I-Admin (Singapore) Pte Ltd *v* Hong Ying Ting and others
[2015] SGHC 153

Case Number : Suit No 585 of 2013 (Summons No 728 of 2015)

Decision Date : 11 June 2015

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Lionel Tan I-Kwok and Jocelyn Chan Xueling (Rajah & Tann Singapore LLP) for the plaintiff; Dr Stanley Lai SC, Clara Tung Yi Lin and Gloria Goh En-Ci (Allen & Gledhill LLP) for the defendants.

Parties : I-Admin (Singapore) Pte Ltd — Hong Ying Ting and others

Civil Procedure – disclosure of documents

11 June 2015 Judgment reserved.

Choo Han Teck J:

1 The plaintiff is a company that provides computerised services to its clients. One of these services is the management of the payroll of its clients' employees. Some of the plaintiff's clients are big corporations including banks.

2 The first and second defendants were formerly employed by the plaintiff. The first defendant resigned on 30 June 2011 and on 19 September 2012 she was appointed as a director of the third defendant. The second defendant resigned on 2 June 2011 and on 19 September 2012 she was appointed as a director of the third defendant. The third defendant is a company engaged in similar services as the plaintiff, and in particular, in the management of the payroll of corporations in Singapore and other parts of Asia. The fourth defendant is also a director of the third defendant and holds 46% shares in the latter.

3 The plaintiff claims that it holds the copyright to several software systems including "ePayroll" and "PayAdmin". In this action, the plaintiff claims that the defendants were in breach of its copyright in various software systems including the two named. The plaintiff claims that the defendants had accessed data from its software programmes, in that the first and second defendants breached the confidentiality clause in their contracts with the plaintiff by taking the data from the plaintiff's system and downloading them into the third defendant's computer system.

4 The plaintiff alleges that data taken by the first and second defendants include sensitive and confidential information belonging to the plaintiff's clients including their names, residential addresses, monthly income, bank details and passport numbers.

5 Various interlocutory applications were made to this court. They have been heard and orders have been made. The plaintiff had obtained an Anton Piller order and seized computers belonging to the third defendant. Forensic experts are studying the software and mechanism of those computers. Non-disclosure agreements have been executed under the confidentiality club, restricting the plaintiff's disclosure of information obtained during the discovery.

6 The issues here before me arise from Summons No 728 of 2015 ("SUM 728/2015") which is an

application by the plaintiff for leave to provide the police with a copy of the defendants' disclosed materials.

7 Dr Stanley Lai, SC, assisted by Ms Clara Tung, opposed the application. First they say that the original application was for leave to extract information from the defendants' computers for the purpose of preparing an expert report. The defendants subsequently asked for this court's leave to use the information extracted for the purpose of making a police report. Ms Tung argues that the application is not valid because SUM 728/2015 has not been amended.

8 There are two critical questions of fact to be determined in this case. Firstly, does the confidential information in the defendant's computers belong to the plaintiff? Secondly, did the defendants take them wrongfully from the plaintiff? These are issues for the trial. What is relevant at the moment is that there is an injunction order prohibiting the disclosure of the information being extracted from the defendants' computers. Some limited access is reasonable for the purposes of the trial and therefore a confidentiality club was created by an order of court. That is not challenged but the persons who are entitled to view the confidential information are already named.

9 The plaintiff now submits that it be allowed to show the extracted information to the police. It also submits that the extracted information will show that a previous police report lodged by the defendants is false. Everyone is entitled to lodge a complaint to the police if they think that a criminal offence might have been committed. It is against the public interest to prevent the making of such complaints. But criminal and civil proceedings differ in many ways even if they arise from the same facts. The parties control the conduct of the civil proceedings but the police decide what actions are necessary if it is a criminal matter.

10 In the present case, the gravamen of the plaintiff's civil claim is that the defendant had wrongfully taken confidential information from it by downloading the information from the plaintiff's computers and copying them onto the defendants' computers. The information included the personal and private information of the plaintiff's clients. Some of these clients are banks and the information taken wrongfully, as it is being alleged, includes information about the banks' customers and employees.

11 The plaintiff is entitled to lodge a complaint to the police. But it is not necessary to show the police the exact information found in the defendants' computers that is subject to a judicial injunction. Giving the disclosed materials to the police for the purposes of lodging a police report is clearly a purpose other than the pursuit of the action in which discovery of the confidential information has been given. A balance can be struck between producing a persuasive complaint to the police and protecting the information in the defendants' computers. All the plaintiff has to do is to set out in its complaint the information that has been taken and affirm that the exact information is now found in the defendants' possession. It may also make its claims as to the perceived falsity of the defendants' previous police report dated 17 July 2014. The police can invoke its own powers to seize the information. The police may then verify whether the information is true and whether the matter can be referred to the Public Prosecutor for criminal proceedings to commence. Thus, in spite of the very able submissions of Ms Jocelyn Chan, counsel for the plaintiff, I find that there are no exceptional circumstances justifying the release of such information for the purposes of making a police report, and in fact, it would be unduly prejudicial to the defendants if it were so allowed.

12 For the reasons above, SUM 728/2015 is dismissed with costs reserved to the trial judge.

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