IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[1996] SGCA 48

CA 109/1995, CA 185/1995, Suit 1156/1992

Between

Hua Khian Co (Pte) Ltd

… Plaintiff

And

Lee Eng Kiat

… Defendant

GROUNDS OF DECISION

Version No 1: 20 Nov 2026 (00:35 hrs)

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Hua Khian Co (Pte) Ltd v Lee Eng Kiat

[1996] SGCA 48

CA 109/1995, CA 185/1995, Suit 1156/1992
Goh Joon Seng J; Karthigesu JA; L P Thean JA
23 August 1996

Judgment:

Cur Adv Vult

J U D G M E N T (Costs)

1. In our judgment delivered on 30 July 1996 we have reserved for further deliberation the question of costs here and below and have invited counsel to submit their arguments in writing. We have since then received and considered the arguments submitted by both counsel and now propose to order costs as follows.

2. In Civil Appeal 109 of 1995 the appellants have succeeded and should be allowed the costs of the appeal. We accordingly so order.

3. We turn to the substantive appeal in Civil Appeal 185 of 1995. In the proceedings below the appellants claimed multiple reliefs: specific performance of the Agreement, in the alternative rescission of the Agreement with damages and refund of the deposit and in the further alternative a declaration that the

Agreement was void and sought a refund of the deposit. They raised a host of issues and their claims were founded on averments of the following: (i) breach of the Agreement by the respondent, (ii) compliance by the appellants of cl 10 of the Agreement, (iii) waiver by the respondent of cl 10, (iv) total failure of consideration, (v) frustration of the Agreement, (vi) the unconscionability on the part of the respondent in withholding of the deposit, (vii) forfeiture of the deposit as a penalty, (viii) common mistake, and (ix) false representations on the part of the respondent. As the learned judge found and we wholly agree, there was only one issue, and that was whether the appellants were entitled to the refund of the deposit under cl 10 of the Agreement. A considerable amount of the time must have been taken up in dealing with the other issues raised in the court below. In the circumstances, the appellants should not be entitled to full costs below. They should be allowed only one quarter of the costs. We so order.

4. As for the costs of appeal, the appellants raised two issues before us: (i) damages for breach of contract on the basis that there was repudiation of the Agreement by the respondent, and (ii) refund of the deposit under cl 10 of the Agreement. They failed on the first issue but succeeded on the second. The first issue was never raised and canvassed below. At any rate, we found that the arguments advanced had no merit whatsoever. In the circumstances, a fair order as to costs of the appeal would be that appellant be allowed only half of the costs of the appeal. We so order.

- Sgd -

KARTHIGESU

< Judge of Appeal >

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- Sgd -

L P THEAN

< Judge of Appeal >

- Sgd -

GOH JOON SENG

< Judge >

Goh Joon Seng J
Karthigesu JA
L P Thean JA

Davinder Singh, Ameera Ashraf and Sham Chee Keat for the appellants
Cheong Yuen Hee and Thinagaran s/o Vasudevan for the respondent

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