

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

[2025] SGHC 96

Originating Application No 611 of 2024

In the matter of Section 35(2) of the Societies Act 1966 (2020 Rev Ed)

Between

Singapore Vehicle Traders Association

... Applicant

And

Neo Tiam Ting

... Respondent

GROUNDS OF DECISION

[Unincorporated Associations and Trade Unions — Friendly Societies — Meetings — Power of chairman to suspend or adjourn meeting]

[Unincorporated Associations and Trade Unions — Friendly Societies — Meetings — Power of chairman to reconvene suspended or adjourned meeting]

[Unincorporated Associations and Trade Unions — Friendly Societies — Constitution — Interpretation]

[Unincorporated Associations and Trade Unions — Friendly Societies — Elections]

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Singapore Vehicle Traders Association

v

Neo Tiam Ting

[2025] SGHC 96

General Division of the High Court — Originating Application No 611 of 2024

Vinodh Coomaraswamy J

21, 25 November 2024

22 May 2025

Vinodh Coomaraswamy J:

Introduction

1 The applicant (“the Association”) is a society founded in 1972 and duly registered under the Societies Act 1966 (2020 Rev Ed) (“the Act”).¹ As its name suggests, the Association’s members (“the Members”) are traders in second-hand motor vehicles. The Association now has close to 400 Members.²

2 The Association’s objects and mission include promoting the growth of the business of Members, collecting and distributing information on the trade in second-hand vehicles, supporting the welfare of Members, supporting education and charitable causes and – ironically, in the context of this litigation –

¹ First Affidavit of Lim Ah Poh dated 24 June 2024 (“LAP1”) at p 86, para 1.2.

² LAP1 at p 49, para 4.1 and p 86, para 1.2.

promoting friendly relations among Members and mediating differences between Members.³

3 The respondent is the President of the Association.⁴ He was elected President for the Association’s 26th term of office running from 2022 to 2024. He was then re-elected President for its 27th term of office running from 2024 to 2026.

4 The Association brings this application under s 35(2) of the Act. That provision: (a) empowers a registered society to refer an internal dispute to the General Division for “the adjustment of its affairs”; and (b) empowers the General Division hearing such an application to “make such order in the matter as it thinks fit”.

5 The dispute that the Association now refers to the General Division is whether the respondent is correct in his position that a slate of candidates elected on 6 June 2024 at a general meeting of the Members that he convened on that day is the Executive Committee of the Association for its 27th term of office (“the 27th Term Exco”). I shall refer to this election as “the June Election”, to this meeting as “the June Meeting” and to this slate of candidates as “the June Exco”.

6 The dispute arises because of a difference of views over whom a Member that is a firm or a company may appoint as its representative (“Representative”) to vote on its behalf at a general meeting (“GM”) of the

³ LAP1 at para 5, p 23, Chapter 2: Objects and p 46.

⁴ LAP1 at para 9; First Affidavit of Neo Tiam Ting dated 17 July 2024 (“NTT1”) at paras 7 and 10.

Association. Although the Association’s constitution (“the Constitution”) envisages that Members may be sole proprietors, firms or companies, it appears that all Members are either firms or companies.⁵

7 The Association’s view is that the Representative of a Member *must* be a partner of the Member (if it is a firm) or a director of the Member (if it is a company). I shall refer to this as the narrow view. The respondent takes the view that the Representative of a Member may be *any* person, *regardless* of whether that person is a partner or a director of the Member. I shall refer to this as the wide view.

8 The respondent ensured that the votes of Members in the June Election were cast and counted in accordance with the wide view.

9 The dispute between the parties is essentially a political dispute. The effect of the wide view is to allow a single person to vote at a GM as the Representative of multiple Members. The effect of the narrow view is to prevent a single person from doing that *unless* he happens to be a partner or a director of each Member who has appointed him to be its Representative. Thus, for example, the respondent is a director of five Members of the Association.⁶ On the narrow view, those five Members would not otherwise be entitled to appoint him to be their Representative.

10 As a result of this dispute, the Association now applies under s 35(2) of the Act for a declaration that the June Election was not held in accordance with

⁵ Notes of Argument dated 21 November 2024 (“NA 21 November”) at p 20, lines 9–20 at line 19.

⁶ NTT1 at para 5.

the Constitution, and that its results are therefore null and void. The substantive relief that the Association seeks is as follows:⁷

A declaration that...[t]he purported election for the 27th Term Executive Committee of the [Association] unilaterally held by [the respondent] on 6 June 2024 is in breach of the [Association's] Constitution and was not properly held. As such, the results of the said purported election shall be declared null and void.

11 Having heard and considered the parties' submissions, I have granted the declaration that the Association seeks, albeit in the following slightly modified terms:⁸

It be and is hereby declared that the purported election of the 27th Term Executive Committee of the [Association] held on 6 June 2024 was of no legal effect and is therefore null and void.

12 The respondent has appealed against my decision. I now set out the grounds for my decision.

Background facts

13 A summary of the background facts starts with the arrangements for the Association's annual general meeting ("AGM") held in the 2024 calendar year ("the 51st AGM").

14 Under Art 34 of the Constitution, the Association had to hold the 51st AGM by 30 June 2024. Under Art 24(vi) of the Constitution, the Association's Executive Committee ("Exco") had the power to make arrangements for the 51st AGM. Under Arts 16(i) and 23(i) of the Constitution, Members have the

⁷ HC/OA 611/2024 at para 2(1).

⁸ HC/ORC 6312/2024 at para 1.

power at an AGM to elect a 20-member Exco to be the Association's management body and to carry out its work. Art 16(i) also provides that the Exco consists of the President of the Association and 19 other individuals. Under Art 20 of the Constitution, the President and the Exco are elected for a two-year term of office. The Association therefore elects its President and Exco at alternating AGMs. Under Art 24(viii) of the Constitution, the Exco has the power to form a subcommittee known as an "Elections Committee" ("EC"). The Constitution is silent on the powers and duties of the EC.

Arrangements for the 51st AGM

15 On 27 February 2024, the Exco holding office for the Association's 26th term of office running from 2022 to 2024 ("the 26th Term Exco") commenced arrangements for the 51st AGM. As the President of the Association for the Association's 26th term of office, the respondent was a member of the 26th Term Exco.

16 The Constitution required the agenda for the 51st AGM to include the election of the President and Exco for the Association's 27th term of office ("the 27th Term Election"). The 26th Term Exco established an EC ("the 27th Term EC") to oversee the 27th Term Election.⁹ The consensus of the 26th Term Exco was that the 27th Term EC should have the power to decide the rules for the 27th Term Election and should have the final decision on matters relating to the 27th Term Election.¹⁰ The respondent, as a member of the 26th Term Exco, was part of this consensus.

⁹ LAP1 at p 51, para 4.5.

¹⁰ LAP1 at p 51, paras 4.5.5 and 4.5.2.

17 On 4 April 2024, the 26th Term Exco gave notice (“the AGM Notice”) that the 51st AGM would be held at 4.30 pm on 6 May 2024. The AGM Notice included the agenda for the 51st AGM. The last substantive item on the agenda, just before any other business, was the election of the 27th term President and the 27th Term Exco.¹¹

18 The AGM Notice notified Members that votes at the 27th Term Election would be cast and counted in accordance with the narrow view as follows:¹²

Members who are the Company Director or Company Partner of their company but do not have their name listed in the latest association’s membership roll will be allowed to vote only if they can produce a board resolution containing at least 2 of the Company Directors’ signatures. *No proxies are allowed to vote.* [emphasis in original]

19 The 27th Term EC attached to the AGM Notice its rules as to the conduct of the 27th Term Election (“the Election Rules”).¹³ Paragraphs 3 and 4 of the Election Rules stipulated that Members’ votes would be cast and counted at the 27th Term Election in accordance with the narrow view:¹⁴

3) Members who want to vote must be present at the election and vote in person. Voting forms will only be issued to eligible voters (i.e. the Company Director / Company Partner / Sole-Proprietor of members’ companies listed in the latest Association’s Membership records). ... *No proxies are allowed to vote.*

4) Members who are the Company Director / Company Partner / Sole-Proprietor of their company but do not have their name listed in the latest association’s membership roll will be

¹¹ NTT1 at p 34.

¹² NTT1 at p 34.

¹³ NTT1 at p 38.

¹⁴ NTT1 at p 39.

allowed to vote only if they can produce a board resolution containing at least 2 of the Company Directors’ signatures.

[emphasis added]

20 Both the AGM Notice and the Election Rules provided expressly that “no proxies are allowed to vote” at the 27th Term Election. The parties use “proxy” to mean any Representative who is *not* a partner or a director of the Member that appoints him.¹⁵

21 The respondent objected to the 27th Term EC’s stipulation that the narrow view would apply at the 27th Term Election. He considered the narrow view to be contrary to the effect of Art 42 of the Constitution. Article 42 is the only article in the Constitution that touches on Representatives voting at a GM. Article 42 provides as follows:¹⁶

42 At any General Meeting of members, such member present shall have one vote, and in the event of a tie of votes, the Chairman, in addition, to his own vote, shall have a casting vote. All question shall be decided by a majority vote, either by a show of hands or by casting ballots, if a member, other than a firm or company member, sends a representative to the General Meeting, such representative shall have no right to vote and shall be regarded as an observer.

22 As a result of the respondent’s objection, the 26th Term Exco held an emergency meeting on 26 April 2024 (“the April Exco Meeting”). The April Exco Meeting discussed,¹⁷ among other issues, whether to apply the narrow view or the wide view to the 27th Term Election.¹⁸ In attendance at the April

¹⁵ First Affidavit of Jesse Tan Boon Yeong dated 24 June 2024 (“JTBY1”) at para 25.

¹⁶ NTT1 at p 74.

¹⁷ NTT1 at para 21 and p 50.

¹⁸ LAP1 at pp 187–188.

Exco Meeting was the Association’s legal adviser, an advocate and solicitor in private practice. The respondent argued strenuously in favour of the wide view. His position was that: (a) Art 42 of the Constitution adopted the wide view by implication; and (b) the Exco should not, by a vote, override the Constitution by adopting the narrow view.¹⁹ His position was supported by the Association’s legal adviser. The issue was nevertheless put to a vote. The Exco voted to apply the narrow view to the 27th Term Election by a majority of 15 to 3.²⁰

23 The Exco revisited the issue at a second emergency meeting on 2 May 2024 (“the May Exco Meeting”).²¹ The respondent objected to this Exco meeting even taking place and refused to attend it.²² A few hours before the May Exco Meeting, the respondent instructed the Association’s staff to notify all Members that votes would be cast and counted at the 27th Term Election in accordance with the wide view.²³

24 At the May Exco Meeting, in the absence of any opposition, the Exco voted unanimously to apply the narrow view to the 27th Term Election. The Exco also agreed unanimously that no individual could vote in the 27th Term Election on behalf of more than one Member.²⁴ This went even further than the narrow view. This meant, for example, that the respondent could not vote as the Representative of more than one Member even though he was a director of five Members.

¹⁹ LAP1 at p 187, paras 5.4 and 5.9.

²⁰ LAP1 at pp 187–188.

²¹ JTBY1 at para 25.

²² NTT1 at para 30.

²³ NTT1 at p 52.

²⁴ JTBY1 at para 26 and pp 91–92.

25 On 3 May 2024, the 27th Term EC notified all Members that any notice on election or voting matters that was not issued by the 27th Term EC was invalid.²⁵ The effect of this was to notify Members that the President’s decision to apply the wide view to the 27th Term Election would not be followed²⁶ and that the narrow view would instead be applied.

The 51st AGM

26 The 51st AGM took place on 6 May 2024. The general business at the AGM was transacted relatively smoothly. But the impasse continued over whether to apply the narrow view or the wide view at the 27th Term Election.

27 The respondent was adamant that the wide view should apply because: (a) Art 42 of the Constitution permits a Member that is a firm or a company to appoint *any* person to be its Representative; (b) the 27th Term EC had no power to override the Constitution; and (c) he had the power and the duty, as the President of the Association, to ensure that the 27th Term Election was held in accordance with the Constitution.²⁷

28 The 27th Term EC was equally adamant that the narrow view should apply because: (a) the narrow view had been applied consistently in past elections; (b) Art 42 of the Constitution was “open to interpretation”²⁸ in that it did not specifically deal with whether the wide view or the narrow view should apply to an election; (c) Art 68 of the Constitution empowered the Exco to deal

²⁵ NTT1 at p 59.

²⁶ NTT1 at para 33.

²⁷ LAP1 at p 91, para 6.12.

²⁸ LAP1 at p 93, para 9.1.

with any matter affecting the Association that the Constitution did not specifically deal with; and (d) the 27th Term EC, by the authority delegated to it by the 26th Term Exco, was empowered to have the final say on matters related to the conduct of the 27th Term Election.²⁹

29 Over the respondent's objections, the issue was put to a vote of Members.³⁰ A majority of Members voted in favour of applying the narrow view, as had been stipulated in the AGM Notice and the Election Rules.³¹ The 27th Term EC therefore allowed Members to start voting in the 27th Term Election on the basis that their votes would be cast and counted in accordance with the narrow view.³² At this point, the respondent declared twice that the 51st AGM was suspended.³³ The 27th Term EC disregarded the respondent and directed that Members should continue to vote.³⁴ The respondent then physically left the meeting premises.³⁵

30 Voting in the 27th Term Election continued and concluded at 9.15 pm³⁶ in the respondent's absence. The 27th Term EC counted the votes and announced that the 19 candidates who had received the most votes had been

²⁹ LAP1 at pp 93–94; NTT1 at pp 98–100.

³⁰ LAP1 at p 93, paras 9.7–9.8.

³¹ LAP1 at p 94, para 9.15.

³² LAP1 at p 94, para 9.15.

³³ LAP1 at p 94, paras 9.16–9.17.

³⁴ LAP1 at p 94.

³⁵ NTT1 at para 41.

³⁶ LAP1 at p 94, para 9.18.

elected to the 27th Term Exco, with the 20th candidate in reserve.³⁷ The Members in attendance then dispersed.

31 I shall refer to the election held on 6 May 2024 as “the May Election”, to the meeting held on 6 May 2024 as “the May Meeting” and to the Exco that the Association asserts was elected at the May Election as “the May Exco”.

The June Meeting

32 On 7 May 2025, the 27th Term EC informed Members that the May Exco had been elected as the 27th Term Exco.³⁸

33 On 10 May 2024, the respondent informed Members that the results of the May Election were void because the 27th Term EC had breached the Constitution by applying the narrow view and had thereby disenfranchised Members without legal basis.³⁹

34 On 22 May 2024, the respondent issued a letter on the Association’s letterhead bearing the title “Notice of Annual General Meeting” and signed by him. In this letter, the respondent gave notice to Members: (a) that the 51st AGM would be reconvened at 3.30 pm on 6 June 2024, *ie*, as the June Meeting; (b) that the agenda for the June Meeting would include the election of the 27th Term Exco, *ie*, the June Election; and (c) that votes at the June Election would be cast and counted in accordance with the wide view.⁴⁰

³⁷ LAP1 at pp 94–95, paras 9.18–9.19.

³⁸ JTBY1 at para 35 and pp 114–115.

³⁹ NTT1 at p 102.

⁴⁰ NTT1 at p 105.

35 On 29 May 2024, the May Exco informed Members: (a) that the respondent – even as the undisputed President of the Association – did not have the power to convene an AGM as he claimed to have done on 22 May 2024 or to hold an Exco election as he proposed to do at the June Meeting; (b) that the 27th Term Exco had already been duly elected at the 27th Term Election held at the May Meeting; (c) that it was therefore unnecessary for Members to attend the June Meeting; and (d) that any decisions made at the June Meeting, including “the outcome of any purported election” would be void.⁴¹

36 On 6 June 2024, the respondent conducted the June meeting and the June Election. Votes in the June Election were cast and counted in accordance with the wide view.

37 The respondent then informed Members⁴² by email and notified the Registry of Societies⁴³ that the June Exco had been duly elected as the Association’s 27th Term Exco.

Issues to be determined

38 As I have mentioned, the Association’s sole substantive prayer for relief is a declaration that the June Election was not held in accordance with the Constitution and that its results are therefore null and void.

39 I should note at this point that neither party seeks any relief in relation to the *May* Election. The Association has not applied for a declaration that the

⁴¹ LAP1 at para 42 and p 117.

⁴² LAP1 at p 175.

⁴³ NTT1 at para 57.

May Election was held in accordance with the Constitution and that its results are valid. Likewise, the respondent does not apply, by way of counterclaim under O 6 r 14 of the Rules of Court 2021, for a declaration that the May Election was *not* held in accordance with the Constitution and that its results are void.

40 Whether the May Election was held in accordance with the Constitution is nevertheless an intermediate issue that I must consider in dealing with the Association's sole substantive prayer for relief. If the May Election was indeed held in accordance with the Constitution, it follows of necessity that the June Election was *not* held in accordance with the Constitution. It is not only common ground but also common sense that the Constitution does not permit more than one election to be held for the 27th Term Exco.

41 The converse is not, however, true. If the May Election was *not* held in accordance with the Constitution, it *does not* follow of necessity that the June Election *was* held in accordance with the Constitution. That is because it is perfectly possible that *both* the May Election *and* the June Election were *not* held in accordance with the Constitution. Indeed, that is the conclusion at which I have arrived.

42 As a result, my finding that the May Election was not held in accordance with the Constitution is simply an intermediate finding in disposing of the Association's sole substantive prayer for relief. That finding does not, in itself, lead to the grant of any final relief with regard to the May Election, simply because there is no prayer for any such relief before me whether by way of claim or by way of counterclaim.

43 Determining whether to grant the Association its sole substantive prayer for relief therefore requires me to determine the following three issues:

- (a) Was the May Election conducted in accordance with the Constitution?
- (b) If not, did the respondent convene the June Meeting in accordance with the Constitution?
- (c) If so, did the respondent conduct the June Election in accordance with the Constitution?

The May Election was not conducted in accordance with the Constitution

44 I do not accept the Association’s submission that the May Election was conducted in accordance with the Constitution for two reasons: (a) the respondent had the power under Art 25(vi) of the Constitution to suspend the 51st AGM by virtue of his office as the 26th term President of the Association; and (b) the respondent exercised that power properly, in order to stop votes being cast and counted in the May Election contrary to Art 42 of the Constitution.

The respondent had the power to suspend the 51st AGM

45 The starting point on this issue is the Constitution. The Association is an unincorporated association. A key characteristic of an unincorporated association is that the legal relationship between its members is based on a contract between them, usually embodied in its constitution (*Chee Hock Keng v Chu Sheng Temple* [2016] 3 SLR 1396 at [29]).

46 Article 25 of the Constitution gives the President of the Association the power – and indeed, imposes on him the duty – to “preside” over all meetings of the Association:⁴⁴

CHAPTER 8: POWERS AND DUTIES

23 ...

24 ...

25 The duties of [sic] the officers of the Association shall be as follows;

The President shall:

...

vi) preside at all meetings of the Association;

...

Art 33(i) of the Constitution defines the phrase “meetings of the Association” as including AGMs.

47 The Constitution is silent on whether the President has the power to adjourn or suspend a GM. The respondent submits that one aspect of his power to “preside” over the 51st AGM was the power to suspend the 51st AGM if its business was being conducted contrary to the Constitution.⁴⁵ Whether he had this power turns on the meaning of the word “preside” in Art 25(vi) of the Constitution.

48 The Constitution – being a contract between the Members – is to be construed in the same way as any other contract, taking into account the people

⁴⁴ NTT1 at p 71.

⁴⁵ Respondent’s Written Submissions at para 57.

to whom the Constitution is directed at and the meaning which was intended (Jean Warburton, *Unincorporated Associations: Law and Practice* (Sweet & Maxwell, 2nd Ed, 1992) at p 13).

49 The verb “preside” means “to be in charge” and “to exercise management or control” (*Black’s Law Dictionary* (Bryan A Garner gen ed) (Thomson Reuters, 12th Ed, 2024)). One of the primary responsibilities of the presiding officer at a meeting of an association’s members is “to ensure that the proceedings are properly conducted according to law and according to the standing orders or rules of the body concerned” (*Shackleton on the Law and Practice of Meetings* (Madeleine Cordes and John Pugh-Smith gen eds) (Sweet & Maxwell, 15th Ed, 2020) (“*Shackleton on Meetings*”) at para 6-10).

50 The Association accepts that “preside” means to “ensure the proper running” of the meeting.⁴⁶ Article 25(vi) therefore conferred on the respondent the power to take charge of the 51st AGM and to manage and control it so as to ensure its proper running.

51 The Association submits, however, that the respondent had no power to suspend the 51st AGM unilaterally,⁴⁷ *ie*, of his own motion and without putting the suspension to a vote at the AGM. He should therefore have asked the 51st AGM to vote on a suspension. That would have allowed the 51st AGM to decide, as a body for themselves, whether the 51st AGM should be suspended or whether it should continue with Members’ votes being cast and counted in the 27th Term Election in accordance with the narrow view.⁴⁸

⁴⁶ NA 21 November at p 3, line 10.

⁴⁷ NA 21 November at p 8, lines 16–25.

⁴⁸ NA 21 November at p 3, lines 13–14.

52 I reject the Association’s submission.

53 The general rule is that a presiding officer does not have the power to adjourn or suspend a meeting without the consent of the meeting unless there is a rule governing the conduct of the meeting that authorises him to do so (*Chan Sze Ying v Management Corporation Strate Title Plan No 2948 (Lee Chuen T’ng, intervener)* [2021] 1 SLR 841 (“*Chan Sze Ying*”) at [40]). Furthermore, if the rules governing the conduct of a meeting stipulate a specific procedure that the presiding officer must follow before adjourning or suspending the meeting, then it is obvious that the presiding officer must follow that procedure.

54 By way of exception to the general rule, however, a presiding officer has, in certain circumstances, a residual power at common law to adjourn or suspend a meeting (*Chan Sze Ying* at [40]). These circumstances include the following situations:

- (a) Where unruly conduct prevents the continuation of the meeting’s business (*Chan Sze Ying* at [42], citing *Byng v London Life Association Ltd and another* [1990] 1 Ch 170 (“*Byng*”) at 186B);
- (b) Where the adjournment or suspension is necessary to regulate the proceedings so as to give all persons entitled to vote a reasonable opportunity of voting (*Chan Sze Ying* at [42], citing *Byng* at 186F);
- (c) Where the intent and effect of the adjournment or suspension is to advance or facilitate the business of the meeting rather than to interrupt or delay it and the adjournment or suspension has no prejudicial effect on the members or on the conduct of the business of the meeting (*Chan Sze Ying* at [42], citing *Byng* at 186H–186A);

(d) Where the circumstances are such that the wishes of the meeting on adjournment or suspension cannot be ascertained in accordance with the rules governing the conduct of the meeting, *eg*, because members who are entitled to vote on such a resolution are excluded from voting on it contrary to those rules (*Chan Sze Ying* at [43], citing *Byng* at 187F–188D); or

(e) Where any specific procedure stipulated in the rules governing the conduct of the meeting that governs the presiding officer’s power to suspend or adjourn the meeting cannot reasonably be followed, even if it cannot be said that it is impossible to follow that procedure (*Chan Sze Ying* at [55]).

55 In my judgment, the respondent had the power to suspend the 51st AGM for two reasons. First, I consider that he had the power to suspend the 51st AGM as an inherent aspect of presiding over the 51st AGM under Art 25(vi) of the Constitution. The respondent’s power and duty to preside over the AGM included, of necessity, ensuring that the 51st AGM was conducted in accordance with the Constitution. Second, he had a residual common law power to suspend the 51st AGM because it was, in the circumstances, not possible to ascertain the wishes of the meeting. The 27th Term EC’s insistence on adopting the narrow rule meant that putting a resolution to suspend the 51st AGM to the meeting would have been circular. Counting the votes cast on that resolution would raise once again the very question of whether the narrow view or the wide view ought to apply. Further, if the wide view were the correct construction of Art 42, what the 27th Term EC proposed to do on the 27th Term Election, and what they would have done on any resolution to suspend the meeting, amounted to excluding Members entitled to vote from voting. This does not mean that the

President has a unilateral power to adjourn or suspend a GM, contrary to the general rule. It simply means that a President who adjourns or suspends a GM in the exercise of his residual common law power to do so takes the risk that a court will disagree with him.

56 The Association also submits that, even if the power to suspend the 51st AGM is an inherent aspect of the respondent's power and duty to preside over the 51st AGM under Art 25(vi) of the Constitution, that Article does not empower the respondent to preside over or to suspend the 27th Term Election.⁴⁹ This is because the respondent's power under Art 25(vi) is limited to "meetings of the Association" and an election is not a "meeting of the Association" as defined in Art 33 of the Constitution. That Article defines "meetings of the Association" exhaustively as an Annual General Meeting, an Extraordinary General Meeting ("EGM"), an Exco Meeting and a Sub-Committee Meeting.⁵⁰ The respondent thus had no power under Art 25(vi) to preside over the 27th Term Election and to suspend it, even if it was being conducted contrary to the Constitution. The sole power to suspend the 27th Term Election lay exclusively with the 27th Term EC, to whom the 26th Term Exco had delegated the final decision on all matters to do with the 27th Term Election.⁵¹

57 I reject this submission. An election held at an AGM can, of course, be viewed as being conceptually distinct from the AGM itself. But for the purposes of Art 25(vi) of the Constitution, any such distinction is wholly artificial. The respondent's power and duty to preside over the 51st AGM necessarily included

⁴⁹ NA 21 November at p 9, lines 15–17.

⁵⁰ NTT1 at p 73.

⁵¹ Applicant's Written Submissions ("AWS") at paras 31–35.

the power to preside over all aspects of the business of the 51st AGM. An integral part of the business of the 51st AGM was conducting the 27th Term Election. Article 38 of the Constitution requires the election of office bearers whose term of office is expiring to be a mandatory part of the business of an AGM. As required by Art 38, the 27th Term Election was an express item on the agenda for the 51st AGM. The Constitution makes no provision for office bearers to be elected otherwise than at an AGM. The respondent's power and duty to preside over the 51st AGM therefore encompassed the power to preside over the 27th Term Election. He therefore had the power to suspend the 51st AGM if the 27th Term EC evinced an intention to conduct the 27th Term Election in breach of the Constitution.

58 For the above reasons, I agree with the respondent that he had the power to suspend the 51st AGM.

The respondent exercised his power to suspend the 51st AGM in accordance with the Constitution

59 I next consider whether the respondent exercised his power to suspend the 51st AGM in accordance with the Constitution. I accept the respondent's submission that he did so.

60 The respondent's basis for exercising his power to suspend the 51st AGM was that the 27th Term EC – with the support of a majority of the Members – evinced an intention to conduct the 27th Term Election contrary to Art 42 of the Constitution by applying the narrow view. Whether the respondent had a constitutional basis for exercising his power to suspend the 51st AGM thus turns on the proper construction of Art 42. If the narrow view is the proper construction of Art 42, the result is that the 27th Term EC's intention was to

conduct the 27th Term Election in accordance with the Constitution. In that event, the respondent had no constitutional basis for exercising his power to suspend the 51st AGM.

61 For ease of reference, I set out again Art 42 of the Constitution:⁵²

42 At any General Meeting of members, such member present shall have one vote, and in the event of a tie of votes, the Chairman, in addition, to his own vote, shall have a casting vote. All questions shall be decided by a majority vote, either by a show of hands or by casting ballots, *if a member, other than a firm or company member, sends a representative to the General Meeting, such representative shall have no right to vote and shall be regarded as an observer.* [emphasis added]

62 The first sentence of Art 42 of the Constitution guarantees every Member who is present at a GM one vote on any matter that is put to a vote of the Members at the GM. The last sentence of Art 42 provides that if a Member who is *not* a firm or company appoints a representative to attend a GM on behalf of that Member, that Representative does not have a right to vote on behalf of that Member at the GM.

63 Before I consider the parties' submissions, I make four significant points about Art 42:

(a) First, the express effect of the last sentence of Art 42 is purely negative. In terms, that sentence does no more than prohibit the Representative of a Member who is a sole proprietor from voting at a GM. It does not even go so far as to prohibit a sole proprietor from

⁵² NTT1 at para 19 and p 74.

appointing a Representative to attend a GM. It merely relegates the Representative to observer status and disenfranchises that Member.

(b) Second, although Art 42 disenfranchises a sole proprietor who appoints a Representative, it says nothing about disenfranchising a firm or a company who appoints a Representative. Further, by disenfranchising a sole proprietor only in negative terms (“other than a firm or company member”) rather than in positive terms (“who is a sole proprietor”), Art 42 implies that “a firm or company member” that appoints a Representative will not be disenfranchised.

(c) Third, Art 42 does not, on its face, restrict the right of a firm or a company to appoint a Representative to attend and vote at a GM. Article 42, therefore, permits any person to attend and vote at a GM as a Representative of a firm or a company.

(d) Fourth, Art 42 does not, on its face, restrict a Representative of a Member who is a firm or company from representing another Member who is a firm or a company.

64 The Association submits that the respondent had no constitutional basis for suspending the 51st AGM because the 27th Term EC proposed to conduct the 27th Term Election in accordance with the Constitution. Although the plain wording of Art 42 does not restrict the right of a firm or company to appoint any person as its representative, the Association submits that the right of a firm or company to appoint a Representative was validly restricted to a partner or a director.⁵³ The 27th Term EC included this stipulation in the Election Rules.

⁵³ NA 21 November at p 20, lines 4–6.

Those rules bind Members as a matter of law because they have been endorsed by the 26th Term Exco and the 27th Term EC, and they were followed in previous Exco elections without objection.⁵⁴

65 The Association further submits that even if the respondent is correct about the construction of Art 42, the respondent was still not entitled to suspend the 51st AGM. That is because the 26th Term Exco and the 27th Term EC decided that the narrow view was not contrary to Art 42 when framing the Election Rules, at the April Exco Meeting, at the May Exco Meeting, and at the 51st AGM itself. The 26th Term Exco was the management body of the Association empowered under Art 24(vi) of the Constitution to make arrangements for the 27th Term Election. It delegated this power to the 27th Term EC and empowered the 27th Term EC to have the final say on matters relating to the 27th Term Election. These matters include the scope of Art 42.⁵⁵

66 I reject the Association’s submission. The Association accepts that no Exco has ever framed any by-law under Art 24(v) of the Constitution that restricts the right of a firm or company Member to appoint *any person* as that Member’s Representative.

67 I also do not accept that the Election Rules bind Members. Although the Election Rules were promulgated by the 27th Term EC to govern the 27th Term Election, there is no evidence that the rules have been formally framed by any Exco as by-laws of the Association in accordance with Art 24(v) of the Constitution.⁵⁶ Furthermore, the Association was not able to produce any

⁵⁴ NA 21 November at p 24, lines 1–3 and lines 27–30; p 25, lines 29–30.

⁵⁵ NA 21 November at p 12, lines 3–14.

⁵⁶ NTT1 at p 70.

evidence to show that the rules have been of “longstanding effect”.⁵⁷ The fact that the past ECs adopted and applied the narrow view without objection from Members does not give these rules any binding force either as a matter of contract or even by way of estoppel. Therefore, the Election Rules did not bind the Members under the Constitution to accept the narrow view at the 27th Term Election.

68 Even if I consider the Association’s case at its highest and accept that the Election Rules were formally adopted by the 26th Term Exco as a by-law of the Association, the Election Rules would still not bind the members of the Association. That is because the Election Rules impose a restriction on the right of a firm or company member to appoint a Representative that has no basis in Art 42 of the Constitution. The Constitution is the primary document setting out the rules governing the Association. A by-law of the Association that is inconsistent with the Constitution is *ultra vires* the Constitution and cannot bind Members.

69 Furthermore, I do not accept that the 27th Term EC’s adoption of the narrow view binds Members or the respondent simply because it emanates from the 27th Term EC. Although the 26th Term Exco delegated its power to arrange the 27th Term Election to the 27th Term EC, that delegation does not empower the 27th Term EC to act *ultra vires* the Constitution or to conduct the 27th Term Election contrary to the Constitution. Whether the 27th Term EC’s conduct of the 27th Term Election breaches Art 42 of the Constitution is ultimately a matter of law. The court has the final say on that question of law, not the 27th Term EC. If the 27th Term EC adopts a position on the scope of Art 42 that is wrong

⁵⁷ NA 21 November at p 25, lines 1–5.

in law, that position cannot bind Members. That would amount to allowing the 27th Term EC to vary the contract between the Members without the consent of Members and, more importantly, without regard to the law of contract.

70 The respondent was therefore correct in taking the position at the 51st AGM that the 27th Term EC had evinced an intention to conduct the 27th Term Election in breach of Art 42 of the Constitution. As a result, he validly exercised his power to suspend the 51st AGM, whether that power arose under Art 25(vi) of the Constitution as an inherent aspect of his power to preside over the 51st AGM or whether it arose under his residual powers at common law. The respondent's basis for exercising his power to suspend the 51st AGM was to ensure that all Members who were eligible under Art 42 of the Constitution to vote in the 27th Term Election were given a reasonable opportunity to do so (see *Shackleton on Meetings* at para 6-17). If the 27th Term Election had proceeded in accordance with the directions of the 27th Term EC, many Members would have been disenfranchised. There is no suggestion that the respondent took his decision to suspend the 51st AGM in bad faith, for an ulterior purpose, unreasonably in the *Wednesbury* sense or in order to interrupt or delay the business of the 51st AGM or the 27th Term Election rather than to advance or facilitate it.

71 I therefore conclude that the respondent did exercise his power to suspend the 51st AGM lawfully before withdrawing from the meeting premises. It follows that the events which occurred on 6 May 2024 after the respondent suspended the 51st AGM and withdrew from the meeting premises are of no legal effect. The results of the May Election are null and void.

The respondent had no power to reconvene the 51st AGM

72 I turn to consider whether the respondent had the power to reconvene the 51st AGM on 6 June 2024.

73 As a preliminary point, I first consider whether the June Meeting was an *entirely new* meeting or whether it was merely *a resumption* of the 51st AGM after the respondent suspended the 51st AGM on 6 May 2024. The Association submits that the June Meeting must be an entirely new meeting because the 51st AGM was concluded on 6 May 2024 in accordance with the Constitution, following the May Election.⁵⁸ The respondent, however, submits that the June Meeting was a resumption of the 51st AGM because the respondent validly suspended the 51st AGM on 6 May 2024.⁵⁹

74 I have found that the respondent validly suspended the 51st AGM on 6 May 2024. I am prepared to assume, in favour of the respondent, that the June Meeting was a resumption of the validly suspended 51st AGM. If it was not, the June Election is invalid for that reason alone. This is because Art 38(iii) of the Constitution requires the election of the Association’s office bearers to take place at an AGM. If the June Meeting was not an AGM but was instead some other kind of GM, the June Election is invalid for that reason alone.

75 In light of this assumption, I have framed this issue as whether the respondent had the power to reconvene the 51st AGM on 6 June 2024.

⁵⁸ Notes of Argument dated 25 November 2024 (“NA 25 November”) at p 16, lines 9–10.

⁵⁹ NA 21 November at p 38, lines 8–9 and p 39, lines 26–29.

76 The respondent submits that he had the power to reconvene the 51st AGM as an aspect of his power and duty under Art 25(vi) of the Constitution to preside over the 51st AGM. His submission is that the power to preside over the 51st AGM gave him, by implication, the power to reconvene the 51st AGM in order to complete the business of the meeting that was left unfinished following the valid suspension of the 51st AGM on 6 May 2024.⁶⁰

77 I do not accept this submission for two reasons.

78 First, I accept the Association’s submission that the only power that the President of the Association has to convene any sort of GM is the power to convene an EGM under Art 36(i) of the Constitution. The power to convene an AGM is, under Art 34 of the Constitution, vested in, and only in, the Honorary Secretary of the Association.⁶¹ In my view, this implies that the power to reconvene a validly suspended AGM is vested in, and only in, the Honorary Secretary of the Association.

79 Second, I do not accept the respondent’s submission that reconvening a validly suspended AGM is an aspect of the President’s power to preside over the suspended AGM under Art 25(vi) of the Constitution.⁶² As I have mentioned, to “preside” over a GM means to “exercise management or control” over the GM (see [49] above). Respondent’s counsel conceded in the course of oral arguments that it is not the respondent’s case that he began to preside over the 51st AGM when it commenced on 6 May 2024 and that he continued to preside over the 51st AGM without interruption for the entire month that passed

⁶⁰ NA 21 November at p 38, lines 5–6.

⁶¹ AWS at paras 36–38.

⁶² NA 21 November at p 39, lines 8–12.

while it was suspended until the June Meeting concluded with the June Election.⁶³

80 This concession must be correct. The President can preside over a GM only while the GM is taking place, *ie*, only while the Members remain gathered together to consider and complete the business of the GM. On any view, the 51st AGM ceased to take place on 6 May 2024 when the Members dispersed. On the Association’s view, this happened because the Members had validly completed all of the business of the meeting. On the respondent’s view, this happened because he suspended the 51st AGM and left the meeting premises without the Members completing all of the business of the meeting. It is an abuse of language to say that the respondent presided over the 51st AGM when the Members had dispersed and therefore ceased to be gathered together to consider and complete its business.⁶⁴

81 Therefore, even the respondent accepts that he was not “presiding” over the 51st AGM when he issued the notice dated 22 May 2024 informing Members that the 51st AGM would be reconvened on 6 June 2024. He therefore cannot have issued that notice as an aspect of his power to preside over the 51st AGM.

82 Under the Constitution, when a President validly suspends a GM, he can reconvene the GM as an aspect of his power to preside over the GM only if he specifies as an integral part of the act of suspension when and where the GM will be reconvened. The power of a meeting’s presiding officer to fix the date

⁶³ NA 25 November at p 3, lines 4–10.

⁶⁴ NA 25 November at p 3, lines 4–10.

or time at which the suspended meeting will be reconvened is illustrated in *Chan Sze Ying*. In that case, the chair, before adjourning the meeting, announced the date on which the adjourned meeting would reconvene (*Chan Sze Ying* at [18]–[20]).

83 Once a GM has dispersed, it must be reconvened in accordance with the provisions of the Constitution that deal with that type of GM. Under Art 36(i) of the Constitution, the President has the power to convene an EGM.⁶⁵ Therefore, by implication, the President has the power to reconvene a validly suspended EGM after the EGM has dispersed. Under Art 34 of the Constitution, the Honorary Secretary has the power to convene an AGM. Therefore, by implication, the Honorary Secretary has the power to reconvene a validly suspended AGM after the AGM has dispersed. The Constitution does not make any express provision for who else has the power to reconvene a suspended AGM in those circumstances. It may be that, by necessary implication, the Exco, the EC or some other person or body may have that power. But I am satisfied that the President has no such power by implication.

84 In the present case, the respondent did not fix a date to reconvene the 51st AGM as an integral part of his act of suspending the meeting.⁶⁶ It was only on 22 May 2024, more than two weeks after the respondent suspended the 51st AGM, that he gave notice to Members that the 51st AGM would be reconvened on 6 June 2024.⁶⁷ At that time, the respondent had long since ceased to preside over the 51st AGM. He had no other power to reconvene the 51st AGM. By

⁶⁵ NTT1 at p 73.

⁶⁶ NA 25 November at p 2, lines 24–25.

⁶⁷ NTT1 at p 105.

claiming to do so, the respondent was acting beyond the powers which the Constitution conferred on him as President.

85 Given that I have found that the respondent did not have the power to reconvene the 51st AGM, the June Election could not have been validly conducted.

86 For all of these reasons, I am satisfied that the 51st AGM has never been validly reconvened. The events of the June Meeting, including the June Election, are of no legal effect. The Association is therefore entitled to the declaration that it seeks.

87 As I have mentioned, whether the results of the May Election are null and void is not a matter before me in connection with any final relief. I have nevertheless made that finding as an intermediate finding in coming to my decision to grant the Association the relief that it seeks. It will be for any future court that considers the validity of the May Election to determine the effect of my finding that its results are null and void.

Conclusion

88 For all of the foregoing reasons, I allow the application and grant the declaration that the June Election was of no legal effect and the results of the June Election are null and void.

89 I have also granted both parties liberty to apply for directions on the implementation or the legal consequences of the order that I have made. I have given the parties that liberty because I hoped and anticipated that both the Association and the respondent would, in light of my findings, reconvene the

51st AGM, hold the 27th Term Election and permit votes to be cast and counted in that election in accordance with what I have found to be the proper construction of Art 42 of the Constitution, *ie*, the wide view. Unfortunately, instead of an election, there is to be an appeal.

Vinodh Coomaraswamy
Judge of the High Court

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