

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

[2023] SGHC 319

Originating Application No 666 of 2023
(Summons No 2563 of 2023)

Between

- (1) CoShield Global Pty Ltd
- (2) CoShield Global Trading Limited
- (3) CoShield NZ Limited

... Applicants

And

Krittapaj Sorralump

... Defendant

JUDGMENT

[Contempt of court — Civil contempt — Impecunious judgment debtor not to be committed for being unable to pay judgment debts]

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CoShield Global Pty Ltd and others

v

Krittapaj Sorralump

[2023] SGHC 319

General Division of the High Court — Originating Application No 666 of 2023 (Summons No 2563 of 2023)

Choo Han Teck J

1 November 2023

8 November 2023

Judgment reserved.

Choo Han Teck J:

1 The 1st applicant CoShield Global Pty Ltd is an Australian company, the 2nd applicant CoShield Global Trading Limited and the 3rd applicant CoShield NZ Limited are New Zealand companies. The applicants form part of the CoShield group of companies that are in the business of supplying personal protection equipment to other organisations. The defendant Krittapaj Sorralump is a Thai national who is currently a resident in Singapore. He was formerly the chief executive officer, director and majority shareholder of Nakawat TD Pte Ltd (“Nakawat Singapore”), a Singapore company in the business of supplying nitrile gloves. Nakawat Singapore was wound up on 1 October 2021, on an application made by one of its creditors (HC/CWU 131/2021).

2 The applicants had previously (on 10 September 2021 in HC/S 748/2021) sued the defendant for making fraudulent and/or negligent

misrepresentations that induced them to buy 75 million boxes of nitrile gloves, for US\$26,928,907. The applicants sued and obtained an interim consent judgment on 27 June 2022 (HC/JUD 284/2022) before an assistant registrar in chambers. By that judgment the defendant agreed to pay damages to be assessed, expenses incurred, and provide security of US\$6.5m. According to the applicants, the defendant did not comply with any of these terms.

3 Notwithstanding this, parties engaged in further negotiations in early-2023 and obtained a final consent judgment on 1 March 2023 before Lee Sei Kin J (HC/JUD 80/2023), ordering the defendant to:

- (a) Pay US\$12m to the applicants in instalments;
- (b) agree to the sale of his property at Marina One Residences, Singapore, with the proceeds to be paid to the liquidators of Nakawat Singapore;
- (c) consent to the retention of his documents that had been seized;
- (d) consent to the Worldwide Mareva Injunction against him remaining until payment has been completed; and
- (e) provide to the applicants security for the sum of US\$2m in the form of a banker's guarantee by 20 March 2023.

4 The defendant has not complied with some of these orders. Payment was not made, and no explanation was given. The defendant has assets in Thailand, but it is too difficult for the applicants to enforce the judgment there. The applicants thus apply for committal against the defendant to ensure compliance with the judgment. The present committal proceedings against the defendant are for the defendant's non-compliance of both the interim consent judgment and

the final consent judgment. Three issues arise: First, whether the defendant can be committed for a breach of the interim consent judgment, given that there is now subsequently a final consent judgment. Second, whether committal proceedings are appropriate for the enforcement of monetary judgments. Third, whether on the facts of the present case, the defendant should be committed for his breaches of the interim consent judgment and the final consent judgment.

5 Counsel for the defendant, Mr Uthayasurian Sidambaram (“Mr Uthayasurian”) submits that since the final judgment has superseded the interim judgment, the interim judgment is no longer valid, and “cannot be the subject of contempt because the parties had renegotiated”.

6 I agree with counsel for the applicant, Mr Imran Rahim (“Mr Imran”) that, as a general principle, a defendant may still be held liable in contempt for non-compliance with an interim judgment, notwithstanding that it has been superseded by a final judgment. The Court of Appeal (“CA”) in *Tay Kar Oon v Tahir* [2017] 2 SLR 342 (“*Tay Kar Oon*”) at [38] has made it clear that the court “should have the power in... civil contempt to act against the contemnor irrespective of any withdrawal or settlement of the proceedings”. It is thus clear that the court may act against the contemnor in such situations. Whether or not the defendant is liable for contempt for non-compliance with the interim judgment depends on the factual circumstances.

7 In relation to the second issue, I agree with Mr Imran that, as a general principle, a monetary judgment may be enforced by committal. This is evident from s 4(1) of the Administration of Justice (Protection) Act 2016 (2020 Rev Ed) (“AJPA”) which provides that a contemnor is liable for contempt of court for intentional disobedience of “any judgment”, and the case of *Mok Kah Hong*

v Zheng Zhuan Yao [2016] 3 SLR 1 (“*Mok Kah Hong*”) at [97] where the CA found that a husband who had “blatantly and inexcusably refused to comply with [the court’s order for him to make payment to the ex-wife]” was liable for contempt of court. However, committal proceedings may not be appropriate for all situations where a judgment creditor seeks to enforce a monetary judgment. In this connection, I agree with Mr Uthayasurian that committal proceedings should not be used against an impecunious judgment debtor (*Moh Kah Hong* at [92]). When the circumstances show that the judgment debtor is unable to pay up, it would be unjust to commit him for non-compliance of a judgment debt — it is not that the judgment debtor intentionally refuses to comply with the orders made, it is that he is simply unable to do so. The debtor’s prison, long gone, is not to be reintroduced — without express legislation.

8 In relation to the third issue, I am of the view that it would not be appropriate to commit the defendant in the present case. I do not accept Mr Imran’s submission that committal of the defendant is warranted in the present case because the defendant had blatantly and inexcusably refused to comply with both consent judgments. First, as Mr Uthayasurian argues, it is not disputed that the defendant had facilitated the transfer of the Marina One Residence to the liquidators of Nakawat Singapore. This is indicative to me that the defendant had made an effort towards meeting his payment obligations and had reduced his debt.

9 Secondly, I do not agree with Mr Imran that the defendant’s failure to make further attempts to pay the applicants should be held against him. It does not appear to me that the defendant is at fault for not using his remaining assets towards payment. The defendant has substantial stockholding and real estate

properties in Thailand. Mr Uthayasurian has confirmed that the defendant had consented to let the applicants have the Thai properties. It is the applicants who are unwilling to take the necessary steps to enforce against the Thai properties. It is therefore not fair for the applicants to now commit the defendant for his inability to pay the judgment sum.

10 Thirdly, I accept Mr Uthayasurian's submission that as the applicant's Worldwide Mareva Injunction over the defendant's assets is still in force, the defendant cannot deal with his assets himself. It is thus unfair to penalise the defendant for not being able to transfer those assets to the applicants when they have a Worldwide Mareva injunction over his assets. If the applicants want the defendant to transfer his remaining assets that they have identified in satisfaction of the judgment sum, they must facilitate the defendant's transfer. A failure to make such transfers should only be counted against the defendant after it has been shown that he is able but unwilling.

11 Fourthly, I accept the defendant's claim that he is currently unemployed and unable to do business. This is in keeping with his current status of being "on special pass" because of the investigations against him by the Commercial Affairs Department of the Singapore Police Force, and having his passport seized. I accept that the defendant cannot find employment as it would be a breach of the special pass conditions. As for the applicants' assertion that the defendant is now the "senior advisor" of a company called "EnEach", a Thai company in the business of supplements and capsules. The single untranslated screenshot of a Thai website purportedly showing the defendant, without more context, and without more information, is insufficient proof that the defendant is gainfully employed and earning a substantial income (even if translated). This

is especially so when weighed against the objective fact of the defendant's current status of being "on special pass".

12 Finally, I accept that there is some evidence of the defendant trying to carry out business deals and projects to generate more income towards meeting his payment obligations. This relates to Mr Imran's submission that the defendant had informed the applicants during negotiations (over the consent judgments) that he was to receive remuneration of US\$120,000 a month from NKW Global Pte Ltd, and had assured the applicants that he would have the funds to meet the payment obligation. There are no guarantees when it comes to business, as can be seen in the original troubles with Nakawat Singapore. I am not satisfied that the failure of the defendant to succeed in these ventures and to generate income to make payment towards his judgment debt, justifies committal. If the applicants take issue with the past negotiations (leading up to the consent judgments), they may well have another cause of action — but it does not lie in the present committal application.

13 In the circumstances of the present case, it is my view that the defendant is currently in a position that is analogous to that of an impecunious judgment debtor. He is unable to secure employment to earn money, due to him being on a special pass. He continues to be unsuccessful in the field of business and is unable to make money there. Although he has some known assets in Thailand, he is unable to deal with them because of the Worldwide Mareva Injunction against him, and because he is unable to leave Singapore. In other words, he does not have the ability to make payment towards or otherwise meet the other terms of the final consent judgment, and was unable to do so in the past for the interim consent judgment as well. It would therefore be inappropriate to commit

him in the present case — although this may change should the circumstances be different. The application is dismissed. I will hear arguments on costs if parties are unable to agree costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Muhammad Imran Bin Abdul Rahim and Raheja Binte Jamaluddin
(Eldan law LLP) for the applicants;
Uthayasurian s/o Sidambaram and Sofia Bennita d/o Mohamed
Bakhash (Phoenix Law Corporation) for the defendant.
