

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

[2024] SGHC 67

Originating Claim No 166 of 2023
(Registrar's Appeal No 20 of 2024)

Between

La Comida Buds Bar & Bistro Pte Ltd

... Claimant/Respondent

And

Layan Management Pte Ltd

... Defendant/Appellant

JUDGMENT

[Civil Procedure — Costs — Security]

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La Comida Buds Bar & Bistro Pte Ltd

v

Layan Management Pte Ltd

[2024] SGHC 67

General Division of the High Court — Originating Claim No 166 of 2023
(Registrar's Appeal No 20 of 2024)

Choo Han Teck J

12 March 2024

14 March 2024

Judgment reserved.

Choo Han Teck J:

1 Mr Govindaraju filed a claim by way of HC/OC 166/2023 on behalf of La Comida Buds Bar & Bistro Pte Ltd. In the statement of claim, the named Claimant claims that it signed a tenancy agreement on 20 December 2021 with one Sia Chiaw Hui. The premises leased was stated to be 82 Dunlop Street, which is also the registered address of the Defendant, Layan Management Pte Ltd, represented by Mr K Rajendran.

2 The statement of claim states that the Claimant was “informed” by the named Defendant “to sign a new [t]enancy [a]greement”. The Claimant refused to sign unless there was a “novation agreement”. It also states that the “[D]efendant paid the rental sum without fail till February 2023” when the solicitors meant the Claimant paid.

3 The next paragraph of the statement of claim avers that the Claimant was “informed” by the Defendant on 19 January 2023, by email, that:

“this an eviction notice demanding the Claimant to shift out of 82 Dunlop Street by the 14 Jan 2023. Failing which the Defendant will lock the premises on 14 February 2023 at 5 pm. On the 15.2.2023, the Claimant return to the premises (82 Dunlop Street) to open it for business and found it to be locked.”

[sic]

4 The next paragraph of the statement of claim pleads that Sia Chiaw Hui “did not inform the Claimant that there will be an increase in the rental fee by the Defendant and there was no provision to increase the rental in the [tenancy agreement]”.

5 With just that, the Claimant claims (as pleaded) \$180,000 for loss of business; \$15,000 being six months of salary for Chandra s/o Thambusamy, the Claimant’s director (although the tenancy agreement referred to him as Chandran s/o Thambusamy); \$7,020 being the rent and GST paid by the Claimant; \$150,000 being renovation costs; and \$10,000 for the costs of liquor. No cause of action is pleaded.

6 The defence pleads that the tenancy agreement, of which neither party disputes, was signed by Chandran s/o Thambusamy as the tenant, and Sia Chiaw Hui as the landlord. The recital states “Company registration No. 20219806R of La Comida Buds Bar & Bistro Pte Ltd” immediately after Chandran’s name, without more. The signature attesting to the agreement was that of Chandran’s and no reference was made to the Claimant, La Comida Buds Bar & Bistro Pte Ltd.

7 Crucially, the Defendant’s name does not appear in the tenancy agreement. Nonetheless, the Defendant’s defence avers that the tenancy was terminated for a variety of reasons, including, the Claimant not paying rental promptly, making unlawful use of the premises as a karaoke lounge and not having the requisite fire insurance, and approval for public entertainment. We thus have parties who have ostensibly no connection with each other appearing as Claimant and Defendant in an action in which no cause of action was pleaded, though one can assume that it was for a wrongful termination of a tenancy. The parties will have to sort out the muddle at trial, but the reason they are before me presently is that the Defendant is appealing against the dismissal of its application, by the Assistant Registrar, for the payment of \$80,000 as security for costs.

8 Mr Rajendran submits that under O 9 r 12(1)(c) of the Rules of Court 2021, the Defendant is entitled to security for costs if the Claimant “has not stated or has incorrectly stated the claimant’s address in the originating claim or originating application, or has changed the claimant’s address during the course of the proceedings, so as to evade the consequences of the litigation”. Mr Govindaraju submits that the Claimant’s registered address is stated as 82 Dunlop Street, and that address has not changed. This is borne out by the Claimant’s Business Profile in the bundle of documents. More importantly, under O 9 r 12(1)(c), the failure to state the address or a change of address must have been done “so as to evade the consequences of the litigation”. This has not been shown to be the case here. There is therefore no basis for the application under O 9 r 12, and the Assistant Registrar was right to have dismissed it.

9 Mr Rajendran also submits that the Defendant is entitled to security for costs under s 388 (1) of the Companies Act 1967 (2020 Rev Ed), where there is

reason to believe that the Claimant corporation will be unable to pay the costs of the Defendant. The only evidence in support is the claim that the Claimant has been paying its rent late. The Defendant accepts that rent was paid but the lateness is an indication that the Claimant has financial difficulty in paying the rent. That, without more, is not the necessary conclusion one can draw in the circumstances. The only other evidence is that the Claimant had not been paying its utilities bills. I am in agreement with the Assistant Registrar that this is not sufficient evidence that the Claimant is unable to pay costs.

10 For the above reasons, this appeal is dismissed with costs reserved to the trial judge.

- Sgd -
Choo Han Teck
Judge of the High Court

Govindaraju s/o Sinnappan (Raj Govin Law Practice) for the
claimant/respondent;
Kanthosamy Rajendran and Jeyabal Athavan (RLC Law
Corporation) for the defendant/appellant.
