

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

[2024] SGHC 259

Suit No 716 of 2021
(Summons No 2400 of 2024)

Between

The Resolution and Collection Corporation
(formerly known as Housing Loan Administration Corporation)
... Plaintiff

And

1. Tsuneji Kawabe
2. Kawabe Bussan Co Ltd
3. Yoshiko Kawabe
4. Michiyo Kawabe
5. Natamon Protpakorn
6. D-well Pte Ltd
7. Cloud Bliss Limited

... Defendants

JUDGMENT

[Civil Procedure — Discovery of documents — Specific discovery]

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The Resolution and Collection Corp

v

Tsuneji Kawabe and others

[2024] SGHC 259

General Division of the High Court — Suit No 716 of 2021 (Summons
No 2400 of 2024)

Choo Han Teck J

9 October 2024

11 October 2024

Judgment reserved.

Choo Han Teck J:

1 The plaintiff, a Japanese-incorporated company, obtained judgments from the Japanese courts against the second defendant, which is also a Japanese company, and the first defendant (the former representative director of the second defendant). The first defendant has since died. According to the plaintiff, the judgments hold, among other things, that the plaintiff is the assignee of several debts owed by the second defendant to creditor banks or financial institutions, with the first defendant acting as personal guarantor. The plaintiff alleges that, according to the Japanese courts, the first defendant fraudulently misappropriated assets from the second defendant and other companies. These assets are purportedly still missing due to the first defendant's sophisticated methods in distributing them, allegedly to the other defendants in this suit (among other recipients). Consequently, the second defendant could not pay off its debts to the plaintiff. The plaintiff says that the first defendant, as director,

breached his fiduciary duties to ensure that the second defendant's assets were not dissipated or exploited to the prejudice of its creditors. Thus, as the assignee of all the current creditors of the second defendant, the plaintiff contends that it is entitled to trace, claim and recover all the misappropriated assets ("the Source Assets").

2 To trace where the Source Assets went, the plaintiff obtained an order for specific discovery from the Assistant Registrar below ("the AR"), requiring the defendants to disclose 15 out of the 18 categories of documents requested by the plaintiff. Out of the documents from Categories 1 to 18, only those under Categories 3, 15 and 16 did not need to be disclosed. The fourth, sixth and seventh defendants ("the Specified Defendants") appealed against the AR's order. In *The Resolution and Collection Corp v Tsuneji Kawabe and others* [2024] SGHC 63 ("the Specific Discovery Appeal"), I allowed the appeal in part, and ordered the Specified Defendants to produce documents under Categories 1 and 2; 4, 5 and 6; 7 and 8; as well as 17 ("the Required Documents"). I also granted liberty for the plaintiff to apply for other categories of documents to be disclosed if the Required Documents show that those other documents are relevant or necessary to find where the Source Assets went.

3 The Specified Defendants have produced the Required Documents, but in heavily redacted form. The Specified Defendants had not indicated any intention to redact the Required Documents until the plaintiff requested to inspect the Required Documents in person. The Specified Defendants then refused to let the Plaintiff do so because they were still redacting the documents and inspection "can only be conducted on redacted copies of the documents which will be ready by 23 July 2024".

4 The plaintiff now seeks to exercise the liberty to apply, and prays for an order for the Specified Defendants to produce the unredacted version of the Required Documents, and for the remaining categories of documents to be disclosed, *ie*, the entire range of documents requested for under Categories 1 to 18.

5 The Specified Defendants claimed that they only needed to show “where the \$23m came from” – in other words, where the money in the sixth defendant’s possession came from. Based on this purported “restriction”, they redacted all information that they felt was irrelevant to “where the \$23m came from”. This included outflows of moneys, transfers of moneys between the defendants, and many balance figures from bank statements. Similar redactions and more were applied to other documents, including investment statements, financial statements and general ledgers. As a result, the Specified Defendants failed to provide any form of meaningful disclosure. All this arose from an artificial and contrived interpretation of my Judgment in the Specific Discovery Appeal. They are not entitled to redact the Required Documents without leave of court. I thus order the Specified Defendants to produce the unredacted version of the Required Documents within five days of this Judgment being published.

6 As for the remaining categories of documents, I am not able to order the Specified Defendants to disclose them. I generally do not sit as a court of first instance in relation to discovery applications; instead, the Assistant Registrars of the Supreme Court Registry do. If the defendants have not properly disclosed the Required Documents, the plaintiff may of course come to me. But if the plaintiff wishes to obtain specific discovery for the remaining categories of documents, it should do so by way of a fresh application to the registry. Hence, when I granted liberty to apply for the other categories, I meant that the plaintiff could make a fresh specific discovery application to the registry if the Required

Documents showed that the other categories of documents were relevant or necessary to trace the flow of the Source Assets. Besides, it is premature to apply for the remaining categories of documents now. Instead, the plaintiff should first go through the unredacted documents. Only then will it be placed to decide whether it should apply for the remaining documents to be disclosed.

7 Although the plaintiff won only one of two issues in this summons, the Specified Defendants' conduct of redacting large swathes of information from the Required Documents is unacceptable. With such redactions, they disclosed nothing. Their actions were a cynical disregard of court orders, calculated to frustrate the plaintiff and stall for time. I thus order costs thrown away in favour of the plaintiff. I will decide on the quantum of costs after hearing the parties' submissions.

- Sgd -
Choo Han Teck
Judge of the High Court

Daniel Lim Ying Sin and Lakshmanan s/o Anbarazan (Joyce A. Tan
& Partners LLC) for the plaintiff;
Shem Khoo Ching Shin, Veronica Teo Jia Hui, and Edward Nicholas
Ong Yu Xiang (Focus Law Asia LLC) for the fourth, sixth and
seventh defendants.
