IN THE SINGAPORE INTERNATIONAL COMMERCIAL COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHC(I) 01

Suit No 4 of 2016
(HC Summons No 2940 of 2016 and SIC Summons No 4 of 2017)

Between

1. ARRIS SOLUTIONS, INC

2. ARRIS SOLUTIONS MALAYSIA SDN BHD

3. ARRIS TECHNOLOGY, INC

… *Plaintiffs*

And

ASIAN BROADCASTING NETWORK (M) SDN BHD

… *Defendant*

GROUNDS OF DECISION

[Contract] — [Breach]

[Insolvency law] — [Cross-border insolvency] — [Recognition of foreign insolvency proceedings]

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Arris Solutions, Inc and others
v
Asian Broadcasting Network (M) Sdn Bhd

[2017] SGHC(I) 01

Singapore International Commercial Court — Suit No 4 of 2016
(HC Summons No 2940 of 2016 and SIC Summons No 4 of 2017)
Quentin Loh J, Yasuhei Taniguchi IJ, Simon Thorley IJ
9 January 2017

8 February 2017

Simon Thorley IJ (delivering the grounds of decision of the court):

Introduction and the Parties

1 The Plaintiffs applied for summary judgment for sums alleged to be due to the Plaintiffs from the Defendant for equipment and services provided pursuant to a number of different but related contracts.

2 After hearing counsel on 9 January 2017, this court unanimously granted judgment to the Second and Third Plaintiffs on terms set out below and dismissed the First Plaintiff's claims. We now give our reasons.

3 Between 2011 and 2013, the Defendant, a company incorporated in Malaysia, entered into seven agreements with General Instrument Corporation

("GIC"), a company incorporated in the state of Delaware in the United States of America ("USA"), and one with a subsidiary of GIC, Motorola Mobility General Instrument Malaysia Sdn Bhd ("Motorola Malaysia"), a company incorporated in Malaysia (collectively "the Agreements").[1]

4 The Agreements, short details of which are set out in the Annex hereto, all relate to the supply and service of media entertainment and digital communications equipment. It is common ground that the specified equipment and services were provided pursuant to these Agreements. There is no contention that the goods were not fit for purpose nor is it alleged that the services were in any way inadequate. Moreover, there is no dispute that the sums involved are owed by the Defendant; the dispute is whether the Plaintiffs are entitled to claim those sums.

5 It is not therefore necessary to consider the terms of each contract in any detail. Each contained two material clauses which are in identical terms. First, an applicable law clause which provided that:[2]

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1 1st Affidavit of Marc Stephen Geraci dated 23 February 2016 at paras 9 and 12

2 *Ibid*, Exhibit MC-1 (Cl 28.1 of the DVH Equipment Agreement dated 16 December 2011, Cl 30.1 of the DVH Service Agreement dated 16 December 2011, Cl 26.1 of the HFC Equipment Agreement dated 9 January 2012, Cl 28.1 of the HFC Service Agreement dated 9 January 2012, Cl 32.1 of the STB Agreement dated 16 December 2011, Cl 28.1 of the CMTS Equipment Agreement dated 18 February 2013, Cl 28.1 of the Cable Modem Agreement dated 3 April 2013, and Cl 30.1 of the CMTS Maintenance Agreement dated 18 February 2013).

> "This Agreement shall be governed by and interpreted in accordance with the Laws of the Republic of Singapore for every purpose. …"

Secondly, there was an assignment clause ("the Assignment Clause") which provided that:[3]

> "Neither party shall be entitled to assign, transfer, and/or subcontract any of its rights and obligations under this Agreement without the prior written consent of the other Party, such consent not to be unnecessarily withheld or delayed."

6 In its evidence and submissions, it was made clear that the Defendant attached great weight to the Assignment Clause as it had carried out extensive pre-contractual enquiries of a number of potential suppliers, and had satisfied itself that GIC and Motorola Malaysia were the companies best able to supply the equipment and services.

7 It is not necessary to consider the history of the demands for payment made by the Plaintiffs, since they were not met in full and resulted in the issue of a writ in the High Court on 11 February 2016 and, by order of the High Court dated 29 June 2016, the action was transferred to the Singapore International Commercial Court ("SICC").

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[3] *Ibid*, Exhibit MC-1 (Cl 23.1 of the DVH Equipment Agreement dated 16 December 2011, Cl 25 of the DVH Service Agreement dated 16 December 2011, Cl 21.1 of the HFC Equipment Agreement dated 9 January 2012, Cl 23 of the HFC Service Agreement dated 9 January 2012, Cl 27.1 of the STB Agreement dated 16 December 2011, Cl 23.1 of the CMTS Equipment Agreement dated 18 February 2013, Cl 23.1 of the Cable Modem Agreement dated 3 April 2013, and Cl 25 of the CMTS Maintenance Agreement dated 18 February 2013).

8 In the Statement of Claim as originally served on 11 February 2016 it was averred that the First, Second and Third Plaintiffs were affiliates of Arris Group Inc, a company incorporated in the state of Delaware, USA and on 17 April 2013, the Third Plaintiff was acquired by Arris Group Inc.[4] It was further pleaded that in January 2014, as part of an internal reorganisation, all debts owed by the Defendant to the Third Plaintiff were assigned to the First Plaintiff.

9 As a result, it was claimed that the First Plaintiff was owed the sum of RM48,133,369.76 and that the Second Plaintiff was owed RM549,574.50.[5] There was also a claim for interest. No relief was sought by the Third Plaintiff.

10 By the Defence as originally filed on 4 May 2016, the sums in question were not disputed but the Plaintiffs were put to proof that they were the parties entitled to be paid.[6]

11 By a summons dated 15 June 2016, the Plaintiffs sought summary judgment under O 14 of the Rules of Court (Cap 332, R 5, 2014 Rev Ed) ("the Rules of Court").[7] The Defendant countered with a summons for Further and Better Particulars ("F&BP") dated 21 June 2016.[8]

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4 Statement of Claim at paras 5 and 15

5 Statement of Claim at paras 16-17 and paras 20-24.

6 Defence at paras 3-4 and paras 6-7.

7 HC/SUM 2940/2016

8 HC/SUM 3037/2016

The Order 14 Proceedings

12 The principles relating to an application for summary judgment are well settled and not disputed. The Defendant's case was that the Plaintiffs had not established a *prima facie* case that they were entitled to stand in the shoes of the contracting parties so as to be entitled to payment.

13 At a Case Management Conference on 15 July 2016, the Plaintiffs were directed to file further evidence dealing, in effect, with certain aspects of the Defendant's request for F&BP so as to clarify the process by which it was claimed that the various Plaintiffs had become entitled to claim the sums due.[9]

14 So far as concerns the Second Plaintiff, the Plaintiffs had already filed, as exhibit "MC-1" to an affidavit of Marc Stephen Geraci ("Mr Geraci"), the Treasurer and Senior Vice President of the parent company of the Plaintiffs, dated 15 June 2016, two Certificates of Change of Name of Company issued by the Companies Commission of Malaysia.[10] However, they were in the Malay language and had not been translated into English as required by O 92 r 1 of the Rules of Court. These lapses were subsequently rectified, and the translations demonstrate that Motorola Malaysia had first changed its name to GIC Home Sdn Bhd, on 25 March 2013 and then to that of the Second Plaintiff on 17 March 2015.[11]

15 The Defendant did not challenge the authority of these certificates and it is therefore plain that the Plaintiffs have established the necessary *prima facie*

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9 Minute Sheet dated 15 July 2016

10 2nd Affidavit of Marc Stephen Geraci dated 15 June 2016, Exhibit MC-1

11 Affidavit of Ramesh Kumar s/o Ramasamy dated 22 September 2016, Exhibit RK-2

case that the Second Plaintiff is the same entity as Motorola Malaysia and that the sums claimed are owed to it by the Defendant. The Assignment Clause does not relate to a mere change of name, so that the Defendant could not (and did not) raise any objection based on the fact that it had no notice of the change of name.

16 The position of the Third Plaintiff is less straightforward. GIC was a company incorporated under the laws of the state of Delaware, USA and the Plaintiffs filed an affidavit of Eric Klinger-Wilensky ("Mr Klinger-Wilensky") dated 29 July 2016 to deal with this. Mr Klinger-Wilensky is a partner in the Delaware law firm Morris, Nicholls, Aright & Tunnell LLP, who is admitted to practice (*inter alia*) in Delaware. Mr Klinger-Wilensky exhibited to his affidavit an Opinion dated 28 July 2016 which he had provided to the Plaintiffs' solicitors, Allen & Gledhill LLP.[12] This Opinion leads to the following conclusions:

(a) On 18 December 2014, a process of merger ("the Merger") took place under s 253 of the General Corporation Law of the State of Delaware ("the DGCL"), whereby a wholly-owned subsidiary of GIC, General Instrument Wireline Networks Inc ("Wireline"), was merged into GIC;

(b) Pursuant to s 259 of the DGCL, upon the Merger, the separate existence of Wireline ceased and all its property and debts became vested in GIC;

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[12] Affidavit of Eric Klinger-Wilensky dated 29 July 2016, Exhibit EK-2

(c) Immediately after the Merger, GIC changed its name to that of the Third Plaintiff;

(d) Neither the Merger nor the change of name had any effect on the separate existence of GIC as a legal entity.

17 The Defendant did not file any evidence in answer to that of Mr Klinger-Wilensky and, in consequence, the Court accepts his Opinion on Delaware law and is satisfied that the Plaintiffs have established the necessary *prima facie* case that the Third Plaintiff is the same entity as GIC. Again, the Defendant could not (and did not) seek to rely on the Assignment Clause as requiring that it give prior written consent to either the Merger (which did not affect the existence of GIC) or to the change of name.

18 As for the First Plaintiff, Mr Geraci has given evidence that all debts owed or owing from the Defendant to the Third Plaintiff were assigned to the First Plaintiff on or about 15 January 2014.[13] He asserts that the Defendant was notified of this assignment by way of a letter dated 17 October 2014, subsequent to the assignment, but has given no evidence to suggest that the prior written consent of the Defendant was sought, far less obtained, for this assignment.

19 Conscious that this might present a difficulty in satisfying the Court that the assignment rendered the Defendant liable to the First Plaintiff, at the resumed hearing on 19 September 2016, the Plaintiffs sought judgment in favour of the First, or, in the alternative, the Third Plaintiff.[14]

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13 2nd Affidavit of Marc Stephen Geraci dated 15 June 2016 at para 39.

14 Plaintiffs' Written Submissions for HC/SUM 2940/2016 at p 9.

20 So far as concerns the First Plaintiff, it was argued that, although the assignment might not be effective in law to make the Defendant liable, since its prior consent to the assignment had not been sought, it could be effective in equity. The Plaintiffs' attention was then drawn to the English House of Lords decision in *Linden Gardens Trust Ltd v Lenesta Sludge Disposals Ltd* [1994] 1 AC 85 ("*Linden Gardens*"), a decision which has subsequently been applied in Singapore in *Total English Learning Global Pte Ltd v Kids Counsel Pte Ltd* [2014] SGHC 258 ("*Total English*"). *Linden Gardens* stands for the rule that where there is a contractual prohibition on assignment without prior consent, a purported assignment executed without obtaining such consent will be only effective as between the assignor and assignee, but will not bind the other contracting party, whose rights and obligations will remain to the assignor.

21 It was also pointed out that the Statement of Claim sought no relief on the part of the Third Plaintiff. The Plaintiffs therefore sought the indulgence of an adjournment to consider their position with regard to the First Plaintiff and to seek to amend the pleadings with regard to the Third Plaintiff.[15]

22 At a Case Management Conference ("CMC") on 21 November 2016, the Defendant did not object to the Plaintiffs' application and the Plaintiffs were consequently given leave to amend to add a claim to relief by the Third Plaintiff in alternative to that made by the First Plaintiff. The claim made by the First Plaintiff was however maintained. The Defendant was given leave to make consequential amendments and a further hearing of the Application was fixed for Monday 9 January 2017.

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15 *Ibid* at pp 2-3 and p 8.

23 On Friday 6 January 2017, two things happened. First, the Defendant served an Amended Defence.[16] Secondly, the Defendant attempted to file an Originating Summons ("the Originating Summons"), purportedly pursuant to O 92 r 4 of the Rules of Court, seeking to invoke the Court's discretion to recognise a Restraining Order made pursuant to s 176(10) of the Malaysia Companies Act 1965, which is the equivalent of s 210 of the Singapore Companies Act (Cap 50, 2006 Rev Ed) ("the Restraining Order").

24 So far as concerns the Amended Defence, the Defendant drew attention to the Assignment Clause and emphasised that the nature of the relationship between the contracting parties was such that there was a representation in relation to several of the Agreements by GIC and Motorola Malaysia that they possessed the necessary skill, expertise, experience and employment permits to provide the services required. Accordingly, the Assignment Clause was a matter of importance to the Defendant so that it would not lightly have consented to any assignment.

25 However, on the facts, the Defendant's prior written consent was never sought to the assignment from the Third to the First Plaintiff. The apparent purpose of the amendment was to underline the fact that any attempt by the Plaintiffs to suggest that equity could be invoked so as to force the assignment upon the Defendant should be rejected. In our view this did not arise on the facts of this case.

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16 Defence (Amendment No. 1)

The Restraining Order

26 The draft Originating Summons was accompanied by an affidavit in support by Mr Tang Yow San ("Mr Tang").[17] Mr Tang is the Executive Vice President – Group Finance and Corporate of the Defendant. The affidavit reveals that, on 23 November 2016, two days after the CMC hearing before this Court, Mr Tang swore two affidavits in support of an application before the High Court of Malaya at Shah Alam (Commercial Division) ("the Malaysian court") to effect a scheme of arrangement. This application sought:[18]

(a) Recognition of the Defendant's scheme of arrangement proceedings in Malaysia;

(b) Stay of all present proceedings against the Defendant until 23 February 2017;

(c) Restraint of all pending, contingent or fresh proceedings against the Defendant;

(d) Restraint of any enforcement or execution against any of the Defendant's assets.

27 The affidavits in the Malaysian proceedings were exhibited.[19] They are voluminous.

28 There was then a hearing before the Malaysian court on 28 November 2016, at which the requested Restraining Order was made pending a meeting of

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17 4th Affidavit of Tang Yow San dated 6 January 2017.

18 4th Affidavit of Tang Yow San dated 6 January 2017 at para 3.

19 *Ibid*, Exhibit TYS-1.

the creditors, fixed for 23 February 2017, to consider the proposed scheme of arrangement.

29 For reasons which have not been explained, the Defendant's Malaysian advisers did not see fit to inform the Defendant's Singapore solicitors about the Restraining Order until sometime immediately prior to 6 January 2017. The first that the Plaintiffs and the Court knew of it was upon receipt of the Defendant's solicitors' letter of 6 January 2017 informing them of the Originating Summons and providing the various affidavits of Mr Tang.

30 There has been no explanation for the delay in notifying the Court or the Plaintiffs. A delay of this nature without justification is wholly unacceptable. It is a gross lack of courtesy due both to the Court and to the Plaintiffs, but more importantly it is calculated to frustrate the proper working of the Court and to delay the administration of justice. Fortunately, both the Plaintiffs' advisers and the Court had the opportunity over the weekend to assimilate the information in the various affidavits such that it was possible for the Defendant's application in the Originating Summons to be considered at the hearing on 9 January 2017.

31 Put very shortly, these documents indicate that the Defendant is involved in a number of pieces of litigation in Malaysia and that it is currently unable to pay its debts. It has however been in active negotiations with three potential investors – China Resources Development Group Co Ltd, China Communications Services Corporation Ltd and Uniply Industries Ltd India – which it anticipates will lead to an injection of funds into the business prior to

23 February 2017.[20] Indeed, an agreement was apparently reached with the first of those companies.[21] Hence the need for a scheme of arrangement and for the stay of the Malaysian proceedings in the meantime.

32 The relief sought in the Originating Summons was for recognition of the scheme of arrangement proceedings, a stay of the current, pending, contingent or fresh proceedings until 23 February 2017, and a restraint of enforcement or execution against any of the Defendant's assets.[22]

33 The first difficulty with the draft Originating Summons is that the SICC has no jurisdiction to hear it if it is filed as an originating process. It is not a matter that is commercial in nature, either as set out in s 18D(a) of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed) or within O 110 of the Rules of Court. The correct course would have been to file a summons in the current proceedings which plainly is allowable. Mr Choy of the Defendant's solicitors undertook to issue such a summons and the hearing on 9 January 2017 proceeded on the basis of that undertaking. We note that Summons 4 of 2017 ("the Summons") was filed after the hearing on 11 January 2017.

34 Mr Choy drew attention to the fact that, although the current proceedings are yet to be concluded, the list of creditors in the Malaysian proceedings included the Plaintiffs in this action.[23] In these circumstances, Mr Choy suggested that the Plaintiffs would not be prejudiced by the stay sought, and

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20 4th Affidavit of Tang Yow San dated 6 January 2017, Exhibit TYS-1 at pp 20-21.

21 *Ibid*, Exhibit TYS-1 at p 20

22 Originating Summons filed by the Defendant on 6 January 2016.

23 Minute Sheet dated 9 January 2017 at p 3.

relied upon the Court of Appeal's grounds of decision in *Beluga Chartering GmbH (In Liquidation) and others v Beluga Projects (Singapore) Pte Ltd (In Liquidation) and another* [2014] 2 SLR 815 *("Beluga*") as supporting the grant of the stay.

35 In *Beluga*, the Court of Appeal considered whether a stay of execution that is consequential on a foreign winding up order would extend to assets located in Singapore such that creditors here would not be entitled to execute against or attach those assets. Having observed that a stay on foreign proceedings triggered by a foreign winding up order would not have extraterritorial effect, such that a Singapore court would not be bound by such a stay (at [90]), the Court offered some general guidance on the possible approaches which Singapore courts might take to such stays (at [98]–[99]). Mr Choy submitted that similar considerations should apply to stays flowing from an application for a scheme of arrangement in a foreign jurisdiction.

36 Three things are however clear from the reasoning of the Court of Appeal. First, the discussion in that case was directed at the circumstances in which execution of a previously obtained judgment should be restrained (see *Beluga* at [89]). It was not considering the circumstances in which an action to determine liability should be stayed. Secondly, as indicated above, it related to the treatment of foreign winding up orders and not foreign schemes of arrangement. Thirdly, the Court made it plain that it was a discretionary matter and that each case must turn on the particular circumstances of the case in question.

37 Mr Choy also raised the case of *Re Taisoo Suk* [2016] 5 SLR 787 ("*Re Taisoo Suk*") where the Singapore High Court had recently recognised

Korean rehabilitation proceedings before the Korean Bankruptcy Court under the Korean Debtor Rehabilitation and Bankruptcy Act and where the Seoul Central District Court had issued an order commencing the rehabilitation proceedings. In granting an interim order staying all pending, contingent or fresh actions, the Court held that under *Beluga* it was within the inherent powers of the court to recognise foreign winding up proceedings and to render assistance by regulating its own proceedings, but this inherent power also extended to other forms of foreign insolvency proceedings such as restructuring and rehabilitation. However the court also made clear that such an order was discretionary and much would depend on the circumstances of each case.

38 Mr Kumar, who appeared for the Plaintiffs, urged us not to grant a stay of the present proceedings. The proper course, he submitted, was for this court to decide the O 14 application. If judgment was entered for the Plaintiffs, they would be able to take part in the scheme of arrangement or any winding up proceedings with a judgment of this Court in their favour.[24] Equally, if summary judgment was refused, the Malaysian court would be aware that there was a serious issue to be tried in Singapore. In either event the Malaysian court would be significantly better informed.

39 In our view, the problem with the Defendant's approach is that it is taking inconsistent positions in Malaysia to that taken in Singapore. In these proceedings, the Defendant does not accept that the sums owing are due to the Plaintiffs whereas in Malaysia it is prepared to accept that they are. This is clearly not a satisfactory state of affairs. Other creditors to the scheme or the

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[24] Minute Sheet dated 9 January 2017 at p 2.

proposed Scheme Administrator may not accept the Plaintiffs as creditors in the Malaysian proceedings.

40 In both *Beluga* and *Re Taisoo Suk*, the court considered all the circumstances of the case and came to the conclusion that it would grant the order for a stay in order to assist the foreign insolvency proceedings. It will not assist the foreign proceedings to implement a scheme of arrangement when the issue of whether the Plaintiffs are creditors of the Defendant are still disputed. The parties have chosen to litigate in Singapore, thereby submitting to our jurisdiction and have put all the relevant evidence before us. Also, there is a clear and unambiguous governing law clause, which has been set out above at [5]. In our view, it will assist the foreign proceedings for a scheme of arrangement for us to determine whether the Defendant owes these sums of monies to the Plaintiffs. We decline to exercise the Court's discretion to stay the current proceedings and the Summons for a stay will therefore be dismissed.

Conclusion on the Order 14 proceedings

41 At the hearing on 9 January 2017, Mr Kumar indicated that, if the Court was minded to grant relief in favour of the Third Plaintiff, he would abandon his claim to relief in favour of the First Plaintiff.[25]

42 The First Plaintiff's claim against the Defendant is accordingly dismissed. Costs therefore will be dealt with in the round below.

43 For the reasons given at [14] and [15] above, the Second Plaintiff is the same company as Motorola Malaysia. It follows that judgment for the sum of

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[25] Minute Sheet dated 9 January 2017 at p 7.

RM549,574.50 is entered in favour of the Second Plaintiff against the Defendant.

44 For the reasons indicated in [16]–[17] above, we are satisfied that the Third Plaintiff is the same company as GIC. There has been no assignment, transfer or subcontract to which the Assignment Clause would apply. The Third Plaintiff has thus established the necessary *prima facie* case that it is entitled to judgment. As indicated, the Defendant merely put the Plaintiffs to proof of their case and did not raise a separate ground of defence. Accordingly, judgment for the sum of RM48,133,369.76 is entered in favour of the Third Plaintiff against the Defendant.

45 All but one of the Agreements contains a provision for interest at an elevated rate on certain conditions. However in our view, such a claim would not be without its difficulties; these include issues on entitlement, the entity which is entitled to make such a claim and whether the conditions for its exercise were properly made. It is not, however, necessary to consider these provisions as Mr Kumar pragmatically accepted that an award of interest at the statutory rate of 5.33% would be acceptable to his clients.[26] Mr Choy did not oppose this. We accordingly order that the above judgment debts shall carry interest at the rate of 5.33% per annum from the date of the Writ to the date of payment.

46 Finally, it was common ground that the Defendant has no assets within the jurisdiction so the Second and Third Plaintiffs' judgments and interest would have to be executed in Malaysia. In view of *Beluga* and *Re Taisoo Suk*, in all the circumstances of this case, it is appropriate, and we exercise our discretion,

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[26] Minute Sheet dated 9 January 2017 at p 9.

to stay execution of these judgments and interest pending the outcome of the Defendant's application under s 176 of the Malaysian Companies Act of 1965 to effect a scheme of arrangement between the Defendant and its creditors. There will be liberty to apply generally, and especially in the event that the scheme of arrangement fails to materialise.

Conclusion

47 For the reasons above, we ordered as follows:

(a) The Defendant's application for a stay of proceedings is refused;

(b) The First Plaintiff's claim against the Defendant is dismissed;

(c) Judgment is entered for the Second Plaintiff in the sum of RM549,574.50 together with interest at 5.33% per annum from the date of the writ to the date of payment.

(d) Judgment is entered for the Third Plaintiff in the sum of RM48,133,369.76 together with interest at 5.33% per annum from the date of the writ to the date of payment.

(e) There will be a stay of execution pending the outcome of the Defendant's application under s 176 of the Malaysia Companies Act of 1965 to effect a scheme of arrangement between the Defendant and its creditors.

(f) There will be liberty to apply, and generally, and especially where the scheme of arrangement fails to materialise.

48 Having heard the parties' submissions on costs, we further ordered that the Defendant is to pay costs to the Plaintiffs fixed at $20,000, with disbursements as claimed.

Quentin Loh	Yasuhei Taniguchi	Simon Thorley
Judge	International Judge	International Judge

Ramesh Kumar s/o Ramasamy and Mak Sushan, Melissa (Allen & Gledhill LLP) for the plaintiffs;
Choy Wing Kin Montague (Clifford Law LLP) for the defendants.

Annex

Agreements between GIC and the Defendant

	Title of Agreement	Date of Entry
1	Equipment Sale Agreement of Digital Video Headend System (include Deliverables, Hardware & Software Licenses)[27] – to design a digital video headend system for the Defendant and embed the necessary software in the hardware	16 December 2011
2	Equipment Service & Maintenance of Digital Video Headend System[28] – to act as consultant to the Defendant in relation to the digital video headend system and to maintain the system at the premises of the Defendant	16 December 2011
3	Sale and Supply Agreement of Digital High Definition Set-Top Box (including Licenses) with Conditional Access (CA) & Middleware[29] – to supply set-top boxes to the Defendant and embed the necessary software in the hardware	16 December 2011
4	HFC Equipment Sale Agreement[30] – to supply hybrid fibre coaxial equipment to the Defendant	9 January 2012
5	Design and Supervision Services Agreement for Roll Out of HFC Plant Network in Malaysia[31] – to act as consultant to the Defendant in relation to the hybrid fibre coaxial equipment and to maintain the equipment	9 January 2012
6	Equipment Sale Agreement of DOCSIS based CMTS System Equipment to Deliver High Speed Broadband Services (include Deliverables, Hardware & Software Licenses)[32] – to design a	18 February 2013

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27 2nd Affidavit of Marc Stephen Geraci dated 15 June 2016 at MC-3.

28 *Ibid* at MC-4.

29 *Ibid* at MC-5.

30 *Ibid* at MC-6.

31 *Ibid* at MC-7.

32 *Ibid* at MC-8.

	cable modem termination system for the Defendant and embed the necessary software in the hardware	
7	Equipment Sale Agreement of DOCSIS based Cable Modems[33] – to supply the cable modem termination system and embed the necessary software in the hardware	3 April 2013

Agreement between Motorola Malaysia and the Defendant

	Title of Agreement	**Date of Entry**
1	Service & Maintenance Agreement for DOCSIS Based CMTS System Equipment[34] – to advise the Defendant on and maintain the cable modem termination system	18 February 2013

[33] *Ibid* at MC-10.

[34] *Ibid* at MC-9.