

Construction & Arbitration Update Issue 05/2016

Welcome to the 5th issue of the Construction & Arbitration update in 2016.

The Construction & Arbitration update is a compendium of commentaries produced and published by the Dentons Rodyk construction team on a weekly basis.

This issue includes:

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Keeping to the straight and narrow: Justice is not served when tribunals stray beyond their remit

In *JVL Agro Industries Ltd v Agritrade International Pte Ltd* [2016] SGHC 126, the High Court set aside an international arbitration award because the tribunal had breached natural justice by dismissing JVL's claim on an issue that Agritrade never advanced. Instead, it originated from the tribunal.

Non-delegable duties of architects and main contractors in construction claims

In *MCST Plan No. 3322 v Tiong Aik Construction Pte Ltd and Another* [2016] SGCA 40, the Singapore Court of Appeal (CA) held that architects and main contractors are not subject to a non-delegable duty in tort to ensure that the building and design of the construction project was undertaken without negligence on the part of any of their independent subcontractors.

Sanctity of an arbitration award: When does a breach of natural justice tip the balance?

October 20, 2016

The plaintiff applied to set aside three arbitral awards. The first was awarded on the merits which was challenged on

the basis that the arbitrator had totally failed to consider or understand the plaintiff's evidence and submissions and therefore, there was a breach of natural justice which prejudiced the plaintiff.

SOPA takes a backseat: The role of cross-demands in setting aside statutory demands issued pursuant to judgments made in terms of SOPA adjudication

The High Court has ruled that a statutory demand based on a judgment pursuant to an adjudication determination made under the Building and Construction Industry Security of Payment Act (SOPA) can be set aside on the ground that the debtor had a cross-demand which it was pursuing in a separate suit. In the course of its judgment, the court also distinguished between genuine cross-demands to the adjudication determination and defences to the claim in the original adjudication application.

When do we require specialist builder's licence for structural steelwork?

October 20, 2016

In *Nam Hong Construction & Engineering Pte Ltd v Kori Construction (S) Pte Ltd* [2016] SGCA 42, the Court of Appeal (CA) firstly, affirmed the High Court decision that a disjunctive interpretation of the term "structural steelwork" under s 2(1)(d) of the Building Control Act (BCA) should be adopted. Secondly, it held that the licensing regime under Part VA BCA does not apply to subcontractors.

When professional and personal lives collide: Parity among professions?

October 20, 2016

Are all professions held to the same standard of honesty? In particular, if a professional is dishonest in his personal life, what is the impact on his professional life?

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