

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

[2023] SGHC 21

Originating Application No 783 of 2022

Between

Rida Global Pte Ltd

... Applicant

And

Jonathan Lim Chuan Ren

... Respondent

JUDGMENT

[Courts And Jurisdiction – High court – Judges – Transfer of cases]

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Rida Global Pte Ltd
v
Lim Chuan Ren Jonathan

[2023] SGHC 21

General Division of the High Court — Originating Application No 783 of 2022

Choo Han Teck J
27 January 2023

31 January 2023

Judgment reserved.

Choo Han Teck J:

1 This is an application for the transfer of proceedings from the Employment Claims Tribunal (“ECT”) to the General Division of the High Court pursuant to s 17 of the Employment Claims Act 2016 (2020 Rev Ed) (“ECA”). The applicant, Rida Global Pte Ltd (“Rida Global”), is a company incorporated in Singapore. Its principal business is in operating route-planning and physical delivery services for goods. The respondent, Jonathan Lim Chuan Ren (“Lim”), was an employee of Rida Global from 1 April 2022 to 23 August 2022. On 23 August 2022, Rida Global summarily dismissed Lim without notice. On 17 October 2022, Lim commenced proceedings for wrongful dismissal against Rida Global in the Employment Claims Tribunal (“ECT”), giving rise to ECT/10762/2022 (the “ECT Proceedings”). On 22 November 2022, Rida Global commenced HC/OC 404/2022 against Lim for damages arising from breaches of fiduciary and contractual duties (the “High Court

Suit”). Rida Global now applies for the ECT Proceedings to be transferred and tried together with the High Court Suit.

2 Under s 17(1) of the ECA, proceedings before the ECT may be transferred to the appropriate court where there is “sufficient reason” to do so. Both parties have referred me to the case of *DFI Engineering Pte Ltd v Mo Mei Jen* [2018] 5 SLR 431 (“*DFI Engineering*”) where Lee Seiu Kin J recognized the following guiding principles for what constitutes “sufficient reason” under s 17(1) of the ECA:

- (a) The degree of overlap of issues of fact and/or law;
- (b) The complexity of the dispute;
- (c) The amount claimed in the ECT proceedings; and
- (d) Cost implications of the transfer.

3 These factors are helpful and sensible, but every application must be assessed on its own facts. At the hearing before me, Lim’s counsel insisted that there was no overlap at all between the factual and legal issues in the ECT Proceedings and High Court Suit. In support of his point, counsel referred me to s 14(1) of the Employment Act 1968 (2020 Rev Ed) (“EA”) for the elements of a wrongful dismissal claim:

14.—(1) An employer may after due inquiry dismiss without notice an employee employed by the employer on the grounds of misconduct inconsistent with the fulfilment of the express or implied conditions of the employee’s service, except that instead of dismissing an employee an employer may —

4 Counsel emphasised the words “after due inquiry” and submitted that the only issue in the ECT Proceedings was whether due inquiry was conducted.

Accordingly, counsel says that whether or not Lim was in breach of his employment obligations (which forms the subject matter of the High Court Suit) is completely irrelevant to the ECT Proceedings. I do not agree. S 14(1) of the EA requires the tribunal to consider whether “grounds or misconduct inconsistent with the fulfilment of the express or implied conditions of the employee’s service” is proven. Furthermore, under s 14(3) of the EA, the Tribunal may order a reinstatement or award compensation should it find that no just cause for dismissal existed. These legal issues require the Tribunal to inquire into allegations of breaches by Lim of his employment obligations. All that are precisely the subject matter of the High Court Suit. Accordingly, I do not agree with counsel for Lim that there is no overlap on issues of fact and law. These common issues of fact and law may result in inconsistent results in the two proceedings. Rida Global’s claims in the High Court action against Lim raise legal and technical issues. As the ECA does not permit legal representations in ECT proceedings, this overlap in law and fact may adversely affect Rida Global who seems to have a much larger claim than Lim. Furthermore, it would not be in Lim’s interest to contend with the law of confidence and fiduciary duties without the assistance of counsel in the ECT.

5 Counsel for Lim cited the inflation of costs as a justification for not allowing the transfer of the ECT Proceedings, pointing to Parliament’s intent for the ECT to reduce the legal costs of employment claims. A transfer of ECT proceedings to a court will almost invariably involve an increase in costs, because of increased court and filing fees, because claimants prohibited from engaging legal counsel in the ECT may wish to do so in the High Court. The issue of an increase in costs must be examined in the context of each case. We have to consider how substantial that increase would be against the merits of

allowing the transfer. In *DFI Engineering* (at [22]-[24]), Lee J held in that case that the saving of costs in keeping the ECT proceedings distinct from the High Court proceedings would have been “overwhelming” because the claim there was made against 12 defendants, and thus, allowing the transfer for the defendant would mean that 11 other defendants would have to go through an extended trial over an issue irrelevant to them. Unlike *DFI Engineering*, the only increase in costs in this present application would be the costs of instructing counsel concerning Lim’s claim.

6 Moreover, the cost implications of a transfer must be considered, not in isolation, but relative to the amount claimed in the ECT Proceedings to be transferred. Unlike the defendant in *DFI Engineering* who was claiming \$3,667.57, Lim is claiming for \$20,000, which is the jurisdictional limit of the ECT. In Lim’s affidavit dated 17 January 2023 at page 37, the stipulated original claim in the ECT claim form was \$35,000 but the excess was abandoned to comply with the ECT jurisdictional limit.

7 Legal costs is, understandably, a concern for most litigants, but access to counsel in complex issues, and having consistency of judicial outcomes must be taken into account. Rida Global’s claim against Lim are plausible, serious, and substantial. The issues of both fact and law between its claim and Lim’s claim for wrongful dismissal not only overlap but are entwined. I allow the application for the ECT Proceedings to be transferred to the High Court and tried together with the High Court Suit. It will thus proceed as a counterclaim in the High Court Suit.

8 Costs are reserved to the trial judge.

- Sgd -
Choo Han Teck
Judge of the High Court

Ang Ann Liang (Allen & Gledhill LLP) for the applicant;
Yeoh Jun Wei Derric (Donaldson & Burkinshaw LLP) for the
respondent.
