

SUPREME COURT OF SINGAPORE

11 September 2019

Case summary

BXS v BXT

[2019] SGHC(I) 14

Decision of Anselmo Reyes IJ

Outcome: SICC orders plaintiff to pay defendant's costs of S\$40,000 applying Appendix G to the Supreme Court Practice Directions.

Background

1 This judgment dealt with the costs of the proceedings in OS 1 of 2019 ("OS 1"), SUM 1035/2019 ("SUM 1035") and SUM 5770/2018 ("SUM 5770"). These proceedings arose out of an award issued in a Singapore-seated arbitration ("the Award"). OS 1 was the Plaintiff's application to set aside the Award, SUM 1035 was the Defendant's application to strike out OS 1, and SUM 5770 was the Defendant's application, pending the provision by the Plaintiff of security for costs ordered by the Singapore court and pending the hearing of SUM 1035, for an extension of time to file an affidavit in response in OS 1. SUM 5770 was heard before an Assistant Registrar on 30 January 2019 and the time extension was granted. OS 1 and SUM 1035 were heard together on 30 May 2019 before the Court, which decided in favour of the Defendant in *BXS v BXT* [2019] SGHC(I) 10.

The Court's decision

2 The Court dealt with three issues: (a) Who should bear the costs of OS 1, SUM 1035, and SUM 5770? (b) What should the amount of those costs be? (c) What interest should run on such costs?

3 On the first issue, the Court held that the Plaintiff should bear the costs of all three applications. The Defendant having prevailed in OS 1 and SUM 1035, the Plaintiff should bear the Defendant's costs of those two applications. Further, given the Assistant Registrar's directions on 30 January 2019 that the costs of SUM 5770 be in the cause, the Plaintiff should also bear the Defendant's costs of that application (at [3]–[4]).

4 On the second issue, the Court held that the Defendant's reasonable costs amounted to S\$40,000 all-in. The Plaintiff had sought S\$15,800 relying on the lower end of the scale in Appendix G to the Supreme Court Practice Direction ("Appendix G"). The Defendant had sought S\$70,000 in costs, arguing that even though the amount of costs would be lower if Appendix G applied, Appendix G should be departed from in this case. The Court held that Appendix G applied notwithstanding that OS 1 had been transferred to the Court on 8 March 2019. This was so in light of the parties' understanding at the time when the case was transferred to the Court that there should be no difference in the way that costs are taxed as a result of the transfer. Next, the Court assessed the costs of OS 1, SUM 1035 and SUM 5770 on the higher end of the ranges identified in Appendix G. The Plaintiff's belated narrowing down of arguments in OS 1 and SUM 1035 meant that the Defendant had to incur costs in preparing to meet all the arguments that the Plaintiff seemed minded to deploy almost to the end. Regarding SUM 5770, even though the application was unopposed, the Plaintiff did not make this known to the Defendant until just before the parties' attendance before the Assistant

Registrar on 30 January 2019. By then, the Defendant would have incurred costs in preparing for SUM 5770. The Court did not accept that Appendix G should be departed from simply because the Plaintiff and not only the Defendant had made use of three solicitors, or because the Defendant had chosen to employ two firms of solicitors in two different jurisdictions rather than a single firm in the seat of arbitration. The Court also did not find that the Plaintiff's alleged culpable conduct was relevant to the assessment of costs in these applications, because such conduct had arisen in connection with other separate applications and would have been considered by the courts undertaking the taxation of those applications (at **[14]–[21]**).

5 On the third issue, the Court held that simple interest of 5.33% per annum should run on the costs determined, this being the default rate applicable to costs in ordinary Singapore court proceedings under paragraph 77(7) of the Supreme Court Practice Directions (at **[22]**).

This summary is provided to assist in the understanding of the Court's grounds of decision. It is not intended to be a substitute for the reasons of the Court. All numbers in bold font and square brackets refer to the corresponding paragraph numbers in the Court's grounds of decision.