

SINGAPORE INTERNATIONAL COMMERCIAL COURT

13 February 2018

Media Summary

Singapore International Commercial Court Suit No 2 of 2017 (Summons No 2 of 2018)

***Bachmeer Capital Limited v Ong Chih Ching* [2018] SGHC(I) 01**

Background facts

1 The present dispute arose out of a collaboration between the parties to build a ski resort in Singapore code-named “Winterland”. Eventually the parties’ collaboration broke down and they signed a termination agreement in May 2015. An issue arose as to the parties’ communication with a third party, Lu Jia Zui Group, prior to the termination.

The application

2 In Summons No 2 of 2018 in the Singapore International Commercial Court, the first, second, fourth, fifth, and sixth defendants applied to the court for leave for two factual witnesses to give their oral evidence by way of live video link from Shanghai, China.

3 The court observed that the parties had liaised with the court IT staff to ensure that the video link between Shanghai and Singapore was of sufficient quality and that the necessary administrative arrangements would be in place. This therefore met the technical requirements within s 62A of the Evidence Act (Cap 97, 1997 Rev Ed).

4 But this did not mean that leave to give evidence by video link would necessarily be granted. Evaluating the two witnesses separately, the court allowed the application in relation to one but not the other. The first witness, Mr Lee Chee Kiat, was to give evidence on the important issue of the initial introduction and subsequent discussion between the parties prior to the termination of the collaboration. But his only reason for testifying by video link was that it was inconvenient to give evidence in Singapore as he worked in Shanghai and did not travel to Singapore often. This

alone was not sufficient, especially when considered against the fact that it is important that a witness give important evidence in person so that the proceedings are conducted fairly. Hence, the court did not grant leave for Mr Lee to testify by video link.

5 The second witness, Mr Yang Xiao Ming, was the chairman of the Lu Jia Zui Group at the material time. Evidence was tendered that the witness had a medical condition that impeded his travel to Singapore, and that his passport was withheld by the relevant Chinese authorities despite having taken steps to obtain permission from these authorities to attend the hearing in Singapore. Although the party cross-examining him would suffer some prejudice compared to a situation where he appeared in person, the alternative was that the witness could not give evidence on an important issue at all. This was an unsatisfactory situation. The court granted leave for him to testify by video link and was satisfied that no party was unfairly prejudiced.

* This summary is provided to assist in the understanding of the Court's judgment. It is not intended to be a substitute for the reasons of the Court.