Reporter
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DENTONS RODYK

Dentons Rodyk Dialogue 2019

Privacy in the Age of Social Media and Data Breaches

After more than a decade of individuals giving up their personal data for the convenience and utility of networking and messaging at no cost, the perils and dangers of doing so have been brought home by scandals over how personal data has been exploited for political and commercial gain, as well as multiple serious data breaches. Governments, regulators and business need to respond to this crisis, and the question of how best to do so was the subject of the Dentons Rodyk Dialogue 2019.

The Dentons Rodyk Dialogue 2019 marked the third year of the partnership between Dentons Rodyk and the Singapore Management University's Centre for Cross-Border Commercial Law in Asia. Singapore's Smart Nation guru, **Dr Janil Puthucheary**, Senior Minister of State for Communications and Information, cybersecurity czar, **Mr David Koh**, Chief Executive of the Cyber Security Agency of Singapore and clarion-caller and privacy scholar, **Professor Anne Cheung**, from Hong Kong University were joined by 400 delegates, seeking insights into likely next steps for legal and regulatory reform.

Data privacy, data security, and cyber security

It seems that every breath we take leaves a trace in the ether. The volume of data collected every day is mind-boggling.

In his Opening Address, Dr Puthucheary delineated three areas for discussion: data privacy, data security and cyber security. First, data privacy raises the question of whether the use of personal data collected by private companies is sufficiently controlled by the mechanism of requiring consent from users, given that many users would neither read nor necessarily understand the lengthy terms and conditions they agree to. Second, data security concerns the protection of data that has to be collected by governments in carrying out their functions. Third, cyber security relates to the protection and prevention of misuse of not only data, but also computer systems and networks. Dr Puthucheary explained the government's approach to these three areas – the Personal Data Protection Act, Public Sector (Governance) Act and Cybersecurity Act, are intended to address data privacy, data security and cyber security respectively.

IN THIS ISSUE

Challenging the orthodox consent-based approach to data privacy

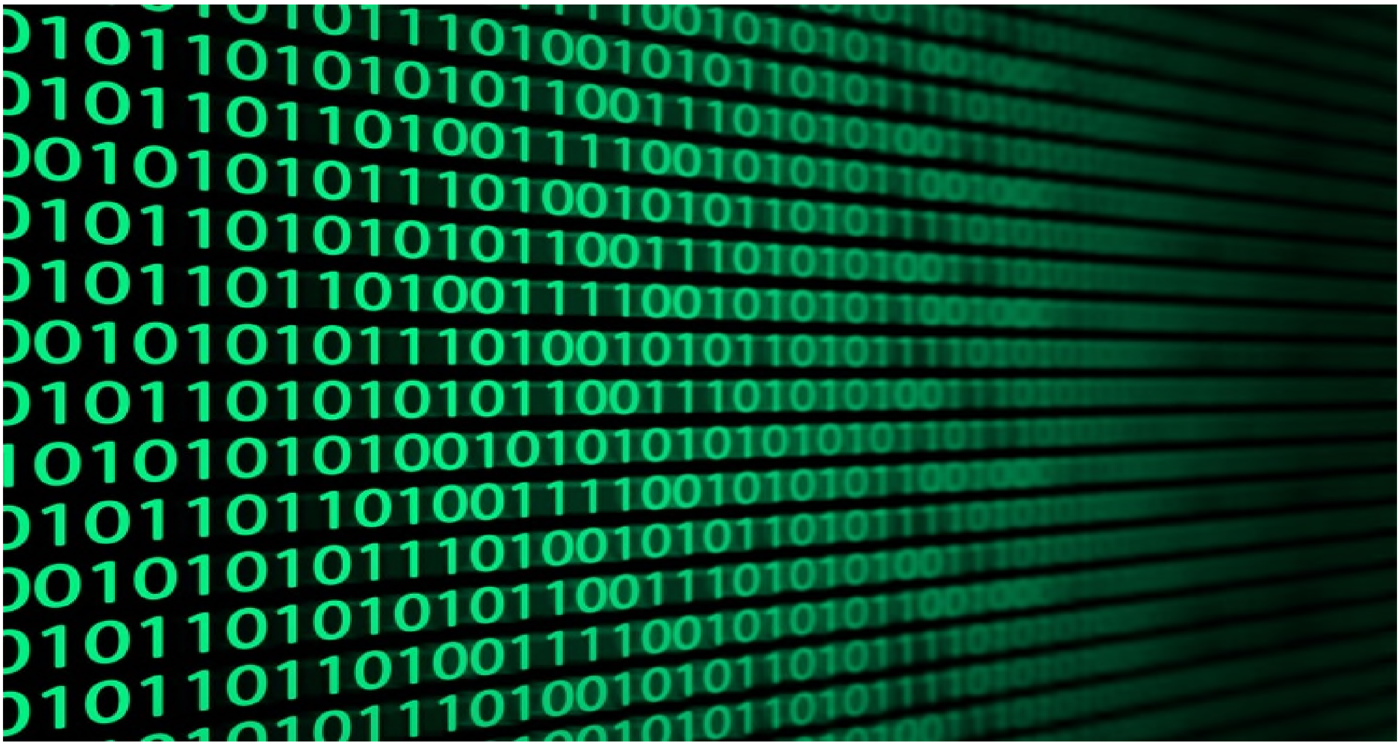
Professor Cheung highlighted the various legal challenges to data privacy, including those illustrated in the Facebook-Cambridge Analytica Scandal. Critically analysing the orthodox consent-based approach to data privacy, Professor Cheung concluded that a robust data privacy regime can no longer afford to hinge on outdated notions of personal data. Data is now collected through networks, using techniques of prediction and manipulation. Therefore, Professor Cheung recommended a holistic legal approach involving data privacy, private law (such as consumer protection laws and competition law) and public law (including anti-discrimination laws and due process rights).

Cybersecurity as a collective responsibility

Mr Koh emphasised that cyber security has to be a nationwide effort. The Cyber Security Agency strengthens the protection of Singapore's critical infrastructure sectors. At the same time, Mr Koh highlighted the need for people, front-end users, and corporations to take responsibility for cybersecurity, as humans are, almost always, the weakest link in a cyber-attack. In particular, Mr Koh encouraged corporations to view cybersecurity measures as an investment, instead of a cost. Assuring clients and customers that their data is safe is important and a competitive advantage.

The way forward

The engaging panel discussion with the speakers was moderated by Global Vice-Chair and ASEAN CEO of Dentons Rodyk, **Mr Philip Jeyaretnam S.C**. One of the immediate topics concerned how having different national regulatory frameworks imposes costs on business and may even impede the best measures for cybersecurity. Given that data breaches have become an extension of war and espionage between states, the question was posed of the possibility of international conventions like those regulating warfare. The panel also addressed the audience's questions about how regulation should evolve to address data privacy, data security and cyber security. In particular, the panel noted that consent was necessary but inadequate on its own. The panel also considered the merits and challenges of alternatives such as a rights-based approach (as adopted in the European Union's General Data Protection Regulation), self-regulation and public law solutions.



The role of the individual

In his Parting Thoughts, **Mr Gilbert Leong**, Senior Partner in Dentons Rodyk's Intellectual Property & Technology practice group, emphasised the importance of individual responsibility in addressing the issues of data privacy, data security and cyber security. Much of the earlier discussion had pertained to the role of external third parties such as government bodies and Internet service providers in adopting and promoting appropriate policies. However, parents and educators also play a crucial role in teaching youths to use social media networks responsibly. Mr Leong cautioned against overreliance on external parties, and invited the audience to embrace self-help approaches in addressing the issues of data privacy, data security and cyber security.

The Dentons Rodyk Dialogue 2019 highlighted the many pressing and challenging issues prevalent in the age of social media and data breaches. Technology is constantly evolving, and thus requires regulators and governments to adapt and change. Innovation brings immense benefits and must not be choked off. Yet ordinary people are vulnerable to their data being misused and exploited. Singapore must find the right balance.

Dentons Rodyk would like to thank and acknowledge Senior Associate Weilin Chua and Practice Trainee Sumedha Madhusudhanan who were the rapporteurs for the event.

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Singapore Ministry of Health publishes fee benchmarks for surgical procedures in the private sector

As part of efforts to keep healthcare costs sustainable, the Singapore Ministry of Health (MOH) has on 13 November 2018 introduced fee benchmarks for surgeon fees at private hospitals and clinics. As at the date of writing, the document released by MOH is titled 'Fee Benchmarks for Private Sector Surgeon Fees.'

This is not the first guideline of its kind in Singapore. Since 2003, MOH has already publicised historical hospital bill sizes (including operation fees) for public sector hospitals, which subsequently extended to private hospitals. The Singapore Medical Association (SMA) – an association representing the majority of medical practitioners in Singapore – published a Guideline on Fees (GOF) in 1987 for the private sector. The 4th edition of the GOF in 2006 had expanded to cover almost 1,500 surgical procedures, but was withdrawn by the SMA in 2007 due to anti-competition concerns. In recent years, amid calls for fee guidelines for the private sector, the MOH proceeded to develop fee benchmarks for private medical practitioners.

The 2018 fee benchmarks were designed to serve as guidelines for private medical practitioners in setting fair and reasonable fees for surgical procedures. By pushing toward greater transparency, the MOH also hopes to facilitate and empower patients to make informed decisions.

Other stakeholders such as insurers could also take the fee benchmarks into consideration in insurance policy claims and assessment processes.

The fee benchmarks, developed by reference to actual transacted data, cover only surgeon fees. Other fees, such as facility fees and anaesthetist fees, are not included.

Please also note that while it is not specifically addressed in the MOH's 2018 fee benchmarks, the Committee intended for the fee benchmarks to be periodically updated. The Committee recognised that over the years, there should be an allowance for some increase in the fees.

Implications on private medical practitioners

The fee benchmark for each procedure is expressed as a range of fees. The MOH recognises that there would be variation in skill and complexity within each surgical procedure, and has made it clear that the upper bound of the benchmarks do not constitute a fee cap. Private practitioners are thus not bound to peg their fees to stay within the benchmark ranges. However, it is recommended that private practitioners should use the benchmark ranges when setting their fee rates and make reference to the benchmarks when providing financial counselling to patients or their caregivers.

The fee benchmarks also place a greater imperative on practitioners to explain matters to patients should the fees exceed the upper bound. This explanation should be done before the operation. As a matter of good practice, medical practitioners should document clearly their explanations on the available treatment options and fees for the procedures, with the appropriate level of detail.

MOH has also stressed that fees exceeding the upper bound do not necessarily amount to overcharging. Nevertheless, medical practitioners may wish to note that the fee benchmarks may serve as a reference for regulators such as the Singapore Medical Council (SMC) and the MOH when investigating complaints relating to overcharging. Private medical practitioners should take care to ensure that departures from the fee benchmarks are justified and that appropriate explanations are provided to patients or their caregivers.

Conclusion

The publishing of the fee benchmarks is a welcome development. Greater information symmetry may also help to reduce complaints of overcharging against private practitioners.

Please do not hesitate to reach out to any of our contacts if you have any questions relating to the fee benchmarks and how the benchmarks will affect your business or practice.

Dentons Rodyk acknowledges and thanks Associate Lee Qiu Li for her contributions to this article.

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Singapore Budget 2019: Tax Developments

Introduction

As Singapore progresses into its bicentennial year this 2019, Singapore's Finance Minister Mr Heng Swee Keat delivered the Budget Statement in Parliament on 18 February 2019, announcing various tax and policy changes aimed at building a long-term and fiscally sustainable future.

At a glance, the key tax changes affecting individuals and businesses include:

(a) Personal income tax rebate for resident individuals;

(b) Lapse of Not Ordinarily Resident (NOR) scheme to attract foreign talents;

(c) Reduced GST import relief for travellers; and

(d) Extension of tax incentives for the financial sector and fund industry.

We discuss these changes in turn below. While some of these changes do not appear to significantly impact individuals and businesses in Singapore, they reflect recent tax trends and build on existing initiatives in previous years' Budgets.

We also provide an important update on the recent implementation of the IP Development Incentive below, which was announced in the Budget 2017 as part of Singapore's effort to address Base Erosion and Profit Shifting (BEPS).

Personal Income Tax Rebate for Individuals

All Singapore tax resident individuals will be granted a 50% personal income tax rebate of up to S$200 for the Year of Assessment (YA) 2019.

Lapse of NOR Scheme

The NOR scheme was introduced in the Budget 2002 to attract foreign talents to relocate to Singapore. Under the scheme, an eligible individual granted NOR status is entitled to tax concessions over a five-year period.

The NOR scheme will lapse after YA 2020. In our view, this is reflective of the current environment, where there is less impetus to attract foreign talent to Singapore. Further, Singapore remains a popular destination for individuals to relocate for numerous reasons, including its status as a financial hub in Asia, favourable business and tax environment, well-developed economic and social infrastructure, political stability and commitment to the rule of law.

Individuals with an existing NOR status will continue to be granted tax concessions until their NOR status expires, if they continue to meet the conditions.

Reduced GST Import Relief

GST is generally imposed on goods imported into Singapore, unless specifically exempted or relieved.

From **19 February 2019**, travellers will be entitled to reduced GST import relief for goods bought overseas (excluding intoxicating liquors and tobacco, and goods imported for commercial purpose), at the following amounts:

i. Spending less than 48 hours outside Singapore: relief for first S$100 only (reduced from S$150) of the value of the goods bought overseas; and

ii. Spending at least 48 hours outside Singapore: relief for first S$500 only (reduced from S$600) of the value of the goods bought overseas.

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The above changes build on GST measures introduced in the Budget 2018 to level the playing field between local and foreign suppliers, where a supplier who belongs in Singapore would be required to charge GST on goods and services supplied to customers in Singapore, while an overseas supplier would not. GST on imported services was therefore introduced, including:

i. a reverse charge mechanism for business-to-business supplies of imported services made to GST-registered persons; and

ii. an overseas vendor registration regime for business-to-consumer supplies of imported digital services to non-GST registered persons.

Similarly, the reduced GST import relief reduces discrimination against local suppliers of goods by creating disincentives to purchase goods overseas and import them into Singapore on the basis that GST payment will be relieved.

However, some discrimination still persists arising from the **exemption** from import GST on goods imported by post or air (e.g. parcels) with a cost, insurance and freight (CIF) value of below S$400. This represents a leakage yet to be plugged, and we will be looking to see whether such exemption will be adjusted in subsequent Budgets.

Extension of Tax Incentives for Financial Sector and Fund Industry

(a) Writing Down Allowance (WDA) for Intellectual Property Rights (IPR)

Under section 19B Income Tax Act (Cap. 134) (the ITA), a company or partnership is entitled to a WDA on capital expenditure incurred in acquiring qualifying IPRs for use in its trade or business, including patents, trademarks, registered designs, copyrights and trade secrets or information with commercial value.

The WDA will be extended to the **last day of the basis period for YA 2025**, meaning it will cover capital expenditure incurred in respect of qualifying IPRs acquired on or before such revised date.

(b) Investment Allowance (IA) under the Automation Support Package (ASP)

Under the ASP which was announced in the Budget 2016, a 100% IA is granted to companies on approved capital expenditure of up to S$10 million per project, net of grants, on projects approved by Enterprise Singapore (ES) during the approval period.

The IA will be extended and will apply to projects approved by ES during the period from **1 April 2019 to 31 March 2021**.

(c) Income tax concessions and GST remissions for Singapore-listed Real Estate Investment Trusts (S-REITs), REITs Exchange-Traded Funds (ETFs) and Registered Business Trusts (RBTs)

Existing income tax concessions for S-REITs and REITs ETFs will be extended till **31 December 2025**. In addition, GST remissions granted to S-REITs and RBTs will be extended till **31 December 2025**. All other conditions of the existing income tax concessions and GST remissions above will remain the same.

Further details on these changes are to be released by MAS by May 2019.

(d) Tax incentive schemes (Section 13 CA, 13X, 13R) and GST remissions for funds managed by Singapore-based managers

Existing tax incentive schemes and GST remissions for qualifying funds managed by Singapore-based fund managers will be extended till **31 December 2024**. These tax incentive schemes include the offshore fund tax exemption (Section 13CA), onshore fund tax exemption (Section 13R) and enhanced-tier fund tax exemption (Section 13X) as set out under the ITA.

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In addition, the schemes will be refined to ease taxpayers' compliance burden, including the following:

<table>
<tr><th></th><th>Section 13X</th><th>Section 13CA</th><th>Section 13R</th></tr>
<tr><td rowspan="4">Key changes</td><td colspan="3">For income derived on or after 19 February 2019:
(i) Expanded list of designated investments (DI): removal of counter-party and currency restrictions, inclusion of credit facilities and advances and Islamic financial products that are commercial equivalents of DI. Further, the condition for unit trusts to wholly invest in DI will be removed
(ii) Expanded list of specified income: inclusion of income in the form of payments that fall within the ambit of section 12(6) ITA</td></tr>
<tr><td>-</td><td colspan="2">From YA 2020, removal of the condition that the fund must not have 100% of the value of its issued securities <u>beneficially owned by Singapore persons</u></td></tr>
<tr><td>From 19 February 2019:
(i) Enhanced to apply to co-investments, non-company SPVs and more than two tiers of SPVs
(ii) Committed capital concession extended to debt and credit funds, allowing such funds to use secured committed capital to meet the minimum fund size condition. Currently, this concession is available only to real estate, infrastructure funds and private equity funds only
(iii) Enhanced to include managed accounts i.e. dedicated investment accounts where an investor places funds directly with a fund manager without using a separate fund vehicle</td><td colspan="2">-</td></tr>
<tr><td colspan="2">Qualifying non-resident funds will be entitled to the 10% concessionary tax rate applicable to qualifying non-resident non-individuals when investing in S-REITs and REITs ETFs, in respect of distributions made during the period from 1 July 2019 to 31 December 2025</td><td>-</td></tr>
</table>

IP Development Incentive (IDI)

In the Budget 2017, IP income was removed from the scope of the Development and Expansion Incentive-Services/Headquarters (DEI) and Pioneer-Services/Headquarters Incentive (PC-S). In place of such removal, the IDI was introduced as a standalone incentive, specific to IP income.

(Background: The DEI and PC-S are administered by the Economic Development Board (EDB) and awarded to companies making significant economic contributions to Singapore. Under the DEI and PC-S, approved companies can enjoy tax exemptions and concessions on income arising from qualifying activities.)

As of 1 July 2018, the IDI has been implemented under Section 43ZI ITA. The EDB has also released further details of the criteria to be satisfied in its IDI Circular. Applications to the EDB for the IDI are now open to companies.

Under the IDI, an approved company is eligible for a reduced corporate tax rate of either 5% or 10% (subject to increments of 0.5% at regular prescribed intervals) on a **percentage** of qualifying IP income derived by it during an initial incentive period of up to 10 years.

The above measures were taken in view of Singapore's participation in the BEPS Project since June 2016. In particular, the key differences in the treatment of IP income under the IDI (as opposed to under the DEI and PC-S previously) include:

1. The percentage of qualifying IP income is determined by the BEPS-compliant **modified nexus approach**, which permits a country to provide benefits (e.g. tax incentives) to income arising from an IP right, so long as there is a **direct nexus** between the income receiving benefits (e.g. IP income qualifying for tax incentives) and the expenditures contributing to that income (e.g. R&D expenses); and

2. Stemming from the above, the research and development (R&D) activities undertaken to produce the qualifying IP income must be **conducted in Singapore** in order to receive benefits under the IDI. Previously under the DEI and PC-S, there was no strict requirement for this.

The IDI is similar to patent box exemptions in other jurisdictions such as the UK, which grants tax benefits to companies which have been properly involved in the creation and innovation of the patent, as opposed to merely owning the patent. Similarly, through the IDI, Singapore complies with the BEPS principle that the holding of IP in itself is not a substantive economic activity.

Companies applying for the DEI and PC-S schemes should also consider applying for the IDI if they perform substantial R&D activities in Singapore which generate IP income.

Dentons Rodyk acknowledges and thanks Practice Trainee Audrey Thng for her contributions to this article.

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Inward Re-domiciliation – Practical Pointers

Following from our article From off-shore to on-shore: Moving foreign entities to Singapore under the Inward Re-domiciliation Regime discussing the introduction in Singapore of the re-domiciliation regime allowing a foreign corporate entity to transfer its registration in Singapore, our firm has assisted clients with this exercise. We now share the following pointers from the experience gained.

Separate application for name reservation made in advance of transfer application

- We recommend applying to reserve the intended company name in advance of (and not at the same time of) submitting the application for transfer of registration of the company under Section 358(A) of the Companies Act (Registration Transfer Application). This is because if there is any issue with the intended company name, it can be resolved before submission of the Registration Transfer Application. At the time of submitting the Registration Transfer Application, the Registrar should be informed that the intended company name has been approved and reserved.

Audited financial statements of the foreign corporate entity

- In a Registration Transfer Application, it is stated that the foreign corporate entity undertakes to provide a copy of the audited financial statements of the last financial year, if required by the Registrar. This would seem to suggest that the audited financial statements are not a mandatory part of the application. We understand from our experience however that the Registrar will, as part of their review process, require the foreign corporate entity to provide the latest audited financial statements for assessment.
- Notwithstanding the above, in one of our matters, we requested the Registar to waive the requirement for the foreign corporate entity to provide its latest audited financial statements. In this matter, the foreign corporate entity:

    i) was registered as a foreign company under Division 2 of Part XI of the Companies Act (the “Singapore Branch”) before its Registration Transfer Application;

    ii) was not required to prepare financial statements under the laws of the place of its incorporation;

    iii) carried on no trading or other business operations of its own other than that of its Singapore Branch; and

    iv) had submitted its unaudited financial statements, and its audited financial statements in respect of its Singapore Branch when submitting its Registration Transfer Application.

Given the above factors, the Registrar agreed that the foreign corporate entity’s latest audited financial statements would not be required. It should be stressed however that this waiver by the Registrar would only be granted on a case-by-case basis.

Date of registration

- The date of registration of the re-domiciled company in Singapore should be the date when the Registrar approves the Registration Transfer Application.
- To ensure and allow for a seamless transition in operations, the foreign corporate entity may request a specific date of registration when submitting its Registration Transfer Application. The foreign corporate entity must, however, submit the application at least two (2) months before the intended date of registration. The approval of the request is subject to the Registrar’s discretion.

At least one resident director

- A foreign corporate entity that re-domiciles to Singapore will become a Singapore company and is required to comply with all the requirements in the Companies Act (with such adaptions, exceptions and modifications as may be specified in regulations) on and from the date of transfer.

- Under the Companies Act, every Singapore company must have at least one (1) director ordinarily resident in Singapore. As such, it is necessary for the foreign corporate entity to appoint an individual who is ordinarily resident in Singapore as one of its directors so that his/her particulars may be provided in the Registration Transfer Application. The effective date of appointment of this director may be the date of registration.

- In certain jurisdictions, a company can have corporate directors and a corporate secretary. However, in Singapore, under the Companies Act, the director and secretary of a company shall be natural persons. The concepts of "corporate director" and "corporate secretary" do not apply to a Singapore incorporated company.

- As such, the corporate director and corporate secretary of a foreign corporate entity must resign from their respective offices with effect from the date of registration before the Registration Transfer Application is submitted, and appoint individual(s) to the office of directors. The company is not required to appoint a secretary before submitting the Registration Transfer Application to ACRA, but must appoint an individual who is resident in Singapore as its secretary within six (6) months after the date of registration.

Auditors

- As mentioned above, a re-domiciled foreign corporate entity is required to comply with all the requirements of the Companies Act (with such adaptions, exceptions and modifications as may be specified in regulations). According to the Companies (Transfer of Registration) Regulations 2017, the directors of a re-domiciled company are required to appoint its auditors within three (3) months after the date of registration (as opposed to three (3) months after incorporation, as is the case for a Singapore incorporated company).

Dentons Rodyk acknowledges and thanks Associate Randall Lee, Chartered Secretary, Manager, Bee Leng Chew and Senior Corporate Secretarial Executive Nelson Lee for their contributions to this article.

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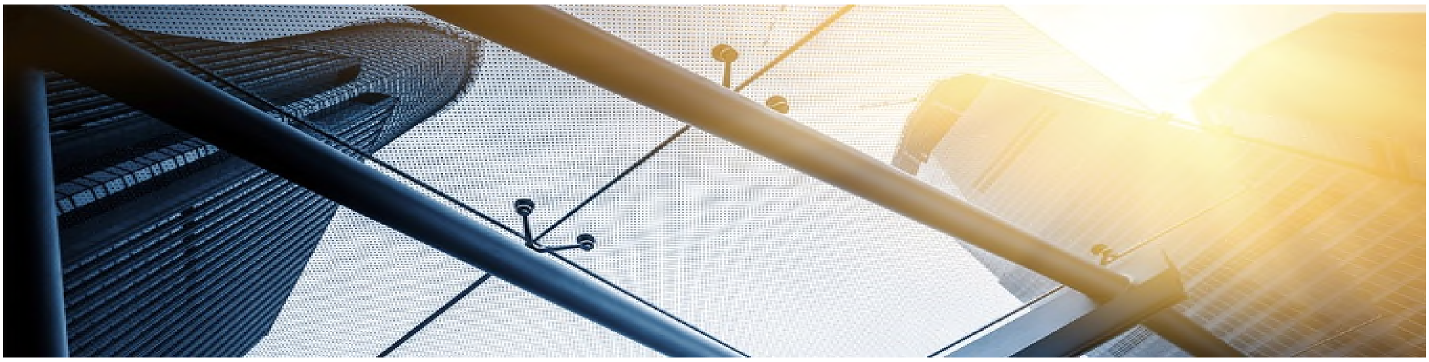

The “new” 2014 Geographical Indications Act

Background

1. In April 2014 the Singapore Parliament passed the Geographical Indications Act (2014) (the 2014 GIA), in contemplation of the European Union-Singapore Free Trade Agreement (EUSFTA).

2. On 13 Feb 2019, the European Parliament casted a majority vote in favour of the EUSFTA to be ratified and enforced.

3. In light of the above, the 2014 GIA will come into force starting 1 April 2019.

4. The GIA 2014 will replace the existing Geographical Indications Act (Cap 117B, 1998 Rev Ed Sing) (the 1998 GIA) when it comes into force. This article seeks to highlight the key changes in the laws governing Geographical Indications (GIs), and to identify areas that may be of concern, especially if you are one of the parties below, who, under the 2014 GIA, are entitled to file an application for registration of a geographical indication:

   a. a person who is carrying on an activity as a producer in the geographical area specified in the application with respect to the goods specified in the application;

   b. an association of persons referred to in paragraph (a);

   c. a competent authority having responsibility for the geographical indication for which registration is sought.

Current state of affairs

5. At present, GIs are already protected in Singapore under the 1998 GIA, in accordance with the World Trade Organization’s (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) standards.

6. TRIPS provides a two-tiered scheme of protection:

   a. firstly, all GI products enjoy a basic level of protection where GI labels cannot be used on products which do not come from the place indicated by the GI, if this misleads the public as to the true geographical origin of those products;

   b. for wines and spirits, there is an enhanced level of protection where GI labels cannot be used even if consumers are not misled as to the geographical origin of the goods in question.

7. The 1998 GIA does not require GIs to be registered to enjoy the relevant protection. However, in practice, the absence of a registration system means that a term (e.g. “Champagne”, “Meursault”, “Roquefort” etc.) can only be conclusively determined to be a GI through a Court ruling in a civil suit. As of today, there have not been any such disputes.

Changes

8. The 2014 GIA introduces three major changes to the GI regime. The 2014 GIA contains provisions to:

   a. establish a Registry of Geographical Indications or "GI Registry";

   b. enhance the protection of GIs in Singapore; and

   c. provide improved border enforcement measures for GIs.

9. The 2014 GIA will not override any rights that interested parties already have under the existing regime. These rights will co-exist with those under the new regime. However, interested parties who wish to benefit from increased certainty of recognition, enhanced protection and improved border enforcement measures may opt to register their GI.

Registration

10. The registration system improves the certainty of protection given to GIs. It gives the holder certainty that a term is recognised as a GI and enjoy enhanced protection.

11. Registration will be a three-stage process. The process is similar to the trade mark registration system in Singapore and comprises the following:

    a. Application;

    b. Examination; and

    c. Publication and Opposition.

Application

12. Only persons who fall within one of the three categories mentioned at paragraph 4 above are entitled for apply for the registration of a GI. During the Application stage, applicants will be required to specify the following:

    a. name, address and nationality of applicant;

    b. capacity in which the applicant is applying for registration;

    c. the GI for which registration is sought;

    d. geographical area to which the GI applies;

    e. the goods to which the GI applies;

    f. the quality, reputation or other characteristics of the good in question and how that is attributable to the geographical origin;

    g. evidence that the GI has obtained recognition as a GI in the country of origin; and

    h. other particulars as may be prescribed.

13. GIs may only be registered in respect of goods falling within one or more categories of goods in the Schedule of the 2014 GIA, namely:

    a. wines;

    b. spirits;

    c. beers;

    d. cheese;

    e. meat and meat products;

    f. seafood

    g. edible oils

    h. non-edible oils;

    i. fruits;

    j. vegetables;

    k. spices and condiments;

    l. confectionary and baked goods;

    m. flowers and parts of flowers; and

    n. natural gum

14. The implication of this requirement is that non-foodstuff / non-agricultural GIs are precluded from GI registration.

15. While the registration of a GI which is identical to or similar with an earlier GI is precluded where a likelihood of confusion exists, the Registrar may register homonymous GIs with practical conditions differentiating the homonymous GI from the earlier GI.

Examination

16. At the examination stage, much like trademark registration, the Registrar will examine if an application for registration of a GI satisfies the statutory requirements. If it appears to the Registrar that the requirements for registration have not been met, the Registrar will provide the applicant with an opportunity to make further representations, amend the application or furnish additional evidence.

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Publication and Opposition

17. Once the Registrar has accepted the application, it would be published and becomes open for interested third parties to object to the registration of the GI. For example, a third party may oppose the registration on grounds that the GI has become a common name for describing that product in Singapore. GIs which are proven to have become common household names in Singapore may not be registered.

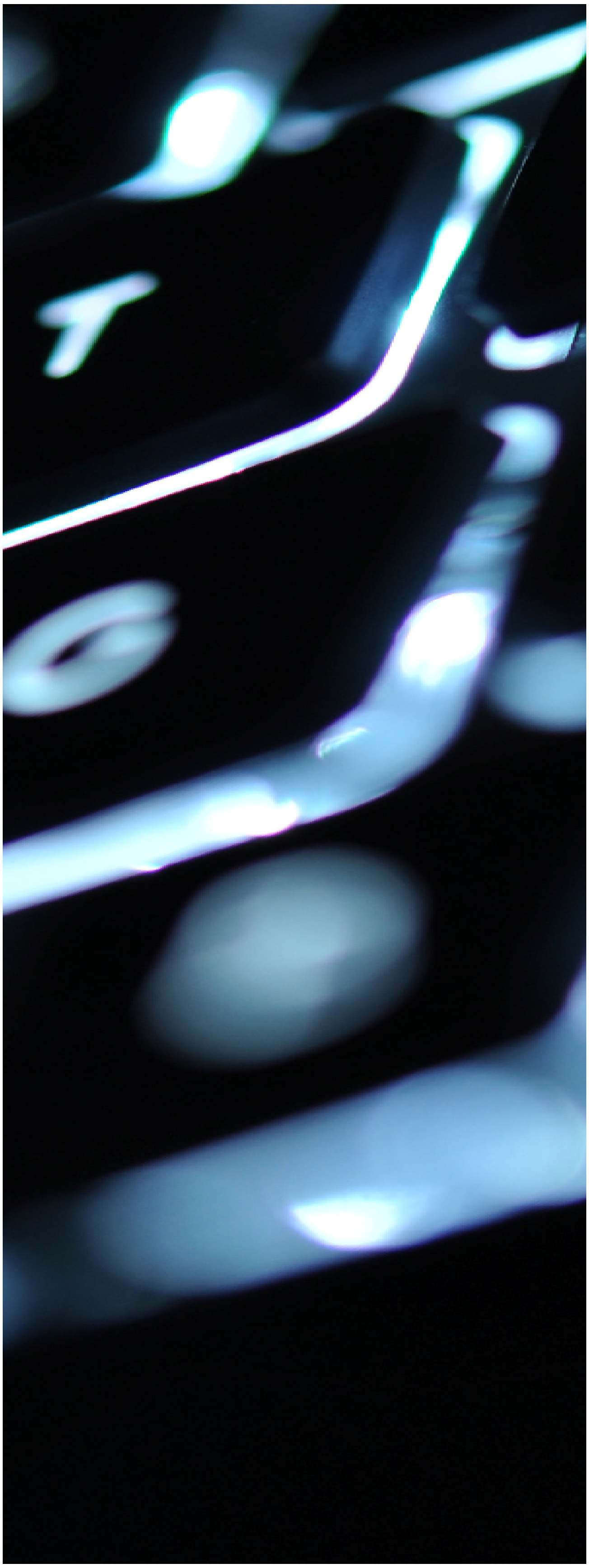
Registration

18. The initial registration of a GI will last for 10 years. Similar to the trademarks, the registration may be renewed for further periods of 10 years each. To protect existing rights, GI registration will also follow the "first in time, first in right" principle. This means that a new application for GI registration may not invalidate a prior existing GI or trade mark.

Enhanced Protection

19. As earlier mentioned in paragraph 10 above, registration of a GI which identifies any agricultural product or foodstuff confers it with enhanced protection.

20. Under the 1998 GIA, only GIs relating to wines and spirits are entitled to an enhanced level of protection where use of GI-containing labels are prohibited, even if consumers are not misled as to the geographical origin of the goods in question. Under the new 2014 GIA, this enhanced level of protection is extended beyond wines and spirits to all successfully registered GIs, including agricultural products and foodstuff. The sections in the 2014 GIA provides such enhanced protection to non-wine, non-spirits GI would not come into force on 1 April 2019 but at a date to be determined by the Minister. This enhances the protection granted to owners of a registered GI since it removes the need to prove that the public has been misled by the use of the GI. The sections in the 2014 GIA which provides such enhanced protection to non-wine, non-spirits GI would not come into force on 1 April 2019 but at a date to be determined by the Minister.



Border Enforcement

21. Under the new 2014 GIA, owners of all registered GIs will also have access to improved border enforcement measures. Measures include the ability to request Singapore Customs to detain suspected infringing goods which are being imported into or exported from Singapore. These measures are generally similar to those found in the Trade Marks Act (TMA), with modifications to suit the situations involving GIs. The sections in the 2014 GIA which provides such border enforcement measures would not come into force on 1 April 2019 but at a date to be determined by the Minister.

22. Improved border enforcement measures will only be effected within three years after the EUSFTA enters into force. This will give Singapore Customs time to build up capabilities to undertake enforcement action.

Alignment with TMA

23. In addition to the main changes highlighted above, other changes include the inclusion of a provision for remedying groundless threats of proceedings, aligning the 2014 GIA with the TMA.

Concluding remarks

24. Producers or associations of producers of goods connected with a geographical indicator or (regulatory) authorities which are responsible for the protection / administration of geographical indicators should consider registering the geographical indicators used, protected or administered by them. This is particularly so when the 2014 GIA adopts the "first in time, first in right" principle. Registered GIs also enjoy enhanced protection.

Dentons Rodyk acknowledges and thanks Associate Joshua Woo for his contributions to this article.

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Litigation Briefs

Need for Speed: Get your Anti-Suit Injunction Fast!

Introduction

Parties entering into arbitration agreements ordinarily abide by their contractually chosen dispute resolution mechanism and proceed accordingly. Sometimes, one encounters a counter-party who takes it upon himself to start proceedings in a foreign jurisdiction in breach of an arbitration clause. How does an innocent party restrain such conduct? The Court of Appeal (SGCA) in Sun Travels & Tours Pvt Ltd v Hilton Manage (Maldives) Pvt Ltd (Sun Travels) laid down firm guidance that a party who finds itself in this scenario should act as fast possible to restrain the counter-party by way of an anti-suit injunction (ASI). The SGCA clarified that once a judgment (including one subject to appeal) has been issued in the foreign court, it is too late for an ASI to be sought or obtained in the seat court. The question remains as to when one attempts to obtain ASI relief before a judgment has been handed down in the foreign proceedings. Seeing as an ASI is an equitable relief, and dilatoriness and unconscionable conduct can bar one from obtaining such relief, one should proceed promptly and before the proceedings are too far advanced in the foreign jurisdiction to secure such relief. In other words, move fast (and as soon as practicable) once the breach of the arbitration agreement is discovered, to seek the ASI in the Singapore courts.

Facts

Sun Travels & Tours Pvt Ltd (Sun) is a resort operation that owns a hotel in Maldives. Hilton International Manage (Maldives) Pvt Ltd (Hilton) is a Maldivian incorporated company in the hotels and resort industry.

Sun and Hilton entered into a hotel management agreement in February 2009. Sun was later dissatisfied with Hilton's performance of the Hotel and gave notice in 2013 to terminate the management agreement. Hilton accepted the termination on the basis that it was a wrongful repudiation of the agreement.

Hilton later commenced arbitration proceedings pursuant to the arbitration clause in the management agreement. In 2013, the ICC Court of Arbitration fixed Singapore as the seat of arbitration. Mid-way through the arbitration proceedings, and after a Partial Award was issued, Sun stopped participating in the proceedings even though it was given several opportunities by the Tribunal to do so. The Tribunal later issued an award ordering Sun to pay Hilton damages amounting to US$20,945,000 plus interest, and US$342,500 of legal fees incurred.

After the Final Award was issued, Hilton commenced enforcement proceedings in the Maldivian courts in relation to the Arbitral Awards. After some procedural hiccups around the proper court to commence the enforcement proceedings, Hilton obtained a judgment in its favour and commenced proceedings in the Enforcement Division of the Maldivian Courts to start the second enforcement proceedings.

Before the appeal in the Enforcement Division was heard, Sun commenced a civil action in Maldives against Hilton. The civil suit essentially concerned the same issues and disputes as that decided by the arbitral tribunal in the Partial and Final Award.

In January 2017, the Maldivian Civil Court decided that it would determine both the procedural and jurisdictional matters at the same time when it hears the merits of the case on Sun's civil suit. The court later delivered a judgment in March 2017, holding that Sun had made out its claims against Hilton. This March judgment was later relied upon by the Enforcement Division Civil Court to refuse Hilton's second enforcement proceedings (the March Judgment). Hilton appealed against the March Judgment and the appeal was still pending at the time the SGCA delivered its judgment in the Singapore courts.

In July 2017, Hilton filed an application in the Singapore High Court against Sun. One of the reliefs sought was a permanent anti-suit injunction to restrain Sun from taking any steps in reliance on the March Judgment. The SGHC judge decided in Hilton's favour. Sun appealed against the order to the SGCA.

(i) Anti-suit injunction

The SGCA confirmed that the jurisdiction to grant ASI relief is an equitable one. In cases involving an arbitration agreement or an exclusive jurisdiction clause, it would suffice to show breach of such an agreement, and ASI relief would ordinarily follow, unless there are strong reasons not to allow such relief. This is however subject to an important caveat that the court must not feel diffident in granting an anti-suit injunction. For example, this may be as a result of the applicant's delay in not seeking ASI relief promptly, resulting in the foreign proceedings being too advanced.

In the judgment, the SGCA justified its position on two bases. First, the longer the delay and the more advanced the foreign court proceeding becomes, the more unlikely Singapore court is to grant an ASI given the time, effort and judicial resources that will be wasted by the abandonment of the foreign proceedings, following the grant of an ASI. Second, what matters is the extent to which the delay has allowed the foreign court proceedings to have progressed. Pertinently, the SGCA clarified that delay cannot be justified on the basis that jurisdictional objections are being made in the foreign court proceedings. Indeed, allowing such conduct on the part of the applicant, would effectively give the applicant "two bites at the cherry"; to encourage one to seek an ASI when its challenge in the foreign court has failed.

(ii) Anti-enforcement injunction

The SGCA then went on to expound on the limited circumstances seen to be appropriate to grant an anti-enforcement injunction even after a judgment has been issued by the foreign court.

To this end, the authorities speak with one voice on the need to exercise great caution in granting such injunctions, because of the way they interfere with foreign proceedings. Two aspects stand out in this regard. First, such an injunction would preclude other foreign courts from considering whether the judgment in question should be recognised and enforced. Second, allowing such relief would be an indirect interference with the execution of the judgment in the jurisdiction where the judgment was given and where the judgment can expect to be obeyed.

The SGCA surveyed the considerations and cases where anti-enforcement injunctions have found to have been justified and concluded that they are few and far between and include (1) where the judgment has been procured by fraud in the foreign jurisdiction or (2) where the applicant had no means at all of knowing that judgment was being sought against him until it was served such as (a) where the judgment was obtained too quickly or (b) secretly to enable an injunction to be obtained.

(iii) Declaratory relief

On the facts, as elaborated on above, the SGCA did not approve of the applicant's conduct in seeking an anti-suit injunction only after the foreign proceedings had progressed substantially (even leading all the way to a judgment).

Notwithstanding that, the SGCA clarified that, as the court of the seat of arbitration, it has the discretion to grant declaratory relief (and did so grant such relief) to signify to the foreign court that the defendant breached the arbitration agreement by instituting civil proceedings in the foreign jurisdiction when arbitration award(s) on the same dispute had already been issued. In the SGCA's words "these orders serve to uphold the integrity of arbitration agreement and the awards rendered on the basis of such agreements."

Key Takeaways

This decision is significant to any party who has entered into an arbitration agreement, with Singapore as the seat of the arbitration. In light of Sun Travels, when the other contracting party has, in breach of the arbitration agreement, instituted civil proceedings in a foreign jurisdiction, the aggrieved party must act with speed in making an ASI application as soon as possible after it discovers the existence of the foreign proceedings. In particular, it should not seek to resist the foreign proceedings on the basis of an arbitration clause and only after that fails, move to restrain the counter-party by commencing ASI relief in the Singapore courts. The SGCA has clarified that after judgment is issued in the foreign proceedings, ASI relief is almost impossible save in very exceptional circumstances (as enumerated above).

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The question remains where foreign proceedings have commenced, but the aggrieved party applies for an anti-suit injunction before a judgment is issued. While this situation was not specifically dealt with by the SGCA, the courts will conduct the usual balancing exercise by considering a multitude of factors, including how far advanced the foreign proceedings are, whether the aggrieved party's conduct in the foreign proceedings is inconsistent/incompatible with his rights to arbitrate the dispute under the arbitration agreement, reasons for the delay/not seeking the injunction earlier and whether there is any dilatory or unconscionable conduct on the aggrieved party that should deprive him of the equitable relief.

Our advice is simple: time is of the essence if the counter-party commences foreign proceedings in breach of an arbitration clause; move as fast as possible and as soon as practicable once you discover the breach of the arbitration agreement to seek the ASI relief in Singapore.

Dentons Rodyk would like to thank and acknowledge Practice Trainee Joel Leow for his contributions to this article.

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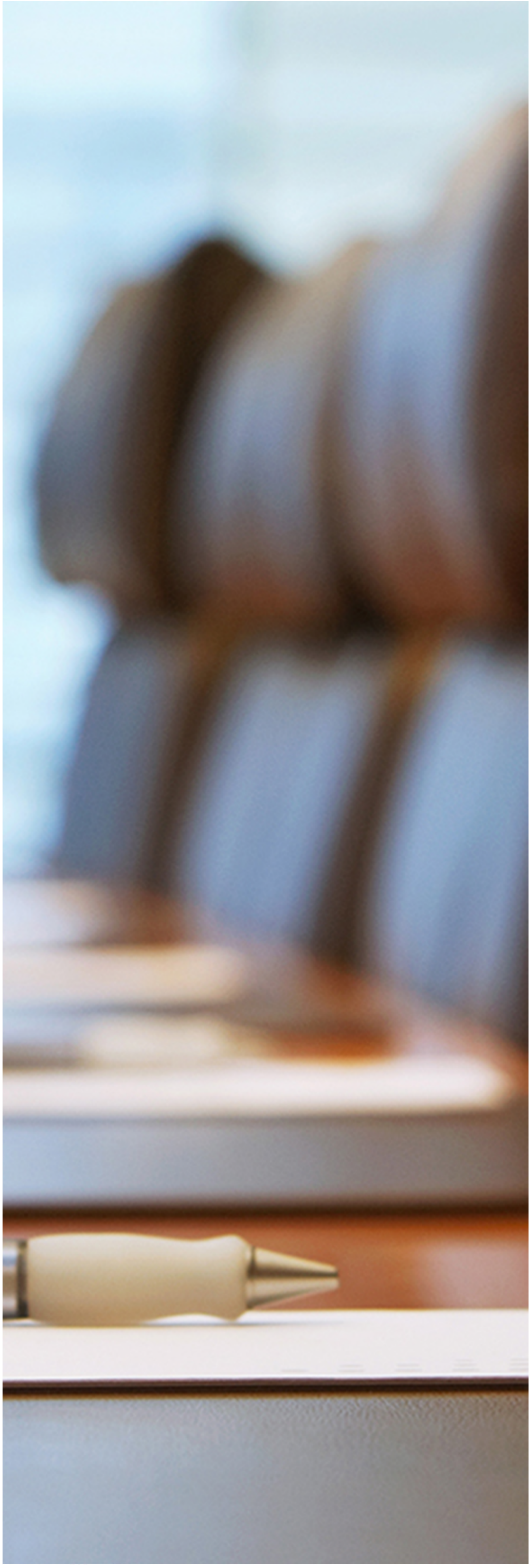

Legal Update: Delayed detection of lung cancer – a patient's suit against a hospital and its doctors

Key implications of the Court of Appeal's judgment of 26 February 2019 in the case of ***Noor Azlin bte Abdul Rahman v Changi General Hospital Pte Ltd and others*** [2019] SGCA 13 on medical practice and public sector hospital work systems.

I. Brief background to the litigation

The patient, Ms Noor Azlin binte Abdul Rahman, was diagnosed with lung cancer in 2012. Two years later, she suffered a relapse, and in 2015, she sued Changi General Hospital (the Hospital) and three of its doctors – a respiratory medicine specialist (Dr X) and two medical officers working in the Hospital's Accident & Emergency (A&E) Department (Dr Y and Dr Z) (collectively the 3 Doctors) for negligently delaying the diagnosis of her disease. The 3 Doctors each faced distinct claims in medical negligence. The Hospital faced two types of claims in negligence, the first by way of primary liability for negligence because of the system which it had in place at the material time, and the second by way of secondary (vicarious) liability for the negligence of each of the 3 Doctors.

After a trial and hearing the testimony of various witnesses of fact and expert witnesses, the High Court in February 2018 dismissed the patient's negligence claim against all four defendants, with costs awarded against her. The patient appealed the High Court's decision. In a landmark decision delivered on 26 February 2019, the Court of Appeal allowed the patient's claim against the Hospital, found the Hospital liable in negligence and remitted the issue of loss and damage, including the quantum of damages to be awarded (if any), back to the trial judge for decision. The patient's appeal in respect of all of the 3 Doctors failed.

The Dentons Rodyk & Davidson LLP team led by Lek Siang Pheng and Vanessa Lim successfully defended the 3 Doctors both in the High Court and in the Court of Appeal.

II. Summary of the case and key findings by the Court of Appeal

Key Facts

The crux of the patient's case was that the 3 Doctors who saw her on separate occasions from 2007 to 2011, and the Hospital where they worked, had negligently delayed the diagnosis of a malignant lung nodule, which resulted in the loss of a better medical outcome and/or loss of chance to cure her cancer. There were distinct allegations of breach of duty made by the patient against each of the 3 Doctors and the Hospital.

The patient had seen Dr X in November 2007 for a lung opacity that had been incidentally detected on a chest X-ray when she attended at the Hospital's A&E Department two weeks earlier. Dr X examined the patient in his specialist outpatient clinic (SOC) and found her well and asymptomatic. He ordered a further chest X-ray in two views, and upon reviewing the X-ray films, concluded that the lung opacity was infective. Since it appeared to be resolved or resolving, he gave her an open date to return to his clinic.

In 2010, the patient was seen in the Hospital's A&E Department by Dr Y, a locum A&E medical officer, complaining of right lower chest pain which worsened with deep inhalation, but had no respiratory symptoms. An ECG and chest X-ray were ordered, and a stable opacity with no malignant features was noted in the right mid-zone of the patient's lung. The patient informed Dr Y that she had previously seen Dr X, a respiratory medicine specialist, and was told that she was fine. Dr Y did not have access to the respiratory medicine department's SOC notes. After discussing the case with his supervising A&E consultant, Dr Y diagnosed the patient with musculoskeletal pain, and sent the chest X-ray for reporting, noting that the patient would be recalled if necessary. She was then discharged with medication. Dr Y did not have to follow up on the X-ray report personally, as the Hospital had a system by which X-ray reports would be sent to the A&E Department, where they would be reviewed by a senior A&E doctor on duty. This senior doctor would then determine what follow-up, if any, was required. Hence, Dr Y was not aware of the 2010 chest X-ray radiological report or its contents.

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The 2010 chest X-ray radiological report states:

> *"A rounded opacity measuring approximately 2.2cm is seen in the (R) mid zone, which appears stable since the previous chest radiograph dated 15/11/2007. This is non-specific and is indeterminate in nature. A follow-up radiograph may be performed for assessment of interval stability. The rest of the visualised lung parenchyma shows no significant abnormality. No gross consolidation is seen."*

In 2011, the patient was seen in the Hospital's A&E Department by Dr Z, an A&E medical officer. This time, she presented with left lower rib cage pain which had persisted for one month and was previously diagnosed by a general practitioner as rib-cage inflammation. Dr Z ordered an ECG and a chest X-ray in two views (erect and left oblique). In view of the patient's complaint, Dr Z adopted a targeted approach and focused on the left side of the patient's chest. He did not notice the opacity in the right mid-zone of the patient's lung, which was only visible in the erect view of the X-ray. Dr Z cleared his diagnosis of costochondritis with his supervising consultant. The chest X-ray was sent for reporting. Again, Dr Z did not receive the 2011 chest X-ray radiological report, and he was unaware that a lung nodule had been detected.

The 2011 chest X-ray radiological report states:

> *"The opacity in the (R) midzone is again noted, measuring 2.6x2.2cm compared to 2.5x2.0cm in the previous study dated 29 April 2010. It is non-specific in nature and largely stable since the previous study. No new mass lesion is noted in the rest of the lungs. There is also no pleural effusion or pneumothorax. Follow up of this lesion is suggested."*

Key findings of the Court of Appeal

We summarise below the main allegations made by the patient against the Hospital and the 3 Doctors, and the key findings by the Court of Appeal:

The Hospital

The patient alleged that the Hospital failed to put in place a reasonable system of management to ensure proper follow-up on her medical condition. In its defence, the Hospital had argued that the 2010 and 2011 chest X-ray radiological reports were sent to the A&E Department, and the senior doctor on duty had reviewed the reports and determined that no follow-up was required on each occasion. However, the Court of Appeal found that there was no evidence that the Hospital had in fact taken any action on the patient's radiological reports in 2010 and 2011. The Court went on to identify three systemic failures by the Hospital.

1. First, the standard of care required the Hospital to ensure that radiological reports were properly followed up and given appropriate attention. The Court of Appeal expressed the view that such reports should not have been sent to the A&E Department, but rather to the SOCs, which are better equipped and have more time to deal with them. As to which SOC ought to receive the radiological report, the Court's view was that the Radiology Department should decide this. Only if the radiologist was unable to ascertain the appropriate department for follow-up, should the radiological report be sent to the A&E Department for follow-up. In the present case, the Court held that the 2010 and 2011 chest X-ray radiological reports should have been assessed by a respiratory physician rather than an A&E doctor.

2. Second, the Hospital's [then] system for review of radiological reports did not allow for comprehensive management of a patient, namely, a means for consolidating known information about the patient. The Court cited in particular, Dr Y's inability to access Dr X's clinic notes.

3. Third, the Hospital did not have a system [then] for recording decisions made by the A&E senior doctors who reviewed the patient's 2010 and 2011 X-ray radiological reports. This meant that the patient would not know the decision made, and doctors treating the patient down the line would not know the reasons for the decision.

Thus, the Hospital was held by the Court of Appeal to have been negligent in that it breached its duty of care owed to the patient for failing to have in place a proper system to ensure adequate follow-up of the patient's case and that this resulted in a delay in diagnosing her with lung cancer. This is a finding of primary liability against the Hospital.

As none of the 3 Doctors were found to have been negligent (*see below*), there was no finding of vicarious liability on the part of the Hospital in this regard.

The 3 Doctors

The patient had alleged that Dr X ought not to have discharged her with an open date without being sure that the patient's lung opacity had resolved. The Court of Appeal agreed with the patient on this point but found that Dr X was not liable to her in negligence because she did not have lung cancer in 2007. [In other words, while there was a breach of duty by Dr X, there was no causation of loss. Hence, there was no liability in negligence.]

Among the key allegations by the patient against Drs Y and Z were that they should have either referred the patient to a specialist or ordered a CT scan to diagnose her lung nodule. However, the Court of Appeal, accepting the expert opinion of the doctors' Emergency Medicine expert witness, held that standard of care applicable to A&E doctors must be informed by the reality of their working conditions and calibrated accordingly. A&E doctors work under immense time pressure and cannot be expected to review patients in the same manner as a GP or in a SOC. They are permitted to adopt a targeted approach to prioritise the patient's presenting symptoms and rule out life-threatening conditions. However, incidental findings should not be ignored, and the standard of care for incidental findings would depend on factors such as its characteristics, the patient's history, whether the finding had been detected previously.

Dr Y was not in breach of his duty of care to the patient. It was sufficient for him to defer the diagnosis of the lung opacity, send the chest X-ray for reporting and provide instructions to recall the patient if necessary. There was also no duty on the A&E medical officer to order a CT scan at first instance on an incidental finding of a known nodule that was stable. However, the Court of Appeal also cautioned that the fact that the A&E medical officer is aware that a specialist had seen the patient in the past cannot of itself justify a lack of follow-up. Also, simply because a patient says that a specialist had told her that "she was fine" would not be sufficient reason by itself, for the medical officer not to investigate further.

As for Dr Z, the Court of Appeal accepted that he had not seen the lung opacity on the 2011 chest X-ray image. However, there was no breach of duty on the part of Dr Z, as he was entitled, as an A&E doctor to adopt a targeted approach to address the patient's presenting condition in an A&E setting.

III. Implications of the Court of Appeal's judgment

We highlight four key implications of the decision which are likely to affect medical practice, particularly in the public sector healthcare setting:

1. The Court of Appeal did not address the part of the High Court's decision that the patient should be notified of the results of radiological reports and of the clinical decision on the patient's condition as part of the doctor's communication of his/her diagnosis. Given that this part of the High Court's decision remains in place, hospitals may need to consider putting in place a system to ensure that radiological findings are communicated to the patient even if no further intervention is assessed to be required, so as to allow the patient to evaluate the information to decide how, if at all, they want their care to be followed up on. If the radiological findings are related to or have some impact on the patient's presenting complaint, the hospital may have to recall the patient to explain the findings to him/her, even if no further intervention is thought necessary. If the findings are not related to his/her presenting complaint, such communication can be made by e-mail.

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Our comments

It is plausible that the High Court's ruling can extend to all investigation findings and reports which are not immediately available at the time of the patient's consultation, or prior to the patient's discharge (if he or she was admitted).

2. The Court of Appeal accepted the expert evidence adduced on behalf of Drs Y and Z that the A&E Department is meant to adopt a targeted approach focusing primarily on the acute episode concerned and the patients' presenting symptoms in view of the constraints of time and resources. Following from this, the Court of Appeal's view is that the radiological reports should be routed by the radiologists (rather than the A&E doctors) to the appropriate SOC, and it is only where the radiologist is unable to ascertain the appropriate specialty that the report is sent to the A&E Department for a consultant to decide upon.

Our comments

a) The import of this aspect of the Court of Appeal's ruling is that public hospitals with an A&E Department should now consider implementing processes for all radiological reports, which would ordinarily be sent to the A&E Department, to be directed instead to the appropriate outpatient SOCs. In addition, the receiving SOCs would have to devise a system for these radiological reports to be reviewed and followed up on if necessary. Decisions on whether to follow-up and what the follow-up is would also have to be documented.

b) The aspect of the Court of Appeal's view that radiological reports should be routed by radiologists (rather than the ordering A&E Department) to the relevant SOC bears a closer look. The Court's view seems to be based on the premise that the reviewing senior doctor in the A&E Department is subject to the same time constraints as the medical officers working on the ground and attending to patients at the frontline. However, we think that this may not necessarily be the case in every A&E Department: if there is a separate system or roster in place for such a review to be undertaken, this would possibly ameliorate these constraints. Also, given that the A&E Department had ordered the radiological investigation and that the doctors there had taken the patient's history and seen the patient, the A&E Department would perhaps be better placed, rather than the Radiology Department, to correlate the radiological findings with the patient's presentation, and make the call as to whether a referral to the SOC is required and also which specialty the patient should be referred to.

3. The Court of Appeal's decision suggests that hospitals ought to have a system to consolidate known information about a patient.

Our comments

With electronic medical records system now prevalent in public sector hospitals and more accessible to doctors, the problem that arose in the case of *Noor Azlin bte Abdul Rahman* (that is, an A&E doctor's inability to access SOC clinical notes) is unlikely to arise now in the public sector. There remains the separate and distinct problem of how to sieve through the mass of available medical history in the records.

4. Of particular interest to doctors would be the Court of Appeal's observation that the mere fact that a patient says that she had previously seen a specialist and had been told she was fine, does not by itself excuse the doctor from investigating further. In other words, this suggests that the medical history given by a patient should not be taken entirely at face value. This gives rise to several interesting questions: how far must a doctor investigate medical history narrated by a patient or care-giver, and what must he/she do to satisfy his/her duty of care? Would mere verification against previous medical records suffice, and if so, how far back must he/she look? Or must the doctor take further steps such as initiating a referral or performing clinical investigations where previous records are old or not available?

Our comments

The likely answer is that the extent of further investigation required depends on the context of the consultation, e.g. how important that piece of medical history is to the doctor's treatment plan, whether verification against previous records is practicable, and the cost vs benefit of putting the patient through further rounds of clinical investigation (such as MRI or CT scans, which are costly) or referrals to verify the medical history. Going forward, doctors of all specialties may need to think twice, before simply accepting a patient's medical history at face value.

IV. Conclusion

The Court of Appeal's decision in *Noor Azlin bte Abdul Rahman* is the first time a public sector hospital in Singapore has been found to have been negligent for its system. The decision, particularly on the aspects of the case relating to the hospital work systems impacts on how a healthcare institution ought to collate and consider the relevant medical information in its possession for the purpose of patient care. Accordingly, healthcare institutions may wish to review their processes and protocols, particularly with regard to radiological investigations and also the handling of incidental findings.

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Liquidated Damages after Termination of Contract: Termination of LDs or just Termination of the Contract?

Triple Point Technology v PTT Public Company [2019] EWCA Civ 230

Introduction

Construction law practitioners are familiar with the Singapore case of *LW Infrastructure Pte Ltd v Lim Chin San Contractors Pte Ltd* [2011] SGHC 163 (LW Infrastructure). The Singapore High Court in that case held that in the absence of express provision to the contrary, termination of the contract does not affect a claim for liquidated damages in respect of the period before termination. This case is also cited with approval in *Law and Practice of Construction Contracts*, 5th edition (Sweet & Maxwell 2018). For all intents and purposes, the Singapore law position appears settled even though there is no direct guidance from the Singapore Court of Appeal.

Recently, the English Court of Appeal (EWCA) considered this issue again. In *Triple Point Technology v PTT Public Company* [2019] EWCA Civ 230 (TPT), the EWCA affirmed the 19th century House of Lords decision of *British Glanzstoff Manufacturing v General Accident, Fire and Life Assurance Co* 1912 SC 591 (Court of Session), 1913 SC (HL) 1 (British Glanzstoff) and held that a liquidated damages clause would not apply if the works were not completed as at the time of termination of the contract.

TPT is the latest in a line of UK cases that diverge in different directions, and we seek to navigate the paths in this article.

Facts

PTT contracted Triple Point to replace its trading, risk and management system. Triple Point was to complete their work in two phases: replacing the existing system (Phase 1) and developing the system to accommodate new types of trade (Phase 2). The contract documents provided for payment by milestones and specific dates for payment.

The contract contained a liquidated damages clause, which provided that Triple Point shall pay "*0.1% of undelivered work per day of delay from the due date for delivery up to the date PTT accepts such work.*"

Triple Point's work was 149 days late, but it had completed stages 1 and 2 of Phase 1. PTT paid for such completed work. Triple Point then sought payment for the other stages of uncompleted work. PTT refused payment on the basis that the Triple Point had not achieved any of the applicable milestones. Triple Point then suspended work and left the site. As it turned out, PTT then terminated the contract.

For present purposes, the most significant issue that arose was whether PTT could enforce the liquidated damages clause when the contract was terminated before relevant works were completed. The court at first instance held that PTT was entitled to impose liquidated damages up until the date of termination.

Holding

The EWCA had a different view. It held that no liquidated damages accrued for the work that was not completed in the event of termination.

The EWCA identified three approaches that the courts had taken with respect to the imposition of liquidated damages in similar situations:

The clause does not apply in the event of termination.

The clause only applies up to termination of the first contract.

The clause continues to apply until the second contractor achieves completion.

The House of Lords in British Glanzstoff took the first approach. Lord Haldane LC held that "if the contractors have actually completed the works, but have been late in completing the works, then, and in that case only, the clause applies".

The EWCA agreed with the House of Lords in British Glanzstoff and held that since the clause in question focused on the delay between the contractual completion date and the date when Triple Point actually achieves completion, the clause did not apply in a situation where the work was not completed.

On the other hand, the EWCA did not agree on the second and third approaches. The hesitation in respect of the third approach is understandable – such an approach would allow the second contractor and the employer to control the period for which liquidated damages would run.

However, the second approach was the one that LW Infrastructure agreed with. The EWCA noted that the SGHC in LW Infrastructure distinguished British Glanzstoff and held that the right to liquidated damages had not even accrued yet. That said, the EWCA remarked that the SGHC ostensibly did not have sight of the full judgment in British Glanzstoff, and was of the view that it might have held differently had the full reasoning in British Glanzstoff been considered.

Significance

This case was the first in a generation of reported cases to cite *British Glanzstoff* in the UK. While much will depend on the precise language of the clause in question, it appears that English courts will, unless there is express language to the contrary, now hold such liquidated damages clauses inapplicable should it refer expressly to liquidated damages accruing until completion of works.

Is *TPT* correct? Consider the following:

It is uncontroversial that upon termination, parties are able to sue for contractual obligations that have accrued pre-termination. In a situation whereby the right to liquidated damages have accrued, why would the fact of whether or not the works were completed have any bearing on this accrued right? That said, one can still claim general damages which *TPT* accepted but this is very different from imposing liquidated damages under a contractual framework.

The EWCA formed the view in *TPT* that allowing imposition of liquidated damages might be inconsistent with the parties’ bargain to categorise the employer’s losses as £x per week up to a specified date and then general damages thereafter. However, this assumes that the employer had bargained to forfeit its right to liquidated damages so long as termination takes place before completion of the works. Is such an assumption consistent with commercial realities?

Leaving aside the usual standard form contracts commonly used in Singapore for the moment, it will be interesting to see how the Singapore Court will look at this issue following *TPT*. It may be an open question whether the Singapore Court of Appeal will follow *TPT*, or agree with the reasoning in *LW Infrastructure*.

As such, parties should carefully consider this decision when negotiating liquidated damages clauses. It is prudent to be extremely clear on the impact of such clauses to reflect parties’ intentions as closely as possible.

Parties should also review their liquidated damages clauses and ascertain how they can be impacted in the situation of termination (of contracts). Perhaps the safest way is to ensure preservation of a party’s right to impose liquidated damages post-termination but whether such clauses will be upheld may not be crystal clear.

Dentons Rodyk acknowledges and thanks Associate Elias Arun for his contributions to this article.

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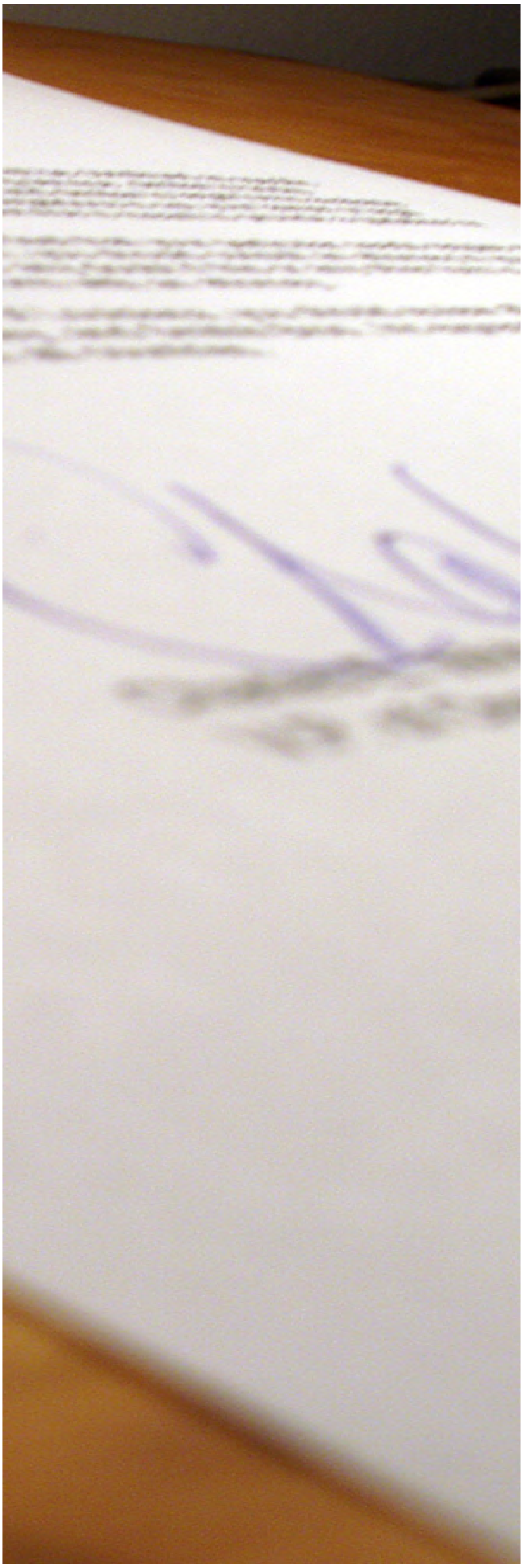

A contractual right to directorship – distinguishing between a one-off and a continuing right using the principles of contextual interpretation

Analysing the directorship clause in Debotosh Lodh v Boustead Services Pte Ltd and another [2019] SGHC 52 (Debotosh)

Introduction

A shareholder does not have an automatic right to be a director of a company, unless otherwise provided in a shareholders' agreement or the company's constitution. Even if there is a right to directorship, a further issue arises as to its temporal scope.

The case of *Debotosh* highlights this temporal issue by distinguishing between a one-off right to directorship and a continuing right. Beneficiaries of the one-off right are entitled to be appointed directors of a company upon the agreed time or event, but there is no obligation to keep them there, unlike a continuing right extending into the future. Thus, if a continuing right to directorship is intended, clear and express words should be used to that effect, bearing in mind that the language of the clause would be the first port of call for the court in an exercise of contractual interpretation.

Background

In *Debotosh*, the plaintiff applied for an injunction to restrain a threatened breach of his alleged right to be a director of the second defendant so long as he remained its shareholder (Directorship Right). According to the plaintiff, the Directorship Right was a continuing right expressly conferred upon him by cl 4.1.3.2 of the agreement formed between the defendants and the management team including himself (Agreement). To support his argument, the plaintiff also relied on other provisions of the Agreement and the parties' subsequent conduct.

In contrast, the defendants argued that cl 4.1.3.2 of the Agreement was static and only gave the plaintiff a one-off right to be appointed as a director of the second defendant upon completion of the Agreement (defined as 21 April 2003). Since that right did not extend into the future, the defendants are entitled to remove the plaintiff pursuant to the second defendant's constitution and his application must fail.

Clause 4 of the Agreement read as follows:

> "4. **COMPLETION**
>
> 4.1 On Completion Date:
>
> …
>
> 4.1.3 [The first defendant] shall procure [the second defendant] to:
>
> 4.1.3.1 increase the issued and paid up capital of [the second defendant] to $1,000,000 divided into 1,000,000 shares of $1.00 each.
>
> 4.1.3.2 appoint 5 directors to its board comprising 3 persons nominated by [the first defendant] namely: … and two persons from the [management team], namely: [the plaintiff] and … [The plaintiff] shall be the Managing Director.
>
> 4.1.3.3 appoint a director nominated by [the first defendant] as the Chairman of [the second defendant]. The Chairman shall have a casting vote at meetings.
>
> 4.1.3.4 open a current account with a Singapore bank.
>
> 4.1.3.5 In relation to the said bank account, it is hereby agreed that [the first defendant] shall have the right to appoint 4 authorised signatories under Group A and the [management team] shall be entitled to appoint 3 authorised signatories, one of whom shall be a Group A signatory.
>
> 4.1.3.6 Each of the parties hereto shall be entitled at any time and from time to time to remove their appointees and appoint other persons in their place as signatories.
>
> 4.1.3.7 Unless superseded by a later board resolution, the said bank account shall be operated in the same manner as that of the C&E Business."

Holding of the Singapore High Court

The Court dismissed the application because the plaintiff failed to establish his case.

First, the language of cl 4.1.3.2 did not support the plaintiff's case. As "the text of a contract ought always to be the first port of call", the Court started its analysis by making two observations from the language of cl 4:

a) cl 4 bore the prominent heading: "COMPLETION", which was an indicator (though perhaps not very weighty) of the importance which the parties attached to the heading; and

b) all of cl 4 was subject to the introductory words of cl 4.1: "On Completion Date".

Thus, the natural construction of cl 4 was that its purpose was to govern completion and to set out the rights and obligations of the parties on the completion date (and not thereafter). On that reading, cl 4.1.3.2 did not provide for a continuing right to directorship. The plaintiff argued otherwise, pointing particularly to cl 4.1.3.6 which governed the parties' rights post-completion.

The Court rejected the plaintiff's argument for failing to recognise a critical distinction between the language used in the first four limbs of cl 4.1.3 (i.e. cll 4.1.3.1 to 4.1.3.4) and its last three limbs (i.e. cll 4.1.3.5 to 4.1.3.7). The Court pointed out that:

a) unlike the self-contained language of the last three limbs, each of the first four limbs of cl 4.1.3 was drafted as a sentence fragment to be read with the introductory words of "On Completion Date" in cl 4.1;

b) further, unlike the last three limbs, each of the first four limbs also specified a one-off act that the first defendant was obliged to procure the second defendant to carry out upon completion of the Agreement;

c) there was nothing in the language of cll 4.1.3.1 to 4.1.3.4 that evinced an intention by the parties that these limbs were to govern their rights for the future, i.e. post-completion; and

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d) in contrast, cll 4.1.3.5 to 4.1.3.7 did evince such an intention from their language used. Indeed, their sole purpose was to deal with the post-completion operation of the second defendant's bank account, which would explain why they were inserted immediately below cl 4.1.3.4 governing the parties' obligations regarding the opening of that bank account.

Second, apart from cl 4.1.3.2, the other terms of the Agreement also fell short of supporting the plaintiff's case.

The Court rejected the plaintiff's reliance on Recital C. Recital C recorded the management team's desire of participating as shareholders of the second defendant. This had no bearing on the existence, let alone the enduring nature, of any other rights, which the parties might enjoy under the Agreement. In that regard, the concept of participation in ownership (as a shareholder) was quite distinct from the concept of participation in management (as a director). The Court also rejected the plaintiff's argument on commercial absurdity: namely, if cl 4.1.3.2 only conferred upon him a right to be a director of the second defendant upon completion, that would undermine the entire commercial purpose of the Agreement as manifested in Recital C, since he could be removed in an instant after completion without breaching the Agreement. The Court found on the evidence that the risk of removal was either a risk which did not occur to the plaintiff to guard against in the Agreement or one which the plaintiff was willing to take when he entered into the Agreement. Accordingly, that risk of removal was not a basis for conjuring the Directorship Right out of cl 4.1.3.2 when it had no basis in the language of that clause.

Contrary to the plaintiff's argument, the Court held that cl 16.2 could not extend the temporal scope of cl 4.1.3.2. Cl 16.2 stated: "As to any of the provisions of this Agreement remaining to be performed or capable of having effect after the Completion Date this Agreement shall remain in full force and effect notwithstanding Completion". Cl 4.1.3.2 was not an obligation that remained to be performed, as it was done a year before completion, on 1 April 2002. Further, cl 4.1.3.2 did not regulate the parties' rights post-completion. Hence, cl 16.2 did not operate on cl 4.1.3.2.

Third, the subsequent conduct of the parties was incapable of assisting the plaintiff. This is because subsequent conduct is generally not a legitimate aid when construing a contract, even under the contextual approach. In any case, the Court did not find the subsequent conduct to be inconsistent with the defendants' position.

The Court therefore dismissed the plaintiff's application with costs.

Conclusion

The case of *Debotosh* serves as a timely reminder that, if a continuing right is intended by the parties to extend into the future, clear and express words should be used to that effect. To that end, the decisions of *Paillart Philippe Marcel Etienne and another v Eban Stuart Ashley and another* [2007] 1 SLR(R) 132 and *Cosmic Insurance Corp Ltd v Khoo Chiang Poh* [1979-1980] SLR(R) 703 provide successful examples of providing for a continuing right to directorship.

Parties are advised to seek professional advice on the scope and effect of their existing right to directorship and/or the drafting of such a right. If you require such advice or would like to know how this decision might affect your business, please approach the key contact(s) listed in this article.

Dentons Rodyk acknowledges and thanks Senior Associate See Kwang Guan (Martin) for his contributions to this article.

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Insolvency Insights

Perspectives from the Dentons Global Restructuring, Insolvency and Bankruptcy Team

Hot topics of 2019: Ipso facto clauses, rescue financing, cryptocurrency in insolvency, and COMI shifts

1. Introduction

In September 2017, the Dentons Global Restructuring, Insolvency and Bankruptcy (RIB) Team put together a series of seminars for our financial institution clients to share practical perspectives on the insolvency law reforms in Singapore which were largely inspired by Chapter 11 proceedings under the US Bankruptcy Code. Our global panel, comprising partners from the Chicago, New York, London, Australia and Singapore offices, shared their expert views on what Singapore lenders can expect going forward in view of Singapore's insolvency law reforms and enactment of the UNCITRAL Model Law on Cross-Border Insolvency (Model Law).

18 months later, the Dentons Global RIB Team came together once again to host our financial institution clients and insolvency practitioners for a 1-day seminar on 5 April 2019. 21 Dentons lawyers from 12 jurisdictions (USA, UK, Germany, Australia, Canada, Germany, France, Indonesia, Singapore, Czech Republic, the Netherlands, and Luxembourg) and two esteemed guest speakers from Deutsche Bank and Burford Capital were present to share their views and insights on a variety of hot button topics relevant to the modern lender. These include:

a) restrictions to *ipso facto* clauses,

b) rescue financing and insolvency litigation funding,

c) the interplay between insolvency and cryptocurrency,

d) shifts in centre of main interests (COMI),

e) durability of the rule in *Gibbs* in the UK,

f) overcoming challenges in enforcement in Indonesia, and

g) contributors to global uncertainty – Brexit and Trump.

We provide a snapshot of the day's discussions on *ipso facto* clauses, rescue financing, insolvency and cryptocurrency, and COMI shifts.

2. Restrictions to ipso facto clauses – Clause 440 of the Insolvency, Restructuring and Dissolution Act 2018 (passed but not yet in force)

On 1 October 2018, the Singapore Parliament passed the Insolvency, Restructuring and Dissolution Act 2018 (the Omnibus Act), which is expected to come into force sometime in 2019. The Omnibus Act consolidates Singapore's existing corporate and personal insolvency and debt restructuring laws into a single piece of legislation, and also seeks to enhance Singapore's insolvency and debt restructuring schemes. The Omnibus Act will include existing provisions on the Model Law, and Chapter 11-inspired reforms which are currently in force under the Companies Act (including provisions on automatic moratorium, super priority rescue financing, cram-downs, pre-pack schemes, etc.). Of particular note to lenders, is that the Omnibus Act will introduce restrictions to *ipso facto* clauses (see Section 440 of the Omnibus Act) – this is new to Singapore law.

Ipso facto is a Latin phrase which translates to "*without more*". In the insolvency and restructuring context, *ipso facto* clauses refers to clauses which permit one contracting party to terminate, modify and/or accelerate agreements/obligations simply upon the other contracting party's insolvency or occurrence of an insolvency-related proceeding (e.g. applications for moratorium, judicial management, schemes of arrangement).

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Once Section 440 of the Omnibus Act is in force, this will restrict the enforceability and operation of such *ipso facto* clauses. In real terms, this means that lenders cannot terminate, modify, or accelerate facility agreements simply based on the borrower's insolvency or the occurrence of insolvency-related proceedings involving the borrower.

However, all is not lost for the concerned lender. Parties who wish to enforce *ipso facto* clauses can still do so with leave of Court. The requirement under Section 440 is that the party must demonstrate that it will be under "*significant financial hardship*" if required to continue with the contract. What does "*significant financial hardship*" mean? Singapore may have to look to Canada for guidance as a similar phrase features in the equivalent provision of the Canadian Companies Creditors Arrangement Act. Our Canadian partner shared that in Canada, this constitutes a high threshold and may in some cases refer to the party's own financial peril if forced to continue with the contract.

Restrictions on *ipso facto* clauses also do not necessarily mean that a lender is stuck in an unhappy contract. *Ipso facto* clauses aside, lenders are still permitted to exercise their termination rights based on other events of default (e.g. payment default, breach of financial covenants and ratios). Our German, American, and Australian partners shared experiences from their home jurisdictions on restrictions against *ipso facto* clauses. Indeed, the restriction on *ipso facto* clauses may actually help distressed debtors preserve valuable trade agreements and promote the rehabilitation of the distressed debtor on a going concern basis, which may mean more positive recoveries for lenders.

It remains to be seen how the Singapore Courts and lenders will deal with restrictions to *ipso facto* clauses once the Omnibus Act comes into force. **Watch this space!**

3. The landscape for rescue financing

Our guest speakers from Deutsche Bank and Burford Capital along with our US and Australian partners were on hand to share their perspectives and experiences dealing with rescue financing and insolvency litigation funding. This section focuses on the former.

At the time of writing, the sole reported decision on super priority rescue financing related to an unsuccessful application arising from the distressed company's failure to satisfy the Court that reasonable attempts were made at sourcing for rescue financing on a non-super priority basis. (For more information on this case, please click here to read our client update on *Re: Attilan Group Ltd* [2017] SGHC 283.)

Notwithstanding the outcome in *Re: Attilan Group Ltd*, there is nevertheless strong interest for rescue financing in Singapore among new players and existing creditors alike. Some lenders see it as an investment opportunity with quick and profitable returns. The addition of potential new lenders in the mix often stirs interest in existing lenders about the possibility of rescue financing. However, most existing lenders remain understandably cautious about putting in further funds in addition to the funds which are already in peril. Ultimately, the company must be able to lay out a credible plan for recovery which is able to inspire confidence in new and/or existing lenders. However, rescue financing should be seen as a possible bridge to tide over a company tight on working capital so that once it gets out of the trying period, it can better generate good revenue and hopefully a better outcome for lenders. Rescue financing is certainly an area that is ripe for further development and indeed, the Singapore Court has very recently allowed an application for super priority rescue financing in the restructuring of Asiatravel.com Holdings Limited.

4. Cryptocurrency in insolvency

Cryptocurrency has been the talk of the town since 2017 and was in some quarters regarded the asset of the future. Since then however, there has been a spectacular crash in the value of cryptocurrency and alongside it, insolvency-related issues have arisen.

An unresolved issue of which there is no global consensus is this – what is the nature of cryptocurrency? Unfortunately, different jurisdictions take varying approaches. Some jurisdictions regard cryptocurrency as having the characteristics of property (e.g. USA and Singapore – for our client update on *B2C2 Ltd v Quoine Pte Ltd* [2019] SGHC(I) 03 due to be published soon), some regard it as a commodity (e.g. Canada), and some have not yet ascribed any meaningful view to the legal nature of cryptocurrency. Until such time when this issue is resolved, cross-border insolvency involving cryptocurrencies will remain complicated.

A further source of complication is the fact that cryptocurrency is not homogenous. Some cryptocurrency tokens are traded as currency, but some cryptocurrency take the form of utility tokens in that they confer a right to holders to use a service or to consume certain products developed by the issuing company and deposited on the blockchain. Therefore, in considering the nature of cryptocurrency, there must also be an appreciation of the nature and right conferred on holders of that particular cryptocurrency token.

How is cryptocurrency relevant to lenders? We can appreciate that most lenders will hesitate to accept cryptocurrency as security or to receive payment in the form of cryptocurrency tokens. Indeed, no lender in the room on 5 April 2019 has taken cryptocurrency as collateral.

For insolvency practitioners, it can be a good source of real world monies to be realised to pay off unsecured creditors. Again, no insolvency practitioner in the room on 5 April 2019 has considered the likelihood of realising cryptocurrency to pay off debts of the company.

But why not? (Please click here to access our client update on the issue of whether cryptocurrency can be collateralised.)

Lenders may unknowingly already hold security over cryptocurrency as part of the debtor's general assets under a floating charge. This is especially true of start-up companies, tech companies and millennial-focused retailers which are more receptive to the use of cryptocurrency as a form of payment or the purchase of cryptocurrency as a form of investment.

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Therefore, lenders should consider having in place systems and processes to potentially deal with the realisation of cryptocurrency. For example, the lessons learnt from the ongoing Quadriga saga (where millions in cryptocurrencies stored in cold wallets remain inaccessible following its founder's death) demonstrate that lenders may wish to consider ways of ensuring that cold wallets held by debtors remain accessible by them in an enforcement situation.

Cryptocurrency remains a developing area of insolvency law and is expected to play a more significant role in restructuring and insolvency in the years to come.

5. Shifts in COMI – a look at Re Zetta Jet and the Noble restructuring

COMI is shorthand for "centre of main interests" and is one of the key considerations for determining the location of the primary insolvency / restructuring proceedings. Upon the identification of the primary insolvency / restructuring proceedings, proceedings in other jurisdictions are considered secondary and recognition applications may be filed in those jurisdictions in aid of the primary proceedings.

As a starting point, the registered office of the debtor is presumed to be the COMI however, this is rebuttable by factors which may suggest otherwise such as the location of the debtor's principal accounts, the principal location of the debtors, the location of the books and records of the debtor, the place where commercial policies are determined etc.

While COMI is a commonly used term in the insolvency and restructuring circle, the determination of COMI remains varied, especially as regards the timing of when COMI is decided. The Singapore High Court decided in *Re Zetta Jet* [2019] SGHC 53 to follow the US position and held that COMI is determined as at the date of filing of the recognition application. (This represented a departure from the European, English and Australian approaches.) However, where Singapore and the US differed was that unlike the US, the place of existing insolvency / restructuring activities would not feature in the Singapore Court's consideration of COMI.

Another dimension to COMI is that it can be shifted especially where the debtor and creditors agree and if the shift is intended to legitimately further the success of the restructuring. For example, following an agreement between Noble Group Limited and its senior creditors, steps were taken to shift Noble's COMI from Hong Kong to England. While the reasons for the shift were not explained in the English Court's judgment (approving the scheme of arrangement), one possible key reason was the Singapore Exchange's refusal to allow Noble to continue its listing status as a new restructured entity which was a key pillar of its original plans for restructuring. Noble's fall-back plan was therefore to put the company through the administration process in England (which necessitated COMI being located in England) and to do a pre-pack sale of its assets into a new company which would be mostly owned by the creditors through a debt-for-equity swap.

Our Luxembourg partner also shared that it is normal for companies incorporated in Luxembourg (intending to undergo a restructuring) to shift COMI elsewhere since Luxembourg has no laws on restructuring.

Lenders with English law-governed debts should also bear in mind the enduring English rule in *Gibbs* when grappling with COMI and COMI shifts for purposes of cross-border restructuring. At present, the English courts maintain the principle that the discharge of a debt can only take place in the country of the law governing the debt. The rule in *Gibbs* goes against the tide of universalism in cross-border insolvency but at the same time promotes sanctity of contract as it recognises the significance placed upon the law chosen by the parties to govern the debt. In practical terms, this means that any cross-border restructuring involving assets located in England will have to consider the need to commence parallel restructuring proceedings in the country of the law governing the debt. The rule in *Gibbs* was recently affirmed in the case of *Gunel Bakhshiyeva v Sberbank of Russia & Ors* [2018] EWCA Civ 2802 but it is understood at the time of writing that leave is being sought from the UK Supreme Court to challenge the outcome in *Sberbank* and along with it, the rule in *Gibbs*.

The Singapore High Court has not adopted the rule in *Gibbs* (*Re Pacific Andes Resources Development Ltd and other matters* [2018] 5 SLR 125). Instead, the Singapore Court has adopted a reformulation of the rule in *Gibbs* and has held that "*if one of the parties to a contract was the subject of insolvency proceedings in a jurisdiction with which he had an established connection, it should be recognised that the possibility of such proceedings would have entered into the parties' reasonable expectations in entering their relationship, and as such might furnish a ground for the discharge to take effect under the applicable law*".

As insolvency and restructuring proceedings continue to become increasingly cross-border, the identification of COMI is crucial and COMI shifts will be more commonplace and lenders must be prepared to address such issues.

6. Conclusion

The Dentons Global RIB Team will continue organising future seminars on cutting edge insolvency and restructuring issues and to keep a finger on the pulse of the legal developments around the world. We are looking to expand further into more jurisdictions within ASEAN, America and the Caribbean in order to provide a seamless service for clients and to remain nimble and fleet-footed in dealing with an increasingly cross-border world. Should you wish to join us for our next session, please write to sg.academy@dentons.com so that we may include you in our mailing list.

Dentons Rodyk would like to thank and acknowledge Senior Associate Geraldine Yeong for her contributions to this article.

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Accolades

Managing IP Asia Pacific Awards 2019

Dentons Rodyk has won the Singapore Patent Contentious Firm of the Year award, at the Managing IP Asia Pacific Awards 2019. Senior Consultant Ai Ming Lee, and Senior Partners Chai Chong Low and Gilbert Leong from Singapore attended the ceremony held on 20 March 2019 at the Island Shangri-La Hong Kong. They were joined by our colleagues from Dentons Hong Kong, Office Managing Partner Keith Brandt and Partner Richard Keady. Now in its 15th year, the Managing IP Awards are firmly established in the IP calendar and recognises firms, individuals and companies behind the most innovative and challenging IP work of the past year, as well as those driving the international IP market. Read more here.

The Asia Legal Awards 2019, ALB India Law Awards 2019, India Business Law Journal 2018, FinanceAsia Achievement Awards 2018

Dentons Rodyk acted as Singapore counsel to Flipkart in their transaction and completion of Walmart's US$16 billion acquisition of Flipkart. The deal, dubbed the biggest e-commerce M&A in the world to date, has won the following awards so far: TMT Deal of the Year at The Asia Legal Awards 2019, M&A Deal of the Year (Premium) at the Asian Legal Business India Law Awards 2019, M&A Deal of the Year at the India Business Law Journal 2018, Deal of the Year for Asia, Best M&A Deal in Asia, and Best India Deal (three categories) at the FinanceAsia Achievement Awards 2018. Read more here.

Best Lawyers in Singapore 2020 Edition

Thirteen Dentons Rodyk lawyers have been recognised in the 2020 edition of Best Lawyers in Singapore - Dorothy Chia, Nicholas Chong, John Dick, Herman Jeremiah, Philip Jeyaretnam S.C., Ai Ming Lee, Siang Pheng Lek, Eng Leng Ng, Doreen Sim, Gerald Singham, Lawrence Teh, Yi Jing Teo and Paul Wong. Senior Consultant Ai Ming Lee received the 2020 "Lawyer of the Year" award for her work in Intellectual Property Law in Singapore. Only a single lawyer in each practice area and community is honoured with a "Lawyer of the Year" award. Read more here.

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Dentons Rodyk Academy is the professional development, corporate training and publishing arm of Dentons Rodyk & Davidson LLP. The Dentons Rodyk Reporter is published by the academy. For more information, please contact us at sg.academy@dentons.com.

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