

SUPREME COURT OF SINGAPORE

30 June 2016

Media Summary

Singapore International Commercial Court Suit No 2 of 2015

Telemedia Pacific Group Limited and another v Yuanta Asset Management International Limited and another [2016] SGHC(I) 03

Background

1 These proceedings arose from the breakdown of a commercial joint venture relationship between international parties, the agreements of which were executed in Shenzhen in the People’s Republic of China and in Hong

Kong Special Administrative Region in November 2010 (“the Agreements”). The joint venture was to carry out securities and other diverse investments through a special purpose vehicle, Asia Energy Management Ltd (“AEM”), using funds from loan facilities secured by shares in Next Generation Satellite Communications Limited (“NexGen”), a company listed on the Singapore Stock Exchange.

2 Under the Agreements, Yuanta Asset Management International Limited (“Yuanta”) agreed to advance to AEM loans secured by NexGen shares which were to be provided by Telemedia Pacific Group Limited (“TPG”). The loans were fixed at 50–55% of the market value of the pledged shares and these monies were to be put towards the joint investments from which the parties would share equally in the profits and be equally responsible for any losses. Yuanta was also given broad powers to deal with the NexGen shares which included the power to sell, trade or pledge the NexGen shares at Yuanta’s discretion and to hold or deposit the shares with various institutions.

3 In these proceedings, the plaintiffs claimed that in breach of contract and in breach of their fiduciary obligations, the defendants disposed of a large 2

number of the NexGen shares that were to be pledged as security for the loans obtained for joint venture investments. The defendants denied these claims and counterclaimed that the plaintiffs unilaterally dissipated the joint venture loan funds for their personal use. The plaintiffs also claimed that the defendants conspired to defraud them and to conceal the fraud and proceeds of the fraud from them. In particular, the plaintiffs claimed that the defendants concealed the disposal and/or sale of NexGen shares in August and October 2011, the proceeds of which it is alleged the defendant took for his personal use.

4 The parties consented to the Singapore International Commercial Court determining the proceedings. After a six-day trial in February 2016, closing submissions were delivered by the parties on 22 April 2016 after which judgment was reserved. The plaintiffs were granted leave to file a further submission on 25 April 2016.

5 In its judgment, the Court held that Yuanta's discretion to sell the shares it had was not unfettered. Yuanta was only authorised to sell the NexGen shares if they had been pledged against loans that had been provided.

The Court was also satisfied that there were certain aspects to the parties' relationship in which each owed to the other fiduciary obligations. In particular, each party owed the other a duty not to make or retain secret profits. On that basis, the Court held that the defendants' conduct in selling the NexGen Shares (which had not been pledged against any loan) in February, March, August and October 2011 was in breach of the Agreements and also in breach of the defendant's fiduciary duties. The Court further held that the plaintiffs' claim in conversion in respect of these sales was established. Accordingly, the Court held that the plaintiffs are entitled to damages for these breaches and for the

conversion of the shares, the quantum of which will be decided after hearing the parties.

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6 The Court dismissed the plaintiffs' other claims in conspiracy, breaches of contract, breaches of fiduciary duty and the portfolio claimed were dismissed. The defendants' counterclaim was also dismissed.

7 The Court will accord the parties time to consider the judgment and to then decide on the future conduct of the case.

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.
