IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2023] SGHC 222

Originating Summons No 704 of 2020 (Registrar's Appeals Nos 90 and 91 of 2023)

In the matter of Rajah & Tann Singapore LLP acting for the Interim Judicial Managers, and/or the Judicial Managers, and/or the Liquidators of Hin Leong Trading (Pte) Ltd and/or other relevant parties

Between

(1) Lim Oon Kuin
(2) Lim Chee Meng
(3) Lim Huey Ching

… *Applicants*

And

Rajah & Tann Singapore LLP

… *Respondent*

Originating Summons No 666 of 2020 (Registrar's Appeals Nos 92 and 93 of 2023)

In the matter of M/s Rajah & Tann Singapore LLP acting for the Interim Judicial Managers, and/or the Judicial Managers, and/or the Liquidators of Ocean Tankers (Pte.) Ltd and/or other relevant parties

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Between

(1) Lim Oon Kuin
(2) Lim Chee Meng
(3) Lim Huey Ching

… *Applicants*

And

Rajah & Tann Singapore LLP

… *Respondent*

JUDGMENT

[Civil Procedure — Amendments]
[Civil Procedure — Striking out]
[Abuse of Process — *Henderson v Henderson* doctrine]

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Lim Oon Kuin and others
v
Rajah & Tann Singapore LLP and another matter

[2023] SGHC 222

General Division of the High Court —Originating Summons No 704 of 2020 (Registrar's Appeals Nos 90 and 91 of 2023) and Originating Summons No 666 of 2020 (Registrar's Appeals Nos 92 and 93 of 2023)
Goh Yihan JC
5 July 2023

15 August 2023 Judgment reserved.

Goh Yihan JC:

1 There are four appeals before me. These appeals concern two originating summonses, *viz*, HC/OS 704/2020 ("OS 704") and HC/OS 666/2020 ("OS 666"). HC/RA 90/2023 ("RA 90") and HC/RA 91/2023 ("RA 91") are appeals against the respective decisions of the learned Assistant Registrar Kenneth Wang Ye (the "AR") in: (a) HC/SUM 3890/2022 ("SUM 3890") to disallow the applicants' application to amend OS 704; and (b) HC/SUM 3507/2022 ("SUM 3507") to strike out OS 704, provided that the respondent provides a suitable undertaking by 8 May 2023. In turn, HC/RA 92/2023 ("RA 92") and HC/RA 93/2023 ("RA 93") are appeals against the respective decisions of the AR in: (a) HC/SUM 3891/2022 ("SUM 3891") to disallow the applicants' application to amend OS 666, and

(b) HC/SUM 3506/2022 ("SUM 3506") to strike out OS 666, provided that the respondent provides a suitable undertaking by 8 May 2023.

2 To provide context, in their present form after two previous amendments, OS 704 and OS 666 each contains two paragraphs but only one substantive prayer. I reproduce only prayer 1 of OS 704 below,[1] but prayer 1 of OS 666 is of similar terms save for the parties concerned:

> Rajah & Tann Singapore LLP ("**R&T**") be restrained, whether acting by their partners, officers, servants, or agents, or any of them, from advising, and acting for the Applicant in HC/OS 417/2020 ("**Company**"), and/or the interim judicial managers, and/or the judicial managers, and/or the liquidators of the Company; …

3 The proposed amendments seek to add *ten* paragraphs to the present two paragraphs of OS 704 and OS 666. They not only maintain the applicants' claim for a final injunctive relief against the respondent, but also seek new reliefs, including damages from the alleged breach of confidence arising from the respondent's conduct. In short, the proposed amendments, if allowed, will fundamentally alter the applicants' cause of action in OS 704 and OS 666 against the respondent.

4 For ease of understanding, I summarise the four appeals in the following table:

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[1] Originating Summons (Amendment No 2, By Order of Court made on 4 April 2022) in HC/OS 704/2020 dated 13 June 2022.

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	OS 704 **(*Lim Oon Kuin and others v Rajah & Tann Singapore LLP)***	**OS 666** **(*Lim Oon Kuin and others v Rajah & Tann Singapore LLP)***
RA 90	Appeal against decision in SUM 3890 to disallow amendment of OS 704	
RA 91	Appeal against decision in SUM 3507 to strike out OS 704 subject to undertaking	
RA 92		Appeal against decision in SUM 3891 to disallow amendment of OS 666
RA 93		Appeal against decision in SUM 3506 to strike out OS 666 subject to undertaking

5 If the information in the table gives the impression that RA 90 and RA 91 are highly similar to RA 92 and RA 93, that is because they are, in fact, almost identical. The underlying originating summonseses, OS 704 and OS 666, are concerned with identical applicants, an identical respondent, and deal with identical subject matters in which almost identical court papers are filed. Indeed, even the oral submissions made before me in respect of RA 90 and RA 91 are highly similar to those made for RA 92 and RA 93, in as much

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as counsel for the latter set of appeals was simply content to largely adopt those made by counsel for the former set of appeals.

6 In essence, as is evident from the information in the table above, there are really two broad questions for my determination in these appeals: (a) is the AR's decision to disallow the applicants' applications to amend OS 704 and OS 666 correct (the "Amendment Applications"); and (b) is the AR's decision to strike out OS 704 and OS 666, subject to the respondent providing a suitable undertaking, correct (the "Striking Out Applications")? Having considered the parties' submissions, I answer both questions in the positive, and affirm the AR's decisions in respect of the Amendment Applications and the Striking Out Applications. I therefore dismiss RA 90, RA 91, RA 92, and RA 93. I provide the reasons for my decision in this judgment.

Background facts

7 I begin with the background facts, which explain the apparent absurdity of OS 704 and OS 666 being essentially identical applications. To begin with, the applicants in OS 704 and OS 666 are identical. They are Mr Lim Oon Kuin ("LOK"), Mr Lim Chee Meng ("LCM"), and Mdm Lim Huey Ching ("LHC"). The respondent in OS 704 and OS 666 is Rajah & Tann Singapore LLP. OS 704 stemmed from LCM's and LHC's discontentment with the respondent acting for Hin Leong Trading (Pte) Ltd ("HLT") and its respective interim judicial managers at the material time. OS 666, similarly, stemmed from LCM's and LHC's discontentment with the respondent acting for Ocean Tankers Pte Ltd ("OTPL") and its respective interim judicial managers at the material time. The applicants were concerned that allegedly confidential information or documents would be misused unless the respondent was restrained from so acting. The applicants filed OS 704 on 21 July 2020, and filed OS 666 on 9 July 2020.

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8 In their original forms, the only substantive claim which the applicants sought in OS 704 and OS 666 was to restrain the respondent from representing HLT, OTPL, and their respective interim judicial managers, *ie*, final injunctive relief. Although LCM and LHC were directors of HLT and OTPL, they did not have legal standing to authorise the commencement of OS 704 and OS 666 in the names of HLT and OTPL, respectively. This was because LCM and LHC had divested their powers to the interim judicial managers of HLT and OTPL. As such, OS 704 and OS 666 were struck out at first instance in *Ocean Tankers (Pte) Ltd (under judicial management) v Rajah & Tann Singapore LLP and another matter* [2021] SGHC 47 and on appeal in *Hin Leong Trading (Pte) Ltd (in liquidation) v Rajah & Tann Singapore LLP and another appeal* [2022] 2 SLR 253. Despite this, LCM and LHC were able to maintain OS 704 and OS 666 by applying to join themselves and LOK as parties to the two originating summonses in their personal capacities. The joinder applications were rejected at first instance in *Ocean Tankers (Pte) Ltd (under judicial management) v Rajah & Tann Singapore LLP and another matter* [2021] SGHC 144 but allowed on appeal in *Lim Oon Kuin and others v Rajah & Tann Singapore LLP and another appeal* [2022] 2 SLR 280 ("*Lim Oon Kuin*"). This explains why OS 704 and OS 666, in their present form, are essentially identical applications.

9 Subsequently, after being joined as parties, on 7 June 2022, the applicants obtained leave to amend OS 704 and OS 666 to replace HLT and OTPL with the applicants as the parties to the proceedings. After being joined as parties, the applicants maintained their single claim for a final injunctive relief against the respondent. The basis for this claim also remained as the purported possibility or risk of confidential information or documents being misused, and that the respondent's continued representation of HLT and OTPL,

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as well as their liquidators, would pose a threat to the proper administration of justice. Crucially, the applicants did not, at the time of their joinder, indicate that they sustained losses personally or that they would be seeking compensation for any alleged breach of confidence arising from the respondent's conduct.

10 Then, on 11 August 2022, the applicants filed HC/SUM 2981/2022 (under OS 704) and HC/SUM 2982/2022 (under OS 666) to seek specific discovery of over 100 categories of documents to support their claim for final injunctive relief. In the affidavits filed in support of both applications,[2] the applicants again maintained their single claim for a final injunctive relief against the respondent. Indeed, the applicants likewise did not indicate that they sustained losses personally or that they would be seeking compensation for any alleged breach of confidence arising from the respondent's conduct.

11 At around the time that the applications for specific discovery were filed, the parties attempted to resolve their dispute. When this did not succeed, the respondent, in view of the applicants' position that their sole concern was to obtain a final injunctive relief, took steps to disengage from acting for HLT and OTPL, as well as their respective liquidators. By this time, HLT and OPL were in liquidation, which was why the respondent had been acting for their liquidators instead of their judicial managers. In addition, on 12 September 2022, the respondent, through its solicitors, wrote to the applicants' solicitors ("12 September Letter"). In the 12 September Letter, the respondent informed

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[2] 4th Joint Affidavit of Lim Oon Kuin, Lim Chee Meng, and Lim Huey Ching dated 11 August 2022 filed in respect of HC/OS 704/2020 and 4th Joint Affidavit of Lim Oon Kuin, Lim Chee Meng, and Lim Huey Ching dated 11 August 2022 filed in respect of HC/OS 666/2020.

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the applicants of the respondent's cessation of its engagement with HLT and OPTL, as well as their liquidators. The respondent also offered to pay the costs of the proceedings to the applicants, with the amount to be agreed, if not, taxed, but on a without admission of liability basis.

12 When the applicants did not give the respondent a substantive response, the respondent filed the Striking Out Applications on 22 September 2022 to strike out OS 704 and OS 666. The respondent did so on the basis that the continued maintenance of these proceedings no longer served any practical purposes in the light of the respondent's actions detailed in the previous paragraph. However, the applicants then filed the Amendment Applications on 25 October 2022. As will be seen below, the list of amendments sought in the Amendment Applications includes fresh reliefs that are not only extensive in number, but also fundamentally alter the cause of action against the respondent.

The Assistant Registrar's decision

13 The AR disallowed the Amendment Applications because they constitute an abuse of the court's process. He gave three reasons in support of his decision. First, the timing of the Amendment Applications gave rise to an inference that the applicants did not seriously consider or intend to pursue the amendments until the respondent's 12 September Letter challenged the viability of OS 704 and OS 666, and threatened to render them moot. Second, unlike the original prayer for a prospective injunction, the Amendment Applications contained largely retrospective reliefs and would require a very different focus for the parties and for the court adjudicating them. Third, as the present dispute took the form of originating summonses, the additional prayers sought in the Amendment Applications were not real and substantive issues suitable for

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resolution through the limited factual examination in the originating summons process.

14 However, the AR granted the Striking Out Applications, subject to a suitably worded and signed undertaking provided by the respondent to the applicants. This undertaking would fully address OS 704 and OS 666 and render them moot, with no residual issue of public interest or private benefit that warranted the continuation of OS 704 and OS 666.

The Amendment Applications

15 With the above background in mind, I turn first to the Amendment Applications. It is logical to consider the Amendment Applications before the Striking Out Applications because if the proposed amendments are granted, that may have an impact on whether OS 704 and OS 666 should be struck out.

The parties' positions

16 In summary, the proposed amendments in the Amendment Applications are as follows.[3]

> (a) Paragraph 2: A new prayer that declarations be made to the effect that the respondent had acted in breach of confidence and which conduct gave rise to an actual or reasonably perceived risk that the proper administration of justice would be prejudiced.

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[3] Annex A to HC/SUM 3890/2022 dated 25 October 2022 at pp 3–5, and 8; Annex A to HC/SUM 3891/2022 dated 25 October 2022 (collectively, "Annex A") at pp 3–5, and 8.

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(b) Paragraph 3: A new prayer that the respondent provides the applicants with, among others, a list of the confidential information and/or documents that the applicants and the relevant companies had allegedly provided to the respondent.

(c) Paragraph 4: A new prayer that the respondent be restrained from, among others, using or revealing the allegedly confidential information and/or documents that had come to its knowledge during its engagement by the applicants and the relevant companies.

(d) Paragraph 5: A new prayer that the respondent procures that any other party, who received the allegedly confidential information and/or documents, be restrained from, among others, using or revealing the said information and/or documents.

(e) Paragraph 6: A new prayer that the respondent delivers up to the applicants all of the allegedly confidential information and/or documents.

(f) Paragraph 7: A new prayer that the respondent procures that any other party, who received the allegedly confidential information and/or documents, delivers up to the applicants all of the allegedly confidential information and/or documents.

(g) Paragraph 8: A new prayer that the respondent accounts for and disgorges the fees that it had obtained from its representation of the relevant parties, as the case may be.

(h) Paragraph 9: A new prayer that the respondent pays damages, equitable compensation, and/or equitable damages to the applicants.

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The applicants' position

17 Although the applicants are represented by different counsel, namely, Mr Christopher Anand ("Mr Anand") for the applicants in RA 90 and RA 91, and Ms Ning Jie ("Ms Ning") for the applicants in RA 92 and 93, as I mentioned above, Ms Ning was content to largely adopt the submissions of Mr Anand.

18 The applicants make seven points as to why the Amendment Applications should be allowed. In summary, these are that: (a) the proposed amendments are necessary to allow the real question and/or issue in controversy between the parties to be determined;[4] (b) the proposed amendments are premised on substantially the same material facts in the affidavits filed in OS 704 and OS 666;[5] (c) there was no undue delay in filing the Amendment Applications;[6] (d) there would be no prejudice caused to the respondent if the Amendment Applications are allowed;[7] (e) the Amendment Applications are not motivated by an improper collateral purpose;[8] (f) it is irrelevant whether the proposed amendments are suitable for the originating summons process;[9] and (g) the principle in *Henderson v Henderson* [1843] 3 Hare 100 ("*Henderson*") does not apply.[10]

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4 Applicants' Written Submissions in RA 90 and RA 91 dated 28 June 2023 ("AWS RAs 90 and 91") at paras 13–51.

5 AWS RAs 90 and 91 at para 52.

6 AWS RAs 90 and 91 at para 57.

7 AWS RAs 90 and 91 at paras 53–64

8 AWS RAs 90 and 91 at paras 65–73.

9 AWS RAs 90 and 91 at paras 85–111.

10 AWS RAs 90 and 91 at paras 74–84.

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The respondent's position

19 While the respondent submits that the proposed amendments are fundamentally flawed and therefore should not be allowed, its primary submission is that the continued prosecution of OS 704 and OS 666 is an abuse of process. First, the applicants have not only just been offered the relief sought in OS 704 and OS 666, they have in fact already *obtained* the relief sought, which is, in effect, a final injunctive relief.[11] Second, the applicants' conduct also amounts to the more specific form of abuse of process established in *Henderson*.[12] The respondent says that this is because the Amendment Applications, which seek a multitude of new reliefs relying on the same facts, subject the respondent to "the litigation equivalent of death by a thousand cuts" (see the English High Court decision of *Seele Austria GmbH Co v Tokio Marine Europe Insurance Limited* [2009] EWHC 255 ("*Seele*") at [107]).[13] Third, the applicants are using the proposed amendments in the Amendment Applications to fish for information and documents that may impact on their defences in other proceedings.[14] Fourth, the originating summons process is not suitable for OS 704 and OS 666 if they are amended pursuant to the Amendment Applications.[15]

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11 Respondent's Written Submissions dated 28 June 2023 ("RWS") at paras 6 and 136(a).

12 RWS at paras 99–109.

13 RWS at para 105.

14 RWS at paras 82–85.

15 RWS at paras 7 and 112–120.

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The applicable law

20 Turning to the applicable law, it is trite that the court may grant leave to amend a pleading at any stage of the proceedings (see the Court of Appeal decision of *Chwee Kin Cheong and others v Digilandmall.com Pte Ltd* [2005] 1 SLR(R) 502 at [101]). The court's discretion in that regard should be exercised if the amendment will enable the real question and/or issue in controversy between the parties to be determined, but an important caveat is that it must be just to grant such leave, having regard to all the circumstances of the case (see the Court of Appeal decision of *Review Publishing Co Ltd and another v Lee Hsien Loong and another appeal* [2010] 1 SLR 52 at [113]).

My decision: the Amendment Applications are dismissed

21 In my judgment, the Amendment Applications should be dismissed. I therefore agree with the learned AR's decision in respect of SUM 3890 and SUM 3891, and I dismiss RA 90 and RA 92 accordingly. I have come to this conclusion because I find that the Amendment Applications constitute an abuse of the court's process for the following reasons that I will elaborate shortly: (a) the Amendment Applications are not necessary to determine the real issues between the parties, (b) the Amendment Applications are not genuinely intended to determine the real issues between the parties, and (c) in so far as they seek a multitude of new reliefs from the same underlying facts, the Amendment Applications constitute the more specific form of abuse of process laid out in *Henderson*. Indeed, I am of the view that the Amendment Applications were filed to vex the respondent unnecessarily.

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The Amendment Applications are not necessary to determine the real issues between the parties

22 First, I find that the Amendment Applications are not necessary to determine the real issues between the parties. It bears remembering that the applicants have consistently maintained since 9 July 2020, until they filed the Amendment Applications on 25 October 2022, that their sole interest in OS 704 and OS 666 was to obtain a final injunctive relief against the respondent. In this regard, since 12 September 2022, the respondent has ceased to advise or act for HLT and OTPL, as well as their liquidators. There is therefore no practical benefit for the applicants to proceed with OS 704 and OS 666. While the lateness of the filing of the Amendment Applications is not by itself determinative, I find that the fact, that the applicants filed the Amendment Applications only shortly after the respondent indicated that it has ceased to so act, fortifies my conclusion that the Amendment Applications are not necessary to determine the real issues between the parties. In short, the combined effect of the respondent's ceasing to act *and* the timing of the filing of the Amendment Applications make the Amendment Applications an abuse of process.

(1) The applicants have obtained the final injunctive relief they seek

23 In coming to my conclusion, two decisions are instructive in showing that the applicants have obtained the final injunctive relief they seek. The first decision is the Court of Appeal decision of *TMT Asia Ltd v BHP Billiton Marketing AG (Singapore Branch) and another* [2019] 2 SLR 710 ("*TMT Asia*"). In that case, the respondents made a settlement offer that would have given the appellant all the reliefs it sought in its claim. The appellant did not accept this offer. The respondents then applied to strike out the appellant's claim, on the basis that the continued prosecution of the claim would be an abuse of process due to their offer to settle. The Court of Appeal held that the

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appellant's continued prosecution of the claim was an abuse of the court's process. This is because there was no defect in the respondent's offer which would justify the appellant's refusal to accept it. In particular, the court stated that there was "no practical benefit to be gained from proceeding to trial, with the attendant time needed and the costs to be incurred, given that the Offer would have given [the appellant] all the compensatory reliefs that it sought in the action" (see *TMT Asia* at [38(b)]). However, the court noted that in very special circumstances, a party would be permitted to seek vindicatory relief in the face of an open offer granting it all the reliefs sought without any admission of liability (see *TMT Asia* at [37]).

24 The second decision is the Court of Appeal decision of *Tan Eng Hong v Attorney-General* [2012] 4 SLR 476 ("*Tan Eng Hong*"), which parties made lengthy submissions on. In that case, the Prosecution initially charged the accused under s 377A of the Penal Code (2008 Rev Ed). The accused applied for the court to declare s 377A to be unconstitutional. The Prosecution subsequently substituted the charge under s 377A with a charge under s 294(a) of the Penal Code. The Attorney-General applied to strike out the accused's constitutional challenge. The Court of Appeal dismissed the striking out application because a violation of constitutional rights could occur in the absence of a subsisting prosecution under an allegedly unconstitutional law (see *Tan Eng Hong* at [91] and [110]). I find that the court's holding in *Tan Eng Hong* must be read in light of its unique context, because, as the court explained (at [110]), "[t]he effects of a law can be felt without a prosecution, and to insist that an applicant needs to face a prosecution under the law in question before he can challenge its constitutionality could have the perverse effect of encouraging criminal behaviour to test constitutional issues." This reasoning does not apply with equal force outside the criminal context.

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25 Applied to the present case, *TMT Asia* and *Tan Eng Hong* show that the applicants are not entitled to relief beyond the injunctive relief they had sought, including vindicatory relief. I agree with the respondent that the applicants have not only been offered the relief they seek in OS 704 and OS 666, they have, in fact, already *obtained* that relief. Indeed, the respondent's Managing Partner, Mr Patrick Ang, has confirmed on oath that the respondent will not resume acting for or advising HLT, OTPL, and their liquidators.[16] Accordingly, it is clear that the applicants have obtained the final injunctive relief that they seek. In this regard, it is immaterial that the respondent's disengagement to advise or act is made without any admission to liability. This is because, as the Court of Appeal held in *TMT Asia* (at [37]), there is no need for the respondents to admit to liability to agree to all reliefs sought in the suit. This is especially so where there is no longer any practical benefit for the proceedings to be continued. It is also immaterial that the applicants sought final injunctive relief *before* the respondent's disengagement to advise or act, because the applicants' rights were not violated in the interim period before the respondent's disengagement and after the respondent's disengagement.

(2) The timing of the Amendment Applications shortly after the applicants obtained relief is disingenuous

26 Having established that the applicants have obtained the very relief that they seek in OS 704 and OS 666, I find that their filing of the Amendment Applications shortly thereafter to be disingenuous. In fact, the timing further fortifies my conclusion that the Amendment Applications are not necessary to determine the real issues between the parties. In this regard, the applicants were

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[16] 3rd Affidavit of Patrick Ang dated 17 February 2023 filed in respect of HC/OS 704/2020 and HC/OS 666/2020 ("3rd Affidavit of Patrick Ang") at para 22.

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informed of the respondent's disengagement on 12 September 2022, and they informed the court at the next pre-trial conference on 29 September 2022 that they intended to file the Amendment Applications. The Amendment Applications were eventually filed on 25 October 2022, more than two years after the commencement of OS 704 and OS 666 on 9 July 2020.

27 As a preliminary point, the fact that the Amendment Applications were filed more than two years after the commencement of OS 704 and OS 666 is not determinative of their success. Indeed, as the Court of Appeal held in *Wright Norman and another v Oversea-Chinese Banking Corp Ltd* [1993] 3 SLR(R) 640 (at [25]) citing the House of Lords decision of *Kettleman v Hansel Properties* [1987] AC 189 at 212F, however late the application to amend may be, the application should generally be allowed provided that allowing it will not prejudice the other party. This flows from the trite principle that an amendment which would allow the real issues between the parties to be tried should be allowed subject to penalties on costs and adjournment (see the English Court of Appeal decision of *Cropper v Smith* (1884) 26 Ch D 700). I therefore do not think it is necessarily determinative that the applicants only filed the Amendment Applications more than two years after the commencement of OS 704 and OS 666.

28 However, this does not mean that the timing at which an amendment application is filed is irrelevant. Instead, if the timing reveals that a party has filed an amendment application after all the real issues between the parties have been addressed, the amendment will therefore be unnecessary to determine all the real issues. That can point towards the application being an abuse of process, rendering it liable to be dismissed. This is exactly what I find to have happened in the present case. While the applicants have argued that there was no undue delay in their filing of the Amendment Applications after they were informed

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of the respondent's disengagement, I find that their swift reaction, without delay, is precisely the problem. I make the following points to explain this conclusion.

29 First, like the learned AR, I do not think that the applicants have provided any good explanation as to why the Amendment Applications could not have been brought earlier. While this is by itself not determinative, it does point to the fact that the applicants have always regarded the real issues between the parties to be whether they are entitled to a final injunctive relief against the respondent. Crucially, as I have stated above, the applicants did not, despite making a host of applications including two applications to amend OS 704 and OS 666, indicate at any point that they sustained losses personally or that they would be seeking compensation for any alleged breach of confidence arising from the respondent's conduct. If the applicants believed that the Amendment Applications were necessary to determine the real issues between the parties, they should have made the applications earlier.

30 Although the applicants claim they could only have made the Amendment Applications after the Court of Appeal rendered its decision in *Lim Oon Kuin*, I do not accept their argument, because the issues in the proposed amendments are not new circumstances that arose only after the Court of Appeal's decision.

31 Second, I do not think that the applicants have provided any good explanation as to why the Amendment Applications were brought after the respondent's disengagement gave the applicants precisely the relief that they seek in OS 704 and OS 666. As I mentioned above, the applicants' consistent position over the last three years points to the real issues between the parties being fully addressed. Despite this, very shortly after being informed of the

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respondent's disengagement, the applicants then filed the Amendment Applications, saying that there are now (presumably) further "real issues" between the parties that need to be properly resolved through the proposed amendments.

32 Framed along these points, it is clear that the proposed amendments in the Amendment Applications do not pertain to any "real issues" at all. Rather, the proposed amendments are a reaction to the fact that the real issues, which the applicants have consistently maintained since OS 704 and OS 666 were commenced some three years ago, have been addressed by the respondent's decision to disengage from advising or acting for HLT, OTPL, and their liquidators. I therefore infer that the only reason why the applicants have filed the Amendment Applications is because they realised that OS 704 and OS 666 would otherwise be spent following the respondent's disengagement. The Amendment Applications represent the applicants' unjustified attempt at keeping OS 704 and OS 666 alive for purposes other than to determine the real issues in controversy between the parties. In other words, the Amendment Applications were filed in an abuse of the court's process.

33 For these reasons, I find that the real issues between the parties have been addressed and that the Amendment Applications serve no real purpose in this respect. Instead, the Amendment Applications were filed for other purposes that amount to an abuse of process. This alone is sufficient for me to dismiss the Amendment Applications, but I proceed to provide further reasons to explain my decision to do so.

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The Amendment Applications are not genuinely intended to determine the real issues between the parties

34 I also find additionally that the Amendment Applications are not genuinely intended to determine the real issues between the parties. This is already implicit in my earlier conclusion that the Amendment Applications are not necessary to resolve the real issues between the parties, but I also come to this conclusion on the basis that the applicants have knowingly tried to advance their proposed amendments in OS 704 and OS 666, when it should be patently clear that these amendments are ill-suited for the originating summons process.

(1) The proposed amendments cannot be appropriately dealt with by the originating summons process

35 To begin with, O 5 r 2 of the Rules of Court (2014 Rev Ed) ("ROC 2014") provides that "[p]roceedings in which a substantial dispute of fact is likely to arise shall be begun by writ". In contrast, O 5 r 4(2) of the ROC 2014 provides the circumstances when it would be appropriate to commence an action by way of the originating summons process. O 5 r 4(2) provides as follows:

> Proceedings —
>
> > (*a*) in which the sole or principal question at issue is or is likely to be, one of the construction of any written law or of any instrument made under any written law, or of any deed, will, contract or other document, or some other question of law; or
> >
> > (*b*) in which there is unlikely to be any substantial dispute of fact,
>
> are appropriate to be begun by originating summons unless the plaintiff intends in those proceedings to apply for judgment under Order 14 or for any other reason considers the proceedings more appropriate to be begun by writ.

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36 The cases have been consistent in holding that it is not appropriate to commence an action by the originating summons process when there is a dispute regarding essential facts that cannot be resolved based on affidavits. For example, the Court of Appeal held in *Haco Far East Pte Ltd v Ong Heh Lai Francis* [1999] 3 SLR(R) 959 (at [14]) that the originating summons process would not be appropriate where: (a) there is a dispute regarding essential facts; and (b) the matters pleaded in the originating summons had not been properly framed and the supporting affidavits filed were of no assistance as they did not constitute pleadings. Similarly, the High Court held in *Kamla Lal Hiranand v Lal Hiranand* [2003] 3 SLR(R) 198 (at [8]) that the originating summons process should only be invoked "where the material facts are not in dispute and the matter is one in which the court may make a clear and final order disposing of the dispute between the parties". However, the court also said that "where material facts are disputed, short cuts *via* the originating summons route should be avoided and parties ought properly to begin the action by writ" (at [8]).

37 In the present case, I agree with the learned AR that the fresh reliefs which the applicants seek to introduce by the Amendment Applications are not appropriate to be dealt with by the originating summons process.

38 First, as to the declarations sought in the proposed paragraph 2, it is clear that these will involve disputes of material facts. For example, in so far as one of the declarations sought is that the respondent "received documents, and information, which had the necessary quality of confidence, from the [applicants] and/or the Group Companies, in circumstances importing an obligation of confidence",[17] this will obviously involve the disputed fact of

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[17] Annex A at p 8.

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whether the quality of confidence relates only to the relevant corporate entities or also to the applicants personally. Further, in so far as another of the declarations sought is that the respondent "acted in breach of confidence", this will again obviously involve the disputed fact of whether the respondent misused these documents and information, and if so, whether in its capacity as lawyers for HLT, OTPL, and their insolvency practitioners at the material times.

39 Second, as to the orders sought in the proposed paragraphs 3 to 7 that the respondent be, among others, restrained from using or revealing the allegedly confidential information and/or documents, or procures any other party who received the same from doing so, it is clear that this will involve disputes of material facts. Indeed, this will obviously involve the disputed fact of whether the documents provided had the quality of confidence and were imparted in circumstances importing an obligation of confidence.

40 Third, as to the orders sought in the proposed paragraphs 8 and 9 that the respondent disgorges the fees it received for its representation of the relevant parties and/or pay damages to the applicants owing to a breach of confidence, this will obviously involve disputes of material facts. For example, the parties will surely dispute whether the respondent actually acted in breach of confidence. And even if the respondent had acted in breach of confidence, the parties would certainly dispute whether any detriment was in fact caused to the applicants so as to make the respondent liable in damages. In fact, it makes little sense for a court to make a declaration that a party is liable for breach of confidence and therefore liable to pay damages without being able to ascertain the facts after a proper trial.

41 Accordingly, I conclude that the proposed amendments cannot be appropriately dealt with by the originating summons process.

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(2) The applicants knowingly proceeded with the proposed amendments in OS 704 and OS 666

42 The fact that the proposed amendments cannot be appropriately dealt with by the originating summons process affects the success of the Amendment Applications in two ways. First, in so far as the proposed amendments are inappropriate to be dealt with by the originating summons process, they should be rejected as they would simply perpetuate the problem of inappropriateness when the originating summonses come to be heard eventually. Indeed, a court will disallow an amendment that would later be struck out (see Court of Appeal decision of *Ng Chee Weng v Lim Jit Ming Bryan and another* [2012] 1 SLR 457 at [106]) or is merely technical or trivial.

43 Second, in as much as the applicants proceeded with the proposed amendments in OS 704 and OS 666 despite the fact that they ought to have known of the inappropriateness of such a course of action, this points to the applicants' lack of a genuine intent to determine the real issues between the parties. Indeed, if the applicants really believe that the respondent is acting in breach of confidence and is liable in damages to them, then the applicants ought to know that these issues cannot be adequately dealt with under the originating summons process. Instead, they ought to know that the material disputes of fact will require a trial where the true facts can be properly ascertained.

44 Accordingly, the fact that the applicants have not done this but went ahead with the Amendment Applications further fortifies my conclusion that the Amendment Applications are not genuinely intended to determine the real issues between the parties. Instead, as I have already found above, the Amendment Applications were filed for other purposes that amount to an abuse

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of process. This, either by itself or together with the other reasons given here, would be sufficient for me to dismiss the Amendment Applications.

The Amendment Applications constitute the more specific form of abuse of process laid out in Henderson

45 Finally, I also find that the Amendment Applications constitute the more specific form of abuse of process laid out in *Henderson*, which is premised on an extended doctrine of *res judicata*. For convenience, I will term this the "*Henderson* doctrine".

(1) The applicable law

46 The *Henderson* doctrine has its origin in the statement of Vice Chancellor Sir James Wigram in *Henderson*. Sir James had said this (at 115):

> … [W]here a given matter becomes the subject of litigation in, and of adjudication by, a Court of competent jurisdiction, the Court requires the parties to that litigation to bring forward their whole case, and will not (except under special circumstances) permit the same parties to open the same subject of litigation in respect of matter which might have been brought forward as part of the subject in contest, but which was not brought forward, only because they have, from negligence, inadvertence, or even accident, omitted part of their case. The plea of *res judicata* applies, except in special cases, not only to points upon which the Court was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation and which the parties, exercising reasonable diligence, might have brought forward at the time. …

47 Thus, where a litigant seeks to argue points, which were not previously determined by a court because they were not brought to the court's attention in earlier proceedings when they ought properly to have been raised and argued then, the litigant will not be permitted to argue those points in the absence of special circumstances (see the Court of Appeal decision of *The Royal Bank of*

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Scotland NV (formerly known as ABN Amro Bank NV) and others v TT International Ltd (nTan Corporate Advisory Pte Ltd and others, other parties) and another appeal [2015] 5 SLR 1104 ("*The Royal Bank of Scotland*") at [101]). The *Henderson* doctrine is otherwise known as the "extended" doctrine of *res judicata* because it *extends* cause of action estoppel and issue estoppel beyond cases where the points sought to be argued in later proceedings had actually and already been decided by a court in earlier proceedings between the same parties, to cases where the point was not previously decided because it was not raised in the earlier proceedings even though it could and should have been raised in those proceedings (see *The Royal Bank of Scotland* at [102]). As Sundaresh Menon JC (as he then was) explained in the High Court decision of *Goh Nellie v Goh Lian Teck and others* [2007] 1 SLR(R) 453 ("*Goh Nellie*") (at [19]), the *Henderson* doctrine is essentially a defence of abuse of process, in that the litigant is abusing the court's process by seeking to argue points that it should have, with reasonable diligence, done so in earlier proceedings. Although the concurrent use of the expressions of "*res judicata*" and "abuse of process" may be confusing, as Lord Sumption explains in the UK Supreme Court decision of *Virgin Atlantic Airways Ltd v Zodiac Seats UK Ltd (formerly Contour Aerospace)* [2014] AC 160, they are "overlapping" concepts "with the common underlying purpose of limiting abusive and duplicative litigation", such that there is no difficulty in conceiving of the "extended" forms of cause of action and issue estoppel as being "concerned with abuse of process" while simultaneously being "part of the law of *res judicata*" (see *The Royal Bank of Scotland* at [102]).

48 In deciding whether there has been such an abuse of process, it is instructive to pay heed to Lord Diplock's statement of principle in the House of

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Lords decision of *Hunter v Chief Constable of the West Midlands Police and others* [1982] AC 529 ("*Hunter*") at 536:

> [Abuse of process] concerns the inherent power which any court of justice must possess to prevent [the] misuse of its procedure in a way which … would nevertheless be manifestly unfair to a party to litigation before it, or would otherwise bring the administration of justice into disrepute among right-thinking people. The circumstances in which abuse of process can arise are very varied … It would, in my view, be most unwise … to say anything that might be taken as limiting to fixed categories the kinds of circumstances in which the court has a duty … to exercise this salutary power.

The Court of Appeal in *The Royal Bank of Scotland* held that the inquiry is not a dogmatic one, but a "broad, merits-based judgment which takes account of the public and private interests involved and also takes account of all the facts of the case" (at [104] citing the House of Lords decision of *Johnson v Gore Wood & Co (a firm)* [2002] 2 AC 1 ("*Johnson*") at 31D).

49 Ultimately, as I had suggested in *Tanoto Sau Ian v USP Group Ltd and another matter* [2023] SGHC 106 (at [56]), the court will exercise its discretion so as to "strike a balance between allowing a litigant with a genuine claim to have his day in court and ensuring that the litigation process would not be unduly oppressive to the defendant". In this regard, the court "will be mindful of the considerations which led a claimant to act as he did" (see the Court of Appeal decision of *Lim Geok Lin Andy v Yap Jin Meng Bryan and another appeal* [2017] 2 SLR 760 at [44]). In exercising this discretion, factors that a court can take into account include: (a) whether the later proceedings are in substance nothing more than a collateral attack upon the previous decision; (b) whether there is fresh evidence that warranted re-litigation; (c) whether there were *bona fide* reasons why an issue that ought to have been raised in the earlier action was not; and (d) whether there are some other special circumstances that justify allowing the case to proceed (see *Goh Nellie* at [53]).

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50 In the present case, a question arises as to whether the *Henderson* doctrine can apply within the same litigation. As the parties rightly acknowledge, the doctrine is traditionally applied in situations where there has been successive litigation. This is because it really only makes sense to speak of any "extended" doctrine of *res judicata*, in the case where one is considering if a litigant is precluded from bringing up points in a *separate* matter, when the original matter had already been concluded. That said, it needs to be recalled that the *Henderson* doctrine is ultimately founded on the court acting to prevent its process from being abused. As such, taking the statement in *Hunter* to the effect that "[t]he circumstances in which abuse of process can arise are very varied" (see *Hunter* at 536), I do not see why the *Henderson* doctrine cannot apply within the same litigation, where a litigant seeks to introduce new points at a late stage of proceedings when it ought to have done so earlier.

51 This is also consistent with the broader policy behind the *Henderson* doctrine. As Lord Bingham of Cornhill explained in *Johnson* (at 31), the underlying public interest of the *Henderson* doctrine is that "there should be finality in litigation and that a party should not be twice vexed in the same matter", and "[t]his public interest is reinforced by the current emphasis on efficiency and economy in the conduct of litigation, in the interests of the parties and the public as a whole" (see also the High Court decision in *Antariksa Logistics Pte Ltd and others v Nurdian Cuaca and others* [2018] 3 SLR 117 at [82]). In my view, this same underlying public interest exists whether a litigant is seeking to raise new points in new proceedings or within the same litigation. Further, the *Henderson* doctrine has been applied to a situation where the first action culminated in a settlement – rather than a judgment – *because* of this same underlying public interest (see the High Court decision *Venkatraman Kalyanaraman v Nithya Kalyani and others* [2016] 4 SLR 1365 at [29]–

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[33]).This fortifies my view that the *Henderson* doctrine may be applied outside the context of separate proceedings, as long as it is consistent with the public interest behind the doctrine.

52 Furthermore, there are a number of foreign cases which have applied the *Henderson* doctrine within the same litigation, which I will proceed to discuss. I begin with the English Court of Appeal decision of *Tannu v Moosajee and another* [2003] EWCA Civ 815 ("*Tannu*"), where the claimant sought to introduce a new point at the taking of accounts stage. The claimant could have raised the point at trial but did not do so. The defendant argued that, pursuant to the *Henderson* doctrine, the claimant should be prevented from putting forward a new point at the assessment stage of the existing proceedings. The court, comprising Mummery, Arden, and Dyson LJJ, did not agree with the defendant's argument on the facts. However, Arden LJ suggested (at [40]) that "while it may be unusual to apply the principle in *Henderson v Henderson* in relation to separate stages of the same litigation, it is not conceptually impossible".

53 Later, in the English High Court decision of *Seele*, Coulson J, referring to *Tannu*, held (at [27]) that "there is no reason in principle why *Henderson* abuse should not be applicable, just like issue estoppel, to the later stages of the same action". More specifically, the learned judge said this (at [107]):

> Again, I accept that, where certain issues are dealt with by the court in advance of others, genuine mistakes may occur, where it would be unfair and unreasonable to prevent one party from raising an issue on the merits which, for whatever reason, has not been the subject of a clear determination before. *Tannu* and *Aldi Stores* are good recent examples of such a case. *But at the same time, the court should be astute to prevent a claiming party from putting its case one way, thereby causing the other side to incur considerable expense, only for the claiming party to lose and then come up with a different way of putting the same case, so as to begin the process all over again.* The Civil Procedure

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> Rules are designed to avoid the litigation equivalent of death by a thousand cuts. …
>
> [emphasis added]

As can be seen from this passage, while a court must never be too anxious to find that there has been an abuse of process pursuant to the *Henderson* doctrine simply because a litigant seeks to raise a new point later on in the proceedings, this has to be balanced against the other party's interest in not being put in a different course altogether.

54 Next, in the English High Court decision of *Gruber and another v AIG Management France, SA and another* [2019] EWHC 1676 (Comm) ("*Gruber*"), Baker J considered the claimants' application to strike out a defence on the basis of, among others, the *Henderson* doctrine. The learned judge summarised the "body of authority", which included *Johnson*, *Tannu*, and *Seele*, and held as follows (at [11(g)]):

> The doctrine is not restricted to cases where the alleged abuse comes in a separate, later action. It is possible to conclude that a claim or defence not initially raised ought properly, if it was to be raised at all, to have formed *part of an earlier stage within a single action* at which at least some matters were finally determined.
>
> [emphasis added]

55 More pertinently, in the English High Court decision of *Kensell v Khoury and another* [2020] EWHC 567 (Ch) ("*Kensell*"), Zacaroli J was concerned with whether the *Henderson* doctrine applied to a claimant who sought to amend her claim after having an alternative claim struck out. The learned judge held that (at [48]), in so far as the point of principle is concerned, the existence of a broad discretion in an amendment application should not preclude the application of the *Henderson* doctrine within the same action. Indeed, the learned judge further explained that if a new claim would amount to

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an abuse of process, then that new claim must be disallowed. This is despite the new claim being introduced in an amendment application, in which the court has a broad discretion to allow or disallow. I respectfully agree with these conclusions. In my view, while a court should retain a broad discretion to allow (or disallow) amendments no matter how late those are filed in an existing proceeding, the court must also recognise when a litigant is clearly trying to abuse the court's process by introducing amendments in circumstances that can fairly be said to be vexing the counterparty and causing the counterparty to take a completely different course of action. In this regard, the factors that Menon JC identified in *Goh Nellie* (see [49] above) can be usefully adapted to fit the situation where the *Henderson* doctrine is being applied in the same litigation as opposed to across separate proceedings.

56 The final English decision which I consider is the English High Court decision of *Union of India v Reliance Industries Ltd and another* [2022] EWHC 1407 (Comm), where Sir Ross Cranton was faced with the question of whether the *Henderson* doctrine was applicable to arbitration proceedings. The learned judge, after considering *Tannu*, *Seele*, *Gruber*, and *Kensell*, held as follows (at [68]):

> … [I]t is obvious that there is substantial judicial support for the proposition that the *Henderson v Henderson* principle can apply to all stages of the same proceedings, to defences as well as claims, and in an arbitration as well as litigation. The scope of a remission in arbitration is not limitless. The basis of the *Henderson v Henderson* principle is to limit abusive and duplicative proceedings, however they might arise. Finality is a goal in both court and arbitral proceedings.

57 Consistent with the decisions of English courts, the Malaysian Court of Appeal in *Metreco Industries Sdn Bhd v Muhammad Fadhil bin Ab Wahid and another appeal* [2019] 12 MLJ 164 held that the *Henderson* doctrine could apply within the same litigation. Yusof JCA cited the decision by the Ipoh High

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Court in *Government of Malaysia v Dato' Chong Kok Lim* [1973] 2 MLJ 74 (at [37]):

> … The principle of res judicata applies also as between two stages in the same litigation to this extent that a court, whether the trial court or a higher court having. [*sic*] at an earlier stage decided a matter in one way will not allow the parties to re-agitate the matter again at a subsequent stage of the same proceedings.
>
> *A decision given by a court at one stage on a particular matter or issue is binding on it at a later stage in the same suit or in a subsequent suit (see Peareth v Marriot* [1883] 22 Ch D 182, …
>
> [emphasis in original]

(2) The Amendment Applications seek to raise points that ought to have been raised earlier, albeit in the same litigation

58 With the above principles in mind, I come to the present case. First, as is clear from *Kensell*, the *Henderson* doctrine can apply to applications to amend originating summonses. It must be possible for a court to conclude that an amendment application is taken out to abuse the court's process. More specifically, it must be possible for a court to recognise that amendments which seek to introduce new points arising from the same facts, which ought to have been introduced much earlier with reasonable diligence, are taken out as an abuse of the court's process.

59 Second, while the applicants claim that the Amendment Applications introduce "real issues" to be resolved between the parties, it is clear that these issues are based on the *same set* of underlying facts as when OS 704 and OS 666 were commenced three years ago. I find that the applicants ought to have raised these issues at a much earlier stage, especially since, unlike *Kensell*, where the claimant's belated application to amend was caused by incompetent legal advice, there is no suggestion in the present case that the applicants were improperly advised and were unaware of the underlying facts. Moreover, as I

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alluded to above, the applicants have consistently, until the Amendment Applications, maintained that their sole interest in OS 704 and OS 666 was to seek final injunctive relief against the respondent.

60 In sum, the circumstances in which the Amendment Applications have been taken out point to them being a reaction to the respondent's disengagement with HLT and OTPL, as well as their liquidators. But rather than being a reaction premised on new underlying facts, of which there is none, it is clear that the applicants are seeking to preserve OS 704 and OS 666 for no other good reason than to vex the respondent. This was all the more so when it must have become clear to the applicants that OS 704 and OS 666, in their present form, would have no other reason to continue.

Summary in relation to the Amendment Applications

61 In summary, I find that the applicants have taken out the Amendment Applications as an abuse of the court's process and were calculated to vex the respondent with pointless litigation founded on underlying issues that have remained the same since they commenced OS 704 and OS 666 three years ago. While the respondent suggests that the applicants have taken out the Amendment Applications to fish for information and documents to shore up their defences in other related proceedings brought against them, I do not need to make this finding for present purposes. Instead, for all of the reasons above, I affirm the learned AR's decision in relation to the Amendment Applications and dismiss RA 90 and RA 92.

The Striking Out Applications

62 I turn then to the Striking Out Applications on the premise that OS 704 and OS 666 are not amended and remain in their present form. It bears repeating

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that, in their present forms, OS 704 and OS 666 each contains only one substantive prayer for final injunctive relief against the respondent.

The applicable law

63 The relevant law in relation to striking out pursuant to O 18 r 19(1)(*d*) of the ROC 2014 is not in dispute. In this regard, O 18 r 19(1)(*d*) provides as follows:

> **Striking out pleadings and endorsements (O. 18, r. 19)**
>
> **19.**—(1) The Court may at any stage of the proceedings order to be struck out or amended any pleading or the endorsement of any writ in the action, or anything in any pleading or in the endorsement, on the ground that —
>
> …
>
> (*d*) it is otherwise an abuse of the process of the Court,
>
> and may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

64 More specifically, the Court of Appeal in *Gabriel Peter & Partners (suing as a firm) v Wee Chong Jin and others* [1997] 3 SLR(R) 649 explained the ambit of the "abuse of process" ground under O 18 r 19(1)(*d*) as follows (at [22]):

> The term, "abuse of the process of the Court", in O 18 r 19(1)(*d*), has been given a wide interpretation by the courts. It includes considerations of public policy and the interests of justice. This term signifies that the process of the court must be used *bona fide* and properly and must not be abused. The court will prevent the improper use of its machinery. It will prevent the judicial process from being used as a means of vexation and oppression in the process of litigation. … A type of conduct which has been judicially acknowledged as an abuse of process is the bringing of an action for a collateral purpose …

65 There would therefore be an abuse of process if a claimant knowingly continues his case when there is no longer any practical reason to do so.

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Similarly, albeit in a specific context, if a claimant in a minority oppressive suit rejects a reasonable offer to buy her out that addresses all of her concerns, that may amount to an abuse of process because the claimant is, in effect, wasting the court's time by going through a full trial to arrive at the same outcome as if she were to accept the buy-out offer at the outset (see the High Court decision of *Leong Quee Ching Karen v Lim Soon Huat and others* [2022] SGHC 309 at [28]).

My decision: the Striking Out Applications should be allowed subject to the appropriate undertaking from the respondent

66 In my judgment, the Striking Out Applications should, in principle, be allowed. This is because, for the reasons I have already canvassed, given the respondent's disengagement from advising or acting for HLT, OTPL, and their liquidators, the applicants have obtained the very relief that they seek in OS 704 and OS 666. It bears repeating that prayer 1 of OS 704 (of which OS 666 is similarly framed) provides that:

> Rajah & Tann Singapore LLP ("**R&T**") be restrained, whether acting by their partners, officers, servants, or agents, or any of them, from advising, and acting for the Applicant in HC/OS 417/2020 ("**Company**"), and/or the interim judicial managers, and/or the judicial managers, and/or the liquidators of the Company; …

67 By any interpretation, this very prayer has been met by the respondent's disengagement. This remains even if the respondent has done so on a without admission of liability basis. As such, the applicants' insistence in continuing with OS 704 and OS 666 is plainly an abuse of process in as much as even if the applicants ultimately prevail in them after the full court process is played out, the outcome would be identical as if the applicants accepted the respondent's disengagement and offer to pay costs of the proceedings on a

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without liability basis now. For this reason alone, I conclude that the Striking Out Applications should, in principle, be allowed.

68 That being said, I share the learned AR's view that it may not be apt to strike out OS 704 and OS 666 entirely if the very basis of the respondent's disengagement is founded on an affidavit sworn by Mr Patrick Ang for those proceedings.[18] It is certainly arguable that if OS 704 and OS 666 were struck out, the very basis of the respondent's disengagement, founded on an affidavit filed for those proceedings, would similarly fall away and the applicants would find themselves without any relief. This is not to suggest that I doubt the respondent's genuine intent in keeping to its promises, but it, being in the business of the law, would no doubt understand the importance of a legally enforceable commitment.

69 In this regard, I observe that the respondent has provided an undertaking on 8 May 2023 in a form that the applicants have accepted, and to the effect that it would not advise or act for HLT and OTPL, as well as their liquidators. On the basis of this undertaking, I am satisfied that the applicants have obtained a legally enforceable commitment from the respondent in the terms of prayer 1 of OS 704 and OS 666. Accordingly, for the reasons given above, I allow the Striking Out Applications and dismiss the appeals in RA 91 and 93.

Conclusion

70 For all the reasons above, I dismiss all four appeals before me, *viz*, RA 90, RA 91, RA 92, and RA 93. It remains for me to thank all counsel for their helpful submissions.

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[18] 3rd Affidavit of Patrick Ang at para 22.

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71 Unless the parties are able to agree on the appropriate costs order, they are to file their written submissions on this issue, limited to no more than seven pages, within 14 days of this decision.

Goh Yihan
Judicial Commissioner

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Lok Vi Ming SC, Pak Waltan, Zhuang Wenxiong and Wong Xiao Wei (LVM Law Chambers LLC) for the respondent in OS 704/2020 and OS 666/2020.

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