

**IN THE APPELLATE DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2023] SGHC(A) 1

Civil Appeal No 43 of 2022

Between

- (1) Rodeo Power Pte Ltd
- (2) Gorpall Singh Darshan Singh
- (3) Straits Grid Pte Ltd
- (4) JS Energy Holdings Limited

... Appellants

And

- (1) Tong Seak Kan
- (2) Kensington Park Holdings
Limited

... Respondents

GROUND OF DECISION

[Civil Procedure — Interpleader — Appeal]

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Rodeo Power Pte Ltd and others

v

Tong Seak Kan and another

[2023] SGHC(A) 1

Appellate Division of the High Court — Civil Appeal No 43 of 2022
Woo Bih Li JAD and Debbie Ong Siew Ling JAD
24 November 2022

5 January 2023

Woo Bih Li JAD (delivering the grounds of decision of the court):

Background

1 This was an appeal against the decision of a judge of the General Division of the High Court (“the Judge”) delivered on 4 February 2022 in an oral judgment (“Oral Judgment”) for four interpleader summonses in respect of competing claims to shares in various companies.

2 The background to the appeal is as follows. The respondents, Tong Seak Kan and Kensington Park Holdings Limited are judgment creditors (“the Judgment Creditors”) of a judgment debtor, Jaya Sudhir a/l Jayaram (“Sudhir Senior”), pursuant to a judgment in Suit No 724 of 2014 (“the Suit”) on 30 January 2019. The Judgment Creditors took steps which resulted in the Sheriff of Singapore (“the Sheriff”) seizing the following shares in various companies registered in the name of various persons on the basis that the

beneficial owner of these shares was Sudhir Senior (collectively, “the Seized Shares”):

- (a) 100,000 shares in Al-Rafidian Holdings Pte Ltd (“the Al-Rafidian Shares”);
- (b) 1,000,000 shares in Straits Grid Pte Ltd (“the Straits Grid Shares”);
- (c) 57,700,002 shares in Rodeo Power Pte Ltd (“the Rodeo Power Shares”); and
- (d) one share in Summit Energy Pte Ltd (“the Summit Energy Share”).

3 In response, four parties filed formal notices of claim for the Seized Shares. The parties and their respective claims were as follows:

- (a) Gorpall Singh Darshan Singh (“Gorpall”), for the Al-Rafidian Shares;
- (b) JS Energy Holdings Limited (“JS Energy”), for the Straits Grid Shares;
- (c) Straits Grid Pte Ltd (“Straits Grid”), for the Rodeo Power Shares; and
- (d) Rodeo Power Pte Ltd (“Rodeo Power”), for the Summit Energy Share.

We refer to these four parties collectively as “the 4 Claimants” and JS Energy, Straits Grid and Rodeo Power collectively as “the 3 JS Energy Claimants” who were claiming the shares in Straits Grid, Rodeo Power and Summit Energy Pte

Ltd respectively. We will refer to these three latter companies collectively as “the 3 Target Companies”.

4 JS Energy is the parent company of the 3 Target Companies (as set out in Figure 1 below, which is derived from Annex A of the Judgment Creditors’ Points of Claim). However, we should clarify that although Annex A stated that Rodeo Power is the sole shareholder of Summit Energy, the affidavit of Mr Ng Beng Loon (“Mr Ng”) dated 25 March 2022 (“Mr Ng’s Affidavit”), filed on behalf of the Judgment Creditors, stated that Rodeo Power holds one share in Summit Energy and another company, Summit Financial Pte Ltd, holds one share in Summit Energy. Before us, counsel for the Judgment Creditors, Mr Kumar clarified that the corporate structure as described in Mr Ng’s Affidavit is accurate. We thus set out the correct representation of this structure in Figure 1 below.

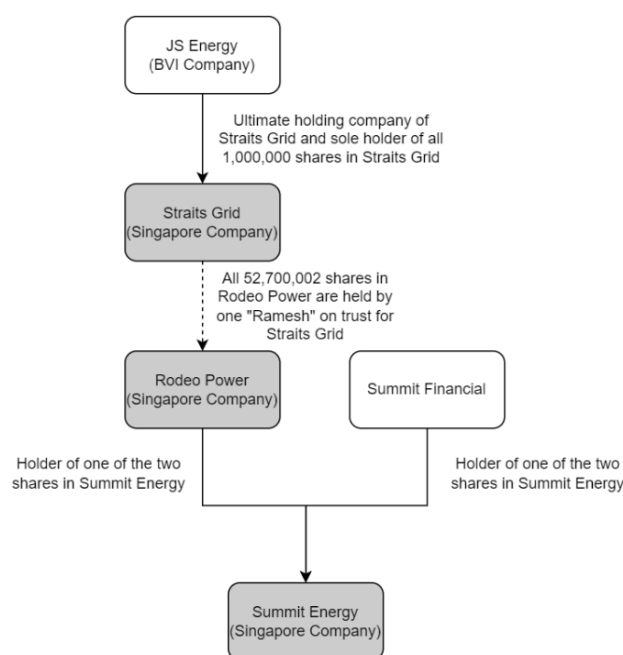


Figure 1

5 At this stage, we stress the importance of the sole share in JS Energy (“the JS Energy Share”). JS Energy is a company incorporated in the British Virgin Islands and is the ultimate parent company of the 3 Target Companies. The JS Energy Share is registered in the name of Sudhir Senior’s son Johnathan Jaya Sudhir (“Sudhir Junior”) who explained that he had purchased the share from Sudhir Senior. The validity of that purchase is in question. However, that share was not seized by the Sheriff and Sudhir Junior did not file any formal claim to it or in respect of any of the shares in the 3 Target Companies although he would be controlling them through the JS Energy Share if he were the beneficial owner of that share. We add that any explanation that he gave was on behalf of the 3 JS Energy Claimants. Sudhir Junior was not a party in the interpleader proceedings below. These points will be repeated later as they are crucial, and the relevant parties had overlooked them.

6 In view of the 4 Claimants’ claim, the Sheriff filed interpleader summonses in the General Division of the High Court on 29 October 2020. On 11 May 2021, an Assistant Registrar (“the AR”) gave directions on these summonses for the claims to the Seized Shares, with the Judgment Creditors being the plaintiffs and the 4 Claimants being the defendants. The Judge gave her decision on 4 February 2022 in favour of the Judgment Creditors on the basis that Sudhir Senior was the beneficial owner of the JS Energy Share and the Al-Rafidian Shares.

7 The 4 Claimants sought leave to appeal thereafter. This was allowed on two bases. First, there appeared to be an error on the face of the record in relation to the AR’s directions on the JS Energy Share. Although there was a dispute as to whether Sudhir Junior or Sudhir Senior was the beneficial owner of the JS Energy Share, that share had not been seized by the Sheriff and Sudhir Junior had not filed a formal claim to it. As already mentioned, Sudhir Junior was not

a party to the interpleader proceedings. Second, there appeared to be an error on the face of the record in relation to the Judge’s decision on the Al-Rafidian Shares as well. The Official Assignee of Singapore was not notified of the interpleader proceedings even though Gorpall appeared to be an undischarged bankrupt pursuant to two Malaysian court orders. The grounds of decisions for leave to appeal are set out in *Rodeo Power Pte Ltd and others v Tong Seak Kan and another* [2022] SGHC(A) 16 (“the Leave GD”).

The appeal

8 We turn now to the substantive appeal that was before us. Having considered the parties’ arguments, we allowed the appeal of the 3 JS Energy Claimants and set aside the Judge’s decision in respect of the JS Energy Share. For the avoidance of doubt, we also set aside the seizure of shares in each of the 3 Target Companies.

9 We were also of the view that the Judge’s decision in respect of the Al-Rafidian Shares was irregularly obtained because we subsequently learned, after the leave to appeal was granted, that Gorpall’s assets vested in the Director General of Insolvency of Malaysia (“DGI”) and DGI should have been, but was not, notified of the interpleader proceedings below. However, we noted that there was no existing application to set aside the Judge’s decision in respect of the Al-Rafidian Shares and thus concluded that that portion of the decision still stood for the time being.

10 We now set out the grounds of our decision.

JS Energy Share

11 The Judgment Creditors’ primary submission in relation to the JS Energy Share was that the parties had proceeded on a certain premise in the proceedings below. This was that a decision on the nature of the purchase of the JS Energy Share by Sudhir Junior from Sudhir Senior (*ie*, whether the purchase was a sham transaction), would effectively resolve the issue of the ownership of the 3 Target Companies. Counsel for the Judgment Creditors, Mr Kumar, thus sought to persuade us that the Judge’s decision on the JS Energy Share was dispositive of the claims of the 3 JS Energy Claimants for their respective shares in the 3 Target Companies. We should add that the opponents of the Judgment Creditors for the shares in the 3 Target Companies were the 3 JS Energy Claimants as Gorpul was only involved in respect of the Al-Rafidian Shares.

12 Mr Kumar also submitted that the Judgment Creditors’ case had always been that Sudhir Senior was not only the direct beneficial owner of the JS Energy Share but that he was also the direct beneficial owner of the shares in the 3 Target Companies. Mr Kumar sought to justify this by pointing us to excerpts from Mr Ng’s Affidavit which stated that Sudhir Senior beneficially owned and controlled the 3 Target Companies “through” JS Energy. For context, Mr Ng’s Affidavit was filed on behalf of the Judgment Creditors for the seizure of shares in the 3 Target Companies following the conclusion of the Suit.

13 Preliminarily, we found Mr Kumar’s two positions, as set out at [11] and [12] above, to be contradictory. In so far as Mr Kumar argued that the decision on the JS Energy Share was dispositive of the claims in the shares of the 3 Target Companies, that was contrary to the argument that Sudhir Senior was the direct owner of the JS Energy Share *and* the shares in the 3 Target Companies. The decision on the JS Energy Share could only be dispositive of the “ownership”

of the shares in the 3 Target Companies if the focus was on that one share in JS Energy and it was accepted that through that share, control of the 3 Target Companies was achieved. However, if the argument was that Sudhir Senior also beneficially owned the shares in the 3 Target Companies directly (see Figure 2 below), then the decision on the JS Energy Share alone could not be dispositive of the shares in the 3 Target Companies. The court would have had to make separate findings as regards the beneficial ownership of shares in each of the 3 Target Companies.

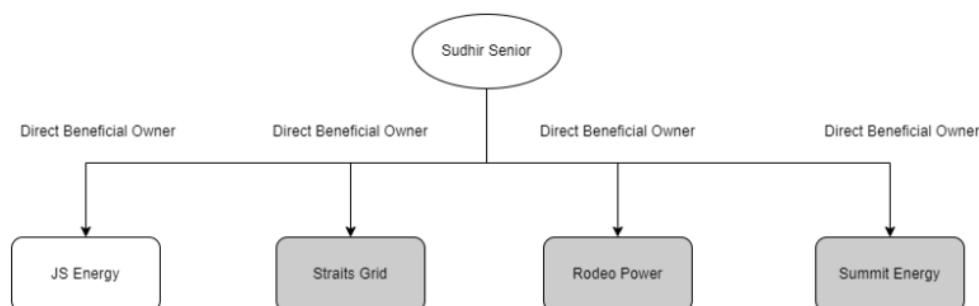


Figure 2

14 In relation to Mr Kumar’s argument that Sudhir Senior was the direct beneficial owner of the shares in the 3 Target Companies, we were of the view that this was never the basis of the case of the Judgment Creditors and that they had in fact proceeded on a different basis in the proceedings below, *ie*, that Sudhir Senior was the beneficial owner of the JS Energy Share and it was through that share that he was controlling the 3 Target Companies.

15 First, there was no basis previously for the Judgment Creditors to assert that Sudhir Senior was the direct beneficial owner of the shares in the 3 Target Companies as the only information available to them was the company searches that were made through the Accounting and Corporate Regulatory Authority.

These searches only revealed the corporate structure and some financial information of the 3 Target Companies but not who the beneficial owner was, unless the beneficial ownership was revealed from the searches. For example, Rodeo Power's audited financial statements for the year ended 31 December 2014 had a note stating that Rodeo Power is a 100% owned subsidiary of Straits Grid. As it was eventually learned, one person referred to as Ramesh is the registered holder of all 52,700,002 shares in Rodeo Power but he holds them on trust for Straits Grid. There was no such information from the searches stating that Sudhir Senior is the beneficial owner of any of the shares in the 3 Target Companies. Also, it was Mr Ng who at times conflated control with direct beneficial ownership (see paragraphs 10–11 of Mr Ng's Affidavit). An example of the Judgment Creditors' reliance on the searches can be seen at paragraph 6 of Mr Ng's Affidavit, where he relied on the audited financial statements of Straits Grid to state that Sudhir Senior is "deemed" to have an interest in Straits Grid "through" JS Energy. It is thus readily apparent that Mr Ng was not talking about Sudhir Senior's direct and beneficial ownership of the shares in the 3 Target Companies.

16 Second, in relation to Mr Kumar's argument that the decision on the JS Energy Share was dispositive of the claims to the shares of the 3 Target Companies, we explained that such a decision would be dispositive only on the basis that JS Energy controlled the 3 Target Companies. We also disagreed that it was the common premise between the parties that Sudhir Senior is the direct beneficial owner of the shares in each of the 3 Target Companies. Instead, we observed that the parties had proceeded on the premise that the court need only rule on who the beneficial owner of the JS Energy Share was, *ie*, whether it was Sudhir Junior or Sudhir Senior, as JS Energy controlled the 3 Target Companies.

17 Hence, the Judgment Creditors' Points of Claim below only sought a declaration that the true beneficial owner of the JS Energy Share was Sudhir Senior. The Judgment Creditors did not seek a declaration that Sudhir Senior was also the direct beneficial owner of shares in each of the 3 Target Companies. In our view, and as alluded to at [15] above, this was because the Judgment Creditors themselves did not have evidence to show that Sudhir Senior was the direct and beneficial owner of those shares. Sudhir Senior might control the 3 Target Companies through the JS Energy Share, if he were the beneficial owner of the JS Energy Share. However, as we explained in the Leave GD, control should not be confused with beneficial ownership. Indeed, the 3 JS Energy Claimants also disputed that Sudhir Senior was the direct beneficial owner of the 3 Target Companies during the interpleader proceedings below.

18 When the Judgment Creditors succeeded below, the Judge only declared that Sudhir Senior was the beneficial owner of the JS Energy Share without mentioning the shares in the 3 Target Companies. In fact, the Judge noted at paragraph 7 of the Oral Judgment that the Judgment Creditors did not dispute that the shares in the 3 Target Companies were "beneficially owned by JS Energy". We understand this to mean "through" JS Energy. In any event, the Judge's remark was contrary to the belated allegation by the Judgment Creditors that the relevant parties had proceeded on the basis that all the shares in the 3 Target Companies were owned directly and beneficially by Sudhir Senior.

19 Furthermore, even though the parties proceeded on the premise that the court need only make a ruling on the beneficial ownership of the JS Energy Share, the fact of the matter was that this was not rightly an issue on which the AR could have given directions nor one that the Judge could rule on.

20 As we alluded to in the Leave GD, the background to the directions from the AR and the decision of the Judge was that the Judgment Creditors had seized shares in the 3 Target Companies. Consequently, the 3 JS Energy Claimants laid claim to these shares. The Judgment Creditors had not seized the JS Energy Share and the registered owner, *ie*, Sudhir Junior, did not file a formal claim to it although he did explain that he was the owner of that share. Therefore, when the Sheriff sought interpleader relief, his application did not extend to the JS Energy Share.

21 Unfortunately, the AR overlooked this point, and so did the Judgment Creditors and the 3 JS Energy Claimants, because they were too engrossed over the JS Energy Share.

22 Likewise, they overlooked the fact that Sudhir Junior was not even a party to the proceedings. Notably, when the AR gave directions during the interpleader proceedings as to who should be the plaintiffs and who should be the defendants, he mentioned only the Judgment Creditors and the 3 JS Energy Claimants in respect of the JS Energy Share. Sudhir Junior was neither one of the Judgment Creditors nor one of the 3 JS Energy Claimants. Hence when the Judgment Creditors filed the Points of Claim, Sudhir Junior was not named as a party.

23 This was fatal to the Judgment Creditors' claim that Sudhir Senior is the beneficial owner of the JS Energy Share. That issue involves a determination as between Sudhir Senior and Sudhir Junior but the latter was never a party in the interpleader proceedings. No court can make a finding which affects the right of a person who is not properly a party before it.

24 The Judgment Creditors sought to overcome this hurdle by arguing that Sudhir Junior was the real litigant behind the claims of the 3 JS Energy Claimants. Hence, the Judge made an order of costs against him in respect of the interpleader proceedings below.

25 We were of the view that it is one thing to make a costs order against a non-party on the basis that he is the real litigant behind the litigation conducted by one side. It is quite different to say that he need not be a formal party to the proceedings when he is the legal owner of the JS Energy Share who claims also to be the beneficial owner thereof. If the beneficial ownership of that share is to be properly decided by the court, Sudhir Junior must be a party before the court. We therefore rejected the Judgment Creditors' reliance on the costs order made by the Judge.

26 In summary, the AR, the Judgment Creditors and the 3 JS Energy Claimants overlooked the fact that the Judgment Creditors had not seized the JS Energy Share and that Sudhir Junior was not a party in the interpleader proceedings. These omissions were not drawn to the attention of the Judge who was not in a position to rule and should not have ruled as to who the beneficial owner of the JS Energy Share was.

27 In the circumstances, we set aside the Judge's decision that Sudhir Senior was the beneficial owner of the JS Energy Share. For the avoidance of doubt, we also ordered that any seizure of the shares in the 3 Target Companies be set aside as there was no basis to seize these shares in the first place. As we mentioned, the Judgment Creditors did not have evidence that Sudhir Senior was the beneficial owner of the shares in each of the 3 Target Companies. Rather, they were saying that he controlled them through JS Energy which they claimed he owned as the beneficial owner of the JS Energy Share.

28 In so far as the 3 JS Energy Claimants sought a declaration from this court that the 3 JS Energy Claimants hold shares in the 3 Target Companies respectively as beneficial owners, we declined to make that order. As we observed at [17] above, the Judgment Creditors had not made that an issue below and the Claimants did not seek such a declaration below. It was a non-issue and was thus not properly an issue before us.

29 In so far as these claimants also suggested, as an alternative, that the matter be remitted for a retrial of the issue pertaining to the JS Energy Share, we declined to order a retrial because the JS Energy Share was not even seized in the first place by the Judgment Creditors.

Al-Rafidian Shares

30 We turn now to the Al-Rafidian Shares. In so far as there was a dispute between Gorpall and the Judgment Creditors as to whether Sudhir Senior or Gorpall is the beneficial owner of 90,000 shares in Al-Rafidian, we mentioned in the Leave GD that Gorpall had been adjudicated a bankrupt under two Malaysian court orders dated 17 May 2004 and 4 October 2010. It was subsequently confirmed that Gorpall remains an undischarged bankrupt. For completeness, we also mention that 100,000 shares in Al-Rafidian were seized although only 90,000 were purportedly bought by Gorpall from Sudhir Senior.

31 The Judgment Creditors took the point that under the relevant legislation, Gorpall required sanction from the DGI to pursue his claim and hence his appeal before us. Gorpall appeared to have agreed because, in the absence of such sanction, Gorpall filed a Notice of Withdrawal of his appeal before us.

32 However, there was also the question of whether the Judgment Creditors required sanction from the DGI or a court to pursue their claim to the Al-

Rafidian Shares in the circumstances. In this regard, two opinions from Malaysian solicitors were tendered by the parties.

33 Gorpall had obtained an opinion from Mr Saranjit Singh Surjit Singh (“Mr Singh”) of Messrs Saranjit Singh, Advocates and Solicitors, dated 17 November 2022. Mr Singh’s opinion was based on the Insolvency Act 1967 (No 360 of 1967) (M’sia) (“the Insolvency Act”). In summary, Mr Singh’s opinion was that the Judgment Creditors did not require the sanction of a court to institute a claim against Gorpall as they were not claiming as creditors of Gorpall. Mr Singh was also of the opinion that the Judgment Creditors did not require the sanction of the DGI to institute their claim against Gorpall. Nevertheless, Mr Singh stated that the DGI ought to have been notified of the Judgment Creditors’ claim to the Al-Rafidian Shares so that the DGI could have taken a position. This was on the basis that all of Gorpall’s property vested in the DGI upon Gorpall’s bankruptcy pursuant to the Insolvency Act.

34 Although Al-Rafidian is a company incorporated in Singapore, the Insolvency Act provides for reciprocal provisions between Singapore and Malaysia in matters relating to bankruptcy and insolvency. Singapore has a similar provision in s 424 of the Insolvency, Restructuring and Dissolution Act 2018 (2020 Rev Ed) (the “IRDA”). However, Gorpall was adjudicated a bankrupt before the IRDA took effect from 30 July 2020. Therefore, the relevant Singapore legislation is the predecessor to the IRDA which is the Bankruptcy Act (Cap 20, 2009 Rev Ed) (the “Bankruptcy Act”). Section 152 of the Bankruptcy Act is similar to s 424 of the IRDA. The upshot is that the Bankruptcy Act provides that any property of a bankrupt situated in Singapore, who has been adjudged a bankrupt by a court in Malaysia, vests in the Official Assignee appointed by the government of Malaysia. This is the DGI. We add

that s 152 of the Bankruptcy Act also provides that all courts in Singapore must recognise the title of such Official Assignee to the property in Singapore.

35 The Judgment Creditors obtained an opinion from Mr Ian Shang Kuan Chou Chuen (“Mr Shang”) of Messrs Ian Shang Kuan, dated 22 November 2022. Mr Shang was of the view that Gorpall required the sanction of the DGI before participating in the interpleader proceedings. This was accepted by Gorpall who, as mentioned at [31] above, had filed a Notice of Withdrawal of his appeal. Mr Shang’s opinion was also that the Judgment Creditors did not require the sanction of the DGI before making a claim to the Al-Rafidian Shares as the Judgment Creditors are not creditors of Gorpall. This accords with Mr Singh’s opinion (see [33] above).

36 However, Mr Shang’s opinion did not address the other point which was that the assets of Gorpall vest in the DGI and that the DGI should have been notified of the interpleader proceedings in Singapore so that the DGI could take a position. Instead, Mr Shang appeared to take the position that Gorpall held the Al-Rafidian Shares on trust such that they would be excluded from Gorpall’s estate and would thus not vest in the DGI. We disagreed with this position. The *prima facie* position is that Gorpall is the legal and beneficial owner of the Al-Rafidian Shares and that these shares vest in the DGI upon Gorpall being declared a bankrupt. On this basis, the DGI should have been notified. It was after this is done that a court may then consider and decide whether in fact the beneficial owner is Sudhir Senior.

37 Mr Yim, the representative for the Official Assignee of Singapore, appeared before us to assist. The Official Assignee’s position was that he was not qualified to address Malaysian law. That said, Mr Yim was of the view that the Judgment Creditors should have notified the DGI immediately of their claim

to the Al-Rafidian shares once they found out that Gorpall was a bankrupt. Mr Yim also confirmed that the DGI was aware of the present appeal but did not respond to the Official Assignee's offer of assistance.

38 We are of the view that as soon as the Judgment Creditors learned of the adjudication orders made against Gorpall, the Judgment Creditors should have notified the DGI of the seizure of the Al-Rafidian Shares and Gorpall's purported interest in them so that the DGI could respond to the Judgment Creditors' claim in respect of the shares. Indeed, Gorpall himself should also have informed the DGI of the seizure. However, these steps were not taken.

39 Both the Judgment Creditors and Gorpall should also have alerted the Singapore court as soon as possible that no further step should be taken by the Singapore court until the DGI was notified of the Judgment Creditors' claim to the shares and the DGI had an opportunity to respond. Accordingly, Gorpall also should not have resisted the claim of the Judgment Creditors as it was for the DGI to decide what to do. Likewise, Gorpall's solicitors should not have acted for him to resist the Judgment Creditors' claim.

40 In this regard, we found it concerning that Gorpall's solicitors appeared to have failed to address their mind on what the position at Malaysian law was and whether sanction was required, and if so, obtained, after they discovered that Gorpall was a bankrupt. They said they received confirmation that he was an undischarged bankrupt sometime after the interpleader trial had concluded but this did not satisfactorily explain why they had not ascertained his status properly before proceeding with the interpleader proceedings in the first place. In fact, Gorpall's solicitors continued to act for him in the appeal even though they did not receive any instructions from the DGI. This was irresponsible.

41 The Judgment Creditors' solicitors should also have sought clarification on whether any sanction was required. We rejected Mr Kumar's argument that it was reasonable for the Judgment Creditors' solicitors to assume that sanction was obtained by Gorpall's solicitors because any solicitor would know to obtain proper authorisation before acting for a bankrupt or that it was not ethically proper for them to seek confirmation from Gorpall's solicitors that they had authority to act for him.

42 First, this explanation was offered from the bar. There was no affidavit from the Judgment Creditors or their solicitors that they had actually considered whether sanction was required for Gorpall to continue with the interpleader proceedings below. Indeed, it appeared that the Judgment Creditors' solicitors only became aware of this point when it was raised by the court during the hearing for leave to appeal.

43 Second, from the documents disclosed by the solicitors of the Judgment Creditors, it appeared that the Judgment Creditors had apparently not sought legal advice from Malaysian solicitors until after leave to appeal had been granted to the 4 Claimants. This suggested that the question of sanction had not crossed their minds before.

44 In any event, we were of the view that the argument that it was not ethically proper for them to seek confirmation from Gorpall's solicitors about their authority to act for him was misplaced. Mr Kumar had argued that ordinarily this would have been the case, but this was not an ordinary situation. Gorpall had been adjudged a bankrupt. Moreover, the question was not just whether Gorpall's solicitors had authority to act for him but at a more basic level, whether Gorpall himself required sanction to proceed. Where such sanction is required as a matter of law, an opponent is entitled, and is indeed expected, to

question whether sanction has been obtained. Indeed, a court could also on its own motion ask the same question. Hence, the Judgment Creditors' solicitors were not precluded from asking if sanction for Gorpall to proceed had been obtained, assuming that they knew that such sanction was required. It seemed to us that the argument about an assumption and an ethical prohibition was a poor excuse to avoid taking partial responsibility for this unsatisfactory situation.

45 Finally, we note that while the Judgment Creditors did not dispute that the DGI should have been notified, they argued that there was no prejudice since Gorpall did participate in the proceedings below. This argument misses the point. If Gorpall was incompetent to pursue the appeal, he was also incompetent to resist the claim of the Judgment Creditors below as it was for the DGI to take a position.

46 In the circumstances, even though Gorpall's appeal was discontinued, it was still open to us to note that the decision below should not have been made as the DGI had not been notified of the Judgment Creditors' claim at the time of the interpleader proceedings and this was not before the Judge.

47 We thus observed that the Judge's decision in respect of the 90,000 shares in Al-Rafidian (as well as the other 10,000 shares) was liable to be set aside. However, Gorpall has withdrawn his appeal and the Judgment Creditors did not seek such an order. Hence, we did not go further than to make this observation.

Conclusion

48 As we noted during the hearing of the appeal on 24 November 2022, the situation before us in respect of the JS Energy Share was most unsatisfactory. The Judgment Creditors should not have contested the appeal in respect of the

JS Energy Share in the light of what we had already stated in the Leave GD. It should also have been obvious to the 3 JS Energy Claimants that they bear their share of responsibility for the situation. Before us, they sought to argue the merits of their claims in so far as the shares in the 3 Target Companies were concerned even though these had not been in issue. In so far as they also sought to argue the merits pertaining to the beneficial ownership of the JS Energy Share, this was misplaced because that share had not been seized and Sudhir Junior was not a party before us.

49 We need not repeat what we have said in respect of the Al-Rafidian Shares which was also an unsatisfactory situation.

50 In the circumstances, we ordered the parties to bear their own costs of the application for leave to appeal and the appeal itself, as well as the interpleader proceedings below.

51 The usual consequential orders were made.

Woo Bih Li
Judge of the Appellate Division

Debbie Ong Siew Ling
Judge of the Appellate Division

Mary-Anne Shu-Hui Chua and Tio Siaw Min (Joseph Tan Jude
Benny LLP) for the appellants;
Harish Kumar s/o Champaklal, Josephine Chee Fei and Low
Weng Hong (Rajah & Tann Singapore LLP) for the respondents;
Benjamin Yim for the official assignee.