

## SUPREME COURT OF SINGAPORE

**15 August 2017**

### **Media Summary**

**Singapore International Commercial Court Suit No 5 of 2016 (Summons No 21 of 2017)**

***CPIT Investments Limited v Qilin World Capital Limited and another* [2017] SGHC(I) 07**

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1 This matter concerned an application made by the second defendant, Qilin World Capital Limited (“Qilin”), for a stay of execution of the judgment delivered in these proceedings on 17 July 2017 (“the trial judgment”). The stay was sought until the appeal by Qilin against the trial judgment is determined. The application was fixed for hearing on 28 July 2017.

2 In the trial judgment, the court found that Qilin held HK\$31.25m on trust for the plaintiff, CPIT Investments Limited (“CPIT”), representing the proceeds from Qilin’s wrongful sale of 25m shares in Millennium Pacific Group Holdings Limited over which CPIT had provided that Qilin should have control in exchange for a non-recourse loan. The court also ordered an account from Qilin of any profit which it had made from using the sale proceeds.

3 Pursuant to the terms of a consent order dated 12 February 2016 and a solicitors’ undertaking dated 15 February 2016, the sum of HK\$27,532,000 was held in Qilin’s solicitors’ trust account as security for CPIT’s claim in these proceedings. This sum was to be released within 14 days from receipt of a written demand from CPIT’s solicitors. CPIT’s solicitors issued a written demand on 18 July 2017.

4 Qilin’s main argument for this application was that if a stay was not granted, there was a serious risk of Qilin’s appeal being rendered nugatory even if it succeeds on appeal as CPIT lacked the assets to pay back the HK\$27,532,000 it currently demands.

5 The court dismissed the application. On the affidavit evidence presented by Qilin, the court found that CPIT had assets of about HK\$70m. Qilin thus failed to discharge its burden of showing that there was no reasonable probability of the HK\$27,532,000, which would be paid over from Qilin's solicitors' account, being returned to Qilin if its appeal succeeded. The court also took the view that the international status of CPIT was not in itself a sufficient ground for a stay, especially given that there would necessarily be parties from foreign jurisdictions before the Singapore International Commercial Court.

6 Qilin also made an oral application for the court to grant a partial stay of execution of the judgment pending Qilin's application to the Court of Appeal to stay the proceedings. The court dismissed the oral application. In the court's view, a first instance judge should generally give effect to his or her decision not to grant a stay where the evidence before the court clearly showed that a stay should not be granted. Also, a partial stay of this nature should not be granted where a solicitors' undertaking had been provided to pay over the sums in question following orders given in the first instance.

7 As for the costs of the application, the court ordered Qilin to pay CPIT costs fixed at S\$4,000 plus disbursements.

*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.*