and the Son "have opposing interests", [\[note: 101\]](#) with no authorities cited to buttress the argument. In my view, it is not evident as to how or why their interests are said to be opposed when they are in fact seeking identical reliefs in the Action. In any event, O 15 r 6(1) of the Rules of Court would prevent the Action from being defeated on the basis of an alleged misjoinder; it expressly envisages that the court may "determine the issues in dispute ... so far as they affect the rights and interests of the persons who are parties to the cause or matter". As the Husband, the Son and the Wife are all parties to the Action, there does not appear to be any reason why the action cannot proceed with the parties as currently lined-up. In the circumstances, there is no basis to compel either the Husband or the Son (who, it should be added, are currently represented by the same legal counsel) to assume the mantle of a defendant, when their interests are aligned and they consent to be joint plaintiffs.

29 There is therefore no reason to strike out the Action on the basis of a misjoinder of parties.

Was the Action an attempt to thwart the Family Courts' jurisdiction?

30 I turn next to Mr Yong's argument that the Action was a premature attempt to thwart the Family Courts' jurisdiction. As a preliminary point, this argument does not fall within the Application, which is premised on O 18 r 19(1)(a) of the Rules of Court; it would instead more appropriately be canvassed under other limbs of O 18 r 19(1) of the Rules of Court, such as, "abuse of process". However, for completeness, I address this argument as well.

31 I have difficulty understanding Mr Yong's position on this argument. On the one hand, in his initial set of written submissions, he contended that the Action would "thwart the Family Court's jurisdiction to determine the Wife's beneficial interests" in the Properties. [\[note: 11\]](#) On the other hand, in his further written submissions, he took the position that the nature of the beneficial interest in the Action was "clearly different" from the Wife's interest in the Properties in the matrimonial proceedings, [\[note: 12\]](#) elaborating that although the Family Courts may give the wife a proprietary interest subsequent to the division of matrimonial assets, such an interest "should not be conflated with... the [Wife's] current beneficial interest in the [Properties]". [\[note: 13\]](#) He further contended that any determination in the Action would have "no implication on the Family Court's subsequent determination of the Defendant's interest in the [Properties] if they are found to be matrimonial assets" (emphasis omitted). [\[note: 14\]](#) Curiously, in the same breath, he reiterated his initial position that the declarations sought would require the court to "[exercise] the jurisdiction of the Family Court on matrimonial matters and effectively thwart the Family Court from making [a] subsequent determination of the Defendant's interest in these properties if they are found to be matrimonial assets". [\[note: 15\]](#)

32 In my view, a declaration of beneficial interests in the Action does not thwart the jurisdiction of the Family Courts in determining a just and equitable division of matrimonial assets under s 112 of the Women's Charter. The principles underlying property disputes in civil proceedings are distinct from those underlying proceedings under s 112 of the Women's Charter. In the former, the court determines the proprietary interests of the parties in accordance with areas of law such as property, equity and trusts or succession; in the latter, the court treats matrimonial assets as "community property", to be divided justly and equitably between the spouses according to the principles set out in s 112 of the Women's Charter. The long line of authorities establishing such a jurisprudential and conceptual distinction include: *UDA v UDB* [2018] 3 SLR 1433 at [27] (cited in *UDA v UDB* at [10]), *JAF v JAE* [2016] 3 SLR 717 at [17], *Lau Siew Kim v Yeo Guan Chye Terence and another* [2008] SLR(R) 108 at [80]–[81] and *Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR(R) 520 at [40]; see also *Law and Practice of Family Law in Singapore* (Valerie Thean JC editor-in-chief & Foo Siew Fong gen ed) (Sweet & Maxwell, 2016) at paragraph 4.2.2.

33 Where a spouse's proprietary interests under property law is found, in matrimonial proceedings, to fall within the pool of matrimonial assets, these will be liable for division under s 112 of the Women's Charter. In dividing these assets, the Family Courts may well award the respective spouses the requisite beneficial interests which operate *in rem* on the matrimonial assets (see *Central Provident Fund Board v Lau Eng Mui* [1995] 2 SLR(R) 826 at [7]). However, these interests are conceptually different from the spouses' proprietary interests *prior* to the division of assets. As Mr Yong recognised in his further submissions, even if the Wife is found in the Action to have no beneficial interest in the Properties, this would not preclude the Family Courts from subsequently apportioning part of the Husband's share in the Properties to her, thereby giving her a proprietary interest in the Properties.

34 As such, I am unable to see how the declarations sought would thwart the jurisdiction of the Family Courts under s 112 of the Women's Charter. Quite the contrary, a judicial pronouncement in the Action on these proprietary interests will provide useful assistance to the Family Courts in determining the pool of matrimonial assets. It will also assist the Family Courts in ascertaining a just and equitable division of the assets; in this regard, it bears noting that s 112(2)(a) of the Women's Charter imposes a duty on the court to consider "the extent of the contributions made by each party in money, property or work towards acquiring, improving or maintaining the matrimonial assets". As observed in *Leong Wai Kum*, *Elements of Family Law in Singapore* (LexisNexis, 2nd Ed, 2013) at 546, albeit in the context of s 59 of the Women's Charter, having declarations of the spouses' respective

proprietary interests could “make the court’s task in the application for division of matrimonial assets easier as their respective property holdings have become determined”.

Do the declarations serve any useful practical purpose?

35 I turn finally to Mr Yong’s argument that the declarations do not serve any useful practical purpose. Whether the declarations serve a useful practical purpose is a factor for the court’s consideration in determining whether to exercise its discretion to grant declaratory relief (*Latham Scott* at [74]–[75]). At this interlocutory stage, there appears to be a useful practical purpose for the declarations, as explained in [34] above. This is, however, subject to the Statement of Claim being amended as mentioned in [36] below.

Conclusion

36 In the light of the foregoing, I decline to strike out the Action under O 18 r 19(1)(a) of the Rules of Court. However, I order that the Statement of Claim be amended to expressly plead the material facts relating to the precise percentage share of beneficial interests that the Husband and the Son respectively claim in the Properties, the basis for these claims, and how these interests are said to arise.

[\[note: 1\]](#) Defendant’s Written Submissions (dated 1 October 2018), at paragraph 15 read with paragraph 17.

[\[note: 2\]](#) Defendant’s Written Submissions (dated 1 October 2018), at paragraph 22 read with paragraph 26.

[\[note: 3\]](#) Defendant’s Further Written Submissions (dated 26 October 2018), at paragraphs 9 to 14 and 16 to 17.

[\[note: 4\]](#) Plaintiffs’ Further Written Submissions (dated 25 October 2018), at paragraph 10.

[\[note: 5\]](#) Plaintiffs’ Further Written Submissions (dated 25 October 2018), at paragraph 5.

[\[note: 6\]](#) Plaintiffs’ Further Written Submissions (dated 25 October 2018), at paragraph 5.

[\[note: 7\]](#) Plaintiffs’ Written Submissions (dated 1 October 2018), at paragraph 17.

[\[note: 8\]](#) Plaintiffs’ Written Submissions (dated 1 October 2018), at paragraph 18.

[\[note: 9\]](#) Plaintiffs’ Written Submissions (dated 1 October 2018), at paragraph 20.

[\[note: 10\]](#) Defendant’s Written Submissions (dated 1 October 2018), at paragraph 19.

[\[note: 11\]](#) Defendant’s Written Submissions (dated 1 October 2018), at paragraph 22 read with paragraph 26.

[\[note: 12\]](#) Defendant’s Further Written Submissions (dated 26 October 2018), at paragraph 19.

[\[note: 13\]](#) Defendant's Further Written Submissions (dated 26 October 2018), at paragraph 20.

[\[note: 14\]](#) Defendant's Further Written Submissions (dated 26 October 2018), at paragraph 23.

[\[note: 15\]](#) Defendant's Further Written Submissions (dated 26 October 2018), at paragraph 23.

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