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

[2023] SGHC 36

Suit No 1015 of 2021 (Registrar's Appeal No 331 of 2022)

Between

JTC Corporation

…Appellant

And

Hot Spring Stone Pte Ltd

… Respondent

Attorney-General

...Intervener

EX TEMPORE JUDGMENT

[Statutory Interpretation] — [Construction of statute] — [Purposive approach]
[Statutory Interpretation] — [Interpretation Act] — [Purposive approach]

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JTC Corporation
v
Hot Spring Stone Pte Ltd
(Attorney-General, intervener)

[2023] SGHC 36

General Division of the High Court — Suit No 1015 of 2021 (Registrar's Appeal No 331 of 2022)
Kwek Mean Luck J
15 February 2023

16 February 2023

Kwek Mean Luck J:

Introduction

1 During the COVID-19 pandemic, the Government introduced rental relief measures through Part 2A of the COVID-19 (Temporary Measures) Act 2020 ("CTMA") to help mitigate the impact of the pandemic on businesses who were lessees and licensees of non-residential properties. Hot Spring Stone Pte Ltd ("Hot Spring") was one such business.

2 Hot Spring had leased a non-residential property ("the Premises") from JTC Corporation ("JTC"). Part 2A of the CTMA incorporates the definition of "owner" as set out in the Property Tax Act (Cap 254, 2005 Rev Ed) ("PTA"), *per* s 19B(2) of the CTMA. Pursuant to this definition, Hot Spring received, as

"owner" of the Premises, rental relief in the form of a cash grant amounting to $123,360 from the Inland Revenue Authority of Singapore ("the IRAS") under s 19D(1) of the CTMA. The question which arises in this appeal is whether Hot Spring is also entitled to receive a further two months of rental waiver from JTC under ss 19H and/or 19J of the CTMA, amounting to $95,467.62, despite receiving the cash grant of $123,360.

3 This question raises the legal issue of whether a deemed "owner" of a property who receives a *cash grant* for rental relief under s 19D(1) of the CTMA is also entitled to be regarded as a "tenant" under ss 19H and 19J of the CTMA for the purposes of claiming rental relief in the form of a *rental waiver*.

4 In the hearing below for HC/SUM 762/2022 ("SUM 762"), the Assistant Registrar ("the AR") recognised that allowing Hot Spring to receive both the cash grant from the IRAS and the rental waiver from its landlord, JTC, would effectively result in Hot Spring receiving a windfall or a double subsidy. This, the AR observed, was incongruous with the intention of Parliament. Notwithstanding, the AR found that, on the ordinary meanings of ss 19H and 19J of the CTMA, Hot Spring, as a tenant, was also entitled to receive two months of rental waiver from JTC, despite Hot Spring having received rental relief in the form of the cash grant under s 19D(1) of the CTMA. Thus, while the AR gave summary judgment in SUM 762 in favour of JTC's application for rental arrears owed by Hot Spring, the AR also reduced the quantum awarded to JTC by the amount of $95,467.62, constituting two months of rent.

5 JTC appealed against the AR's decision insofar as the AR found that Hot Spring was entitled to two months' rental waiver and deducted this sum from the payable rental arrears. The Attorney-General ("the AG") also

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intervened in this appeal so that the AG's views on the interpretation of ss 19H and 19J of the CTMA could be heard.

6 In my judgment, on proper statutory interpretation, a deemed "owner" who receives a cash grant for rental relief under s 19D(1) of the CTMA is *not* a "tenant" for the purposes of ss 19H and 19J of the CTMA, and is consequently not entitled to receive rental waiver under those provisions. The effect of this finding is that Hot Spring, having already received the cash grant, is not entitled to a further rental relief in the form of two months' rental waiver from JTC under ss 19H and/or 19J of the CTMA. The appeal is hence allowed. I set out my reasons below.

Principles of Statutory Interpretation

7 Purposive interpretation of the written law is provided for by s 9A(1) of the Interpretation Act 1965 (2020 Rev Ed) ("IA"), which states that:

> In the interpretation of a provision of a written law, an interpretation that would promote the purpose or object underlying the written law (whether that purpose or object is expressly stated in the written law or not) is to be preferred to an interpretation that would not promote that purpose or object.

8 The three-step framework for purposive interpretation under s 9A of the IA was set out by the Court of Appeal in *Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 ("*Tan Cheng Bock*") at [37] ("the *Tan Cheng Bock* Framework"):

> (a) First, ascertain the possible interpretations of the provision, having regard not just to the text of the provision but also to the context of that provision within the written law as a whole.

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(b) Second, ascertain the legislative purpose or object of the statute.

(c) Third, compare the possible interpretations of the text against the purposes or objects of the statute.

Additionally, the interpretation which furthers the purpose of the written text should be preferred to the interpretation which does not: *Tan Cheng Bock* at [54(c)].

Step 1: Text and context of ss 19H and 19J CTMA

9 The first step of the *Tan Cheng Bock* Framework is to ascertain the possible interpretations of ss 19H and 19J of the CTMA, having regard to the text and the context of these provisions within the written law as a whole. It is thus necessary to examine the statutory framework in which ss 19H and 19J of the CTMA are situated.

10 Sections 19H and 19J are found within Part 2A of the CTMA, which introduces the COVID-19 rental relief and related measures. Section 19A of the CTMA explains that the purpose of Part 2A of the CTMA is to "mitigate the impact of COVID-19 events on eligible lessees and licensees of non-residential properties by providing them relief from the payment of rent and licence fees under their leases and licences in specified situations."

Whether an "owner of a prescribed property" who obtains a cash grant under s 19D(1) can be a "tenant" and receive rental waiver under ss 19(H)(1) and 19J(1) CTMA

11 The rental relief process starts with the notice of a cash grant from the IRAS, pursuant to ss 19D(1) and 19F(1) of the CTMA. I set out these provisions

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below, with the definitions of certain terms as defined in s 19B(1) of the CTMA in square brackets:

> 19D(1) The Authority [*ie.* IRAS] may disburse to the owner of a prescribed property a cash grant pertaining to a PTO [*ie*, a tenant of any prescribed property who satisfies the prescribed criteria and who is an occupier of the property] of that property under the terms of the public scheme [*ie*. the public scheme for the giving of cash grants to mitigate rental costs, that is part of the Budget Statement of the Government dated 26 May 2020].

> 19F(1) Before the Authority disburses to the owner of a prescribed property a cash grant pertaining to a PTO of that property under the terms of the public scheme, the Authority must issue to the owner a notice of cash grant.

12 Section 19D(1) states that the IRAS may disburse the rental relief cash grant to the "owner of a prescribed property." Section 19B(2) of the CTMA defines an "owner" as "having the meaning given by section 2(1) of the Property Tax Act (Cap. 254) and includes a person that is deemed to be an owner of the property under any provision of that Act." Section 2(1) of the PTA in turn provides that an "owner" includes the "person whose name is entered in the Valuation Lists," that is, the person who is liable for tax on the property.

13 In the context of this case, this means that even though Hot Spring is contractually JTC's tenant under the lease agreement, it can still be regarded as an "owner of a prescribed property" for the purposes of receiving a notice of cash grant under s 19F(1) of the CTMA and for disbursement of the cash grant to it under s 19D(1) of the CTMA.

14 Hot Spring received from the IRAS a notice dated 7 August 2020 ("the IRAS Notice") informing Hot Spring that it would be receiving a rental relief cash grant of $123,360. This sum was disbursed directly to Hot Spring on 11 August 2020. In giving Hot Spring the IRAS Notice and the cash grant, the

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IRAS treated Hot Spring as the "owner" of the Premises for the purposes of obtaining the cash grant under ss 19D(1) and 19F(1) of the CTMA.

15 According to s 19F(7) of the CTMA, where a statutory board is the owner of a prescribed property, the relevant Authority may issue a "nominal notice" to the statutory board to enable rental relief under Part 2A of the CTMA, notwithstanding there being no cash grant disbursed to the statutory board. It is undisputed that in the present case, JTC, despite being Hot Spring's landlord, did not receive any nominal notice from the IRAS pursuant to s 19F(7) of the CTMA. Accordingly, JTC was not treated as the "owner" of the Premises. It is noteworthy that had the IRAS issued a "nominal notice" to JTC as the "owner," Hot Spring would only have been entitled, as a "tenant," to two months of rental relief, in the amount of $95,467.62, which is less than the $123,360 cash grant that it received from the IRAS by being treated as the "owner" of the Premises.

16 Hot Spring contends in the appeal that, in addition to the cash grant, it is also entitled to rental relief in the form of JTC waiving two months of rent, either under ss 19H(1)(a) or 19J(1)(a) of the CTMA, or under both provisions. As regulation 11(1) of the COVID-19 (Temporary Measures) (Rental and Related Measures) Regulations 2020 provides for 2 months of rental relief, it does not appear that Hot Spring needs to rely on s 19J(1)(a) of the CTMA or both ss 19H(1)(a) and 19J(1)(a) of the CTMA.

17 However as both provisions are materially identical, with the main difference being that the relief under s 19H(1) is called "rental relief" in the CTMA while the relief under s 19J(1) is called " additional rental relief" in the CTMA, I will proceed with the analysis of both provisions. Given that they are materially identical, it is sufficient that I set out below s 19H(1)(a) of the CTMA:

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> 19H(1) … on the date the owner of a prescribed property receives a notice of cash grant pertaining to a PTO of that property, the following (called in this Division the rental relief) are treated as waived:
>
> > (a) the prescribed amount of rent payable for a prescribed period in the relevant period under a lease agreement for the property between each tenant of that property in the PTO chain and that tenant's landlord;

18 Hot Spring submits that the effect of ss 19H(1)(a) and 19J(1)(a) is that JTC is required by the CTMA to waive two months' rent because JTC is the landlord in the PTO chain. The phrase "PTO chain" is defined in s 19B(1) of the CTMA as "a chain of landlords and tenants of that property ending with the PTO." Hot Spring submits that this definition shows that the chain is defined by reference to the tenant and the chain of tenancies upstream, and such a definition would include Hot Spring's landlord, JTC.

19 Both JTC and the AG submit that the "owner of a prescribed property" who receives a cash grant under s 19D(1) of the CTMA cannot also be a "tenant" under ss 19H(1) and 19J(1) of the CTMA and hence cannot claim rental relief under the latter provisions.

20 JTC submits that s 19H(1)(a) read with s 19B of the CTMA only makes clear that a PTO chain ends with the PTO. These provisions do not go so far as to suggest that the PTO chain must start with, or always starts with, the ultimate landlord, for the purposes of 19H(1)(a) of the CTMA. JTC submits that, on the contrary, the language of ss 19H(1)(a) and 19J(1)(a) of the CTMA establishes a downstream flow of rental relief that starts with the "owner of a prescribed property" receiving a notice and disbursement of cash grant, with tenants downstream receiving rental waiver as their rental relief.

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21 The AG submits that ss 19D(1) and 19F(1) read with ss 19H(1) and 19J(1) of the CTMA evince a statutory framework where an "owner" that receives a cash grant under s 19D(1) cannot claim rent from its tenant, and, similarly, this tenant cannot claim rent from its sub-tenant and so on down the chain of landlords and tenants, for the prescribed period. Thus, the benefit of the cash grant is "passed down" the chain of landlords and tenants through rental waivers and additional rental waivers until it reaches the final tenant. The "owner" is hence distinct from the "tenant" that claims rental waivers under ss 19H(1) and 19J(1) of the CTMA.

22 I note that while "PTO chain" is defined as "ending with the PTO," the definition of "PTO chain" does not set out where the chain starts. Hence, the phrase "PTO chain" in itself, does not assist in clarifying whether "owner" is distinct from "tenant" in ss 19H(1) and 19J(1) of the CTMA.

23 There is nothing on the face of ss 19H(1) and 19J(1) of the CTMA that excludes the possibility that an "owner" could also be a "tenant" for the purposes of claiming rental waiver relief. At the same time, there is nothing on the face of these provisions that excludes the possibility that an "owner" cannot be a "tenant" claiming rental waiver relief under those provisions.

24 However, the possible interpretations have to be ascertained both on the text of the provision as well as the context of the provisions within the written law as a whole. In this respect, there are two other provisions of the CTMA that lend support to the interpretation that an "owner" cannot be a "tenant" claiming rental waiver relief under ss 19H(1) and 19J(1) of the CTMA.

25 First, s 19D(1) of the CTMA states that the disbursement of the cash grant under that provision would be "under the terms of the public scheme."

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"[P]ublic scheme" is defined in s 19B(1) of the CTMA as "the public scheme for the giving of cash grants to mitigate rental costs, that is part of the Budget Statement of the Government dated 26 May 2020." I will refer to the Budget Statement dated 26 May 2020 referenced in the preceding definition as "the Budget Statement."

26 Hot Spring submits that because the COVID-19 (Temporary Measures) (Amendment) Act 2020 (No 29 of 2020) ("CTMA Amendment Act"), which introduced Part 2A of the CTMA, was passed on 5 June 2020 while the Budget Statement was dated 26 May 2020, and hence preceded the CTMA Amendment Act, it is wrong to rely on the Budget Statement to understand the legislative purpose of Part 2A of the CTMA.[1]

27 I am unable to agree with this. The fact that the Budget Statement preceded the CTMA Amendment Act does not in any way reduce the former's relevance. The Budget Statement sets out the Government's policy intent for the rental relief measures in Part 2A of the CTMA that were introduced through the CTMA Amendment Act. Sections 19D(1) and 19B(1) of the CTMA specifically state that the rental relief cash grants are to be disbursed under the terms of the public scheme "that *is part of the Budget Statement*" [emphasis added]. The Budget Statement should hence be taken into account to understand the legislative purpose of the rental relief measures. In fairness to the AR, the relevance of the Budget Statement and its incorporation into the CTMA do not appear to have been placed before the AR.

28 Page 3 of Annex B-2 of the Budget Statement states that the rental waivers "do not apply to tenants who pay property tax" and that "[t]enants/

[1] Respondent Written Submissions for HC/RA 331/2022 dated 20 January 2023 at para 28.

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lessees paying property tax will be receiving the Government cash grant instead." In other words, the "terms of the public scheme" under s 19D(1) of the CTMA clearly exclude an entity from receiving both a cash grant under s 19D(1) of the CTMA and a rental waiver under ss 19H(1) and 19J(1) of the CTMA.

29 Second, the notice provisions in s 19F of the CTMA also support the interpretation that an "owner" cannot be a "tenant" claiming rental waiver relief under ss 19H(1) and 19J(1) of the CTMA.

30 Where the owner of the prescribed property who received notice of the cash grant, is not the PTO's landlord, s 19F(3) and (4) of the CTMA requires the owner to serve a copy of the notice on its tenant, and, if relevant, for this tenant to then serve a copy of the notice to other sub-tenants further down the chain:

> (3) The owner must, within a prescribed time after the owner's receipt of the notice of cash grant, serve a copy of the notice —
>
> > (*a*) where the owner is the PTO's landlord — on the PTO and such other person as may be prescribed; or
> >
> > (*b*) where the owner is not the PTO's landlord — on the owner's tenant in the PTO chain [*ie*. a chain of landlords and tenants of that property ending with the PTO], and such other person as may be prescribed."
>
> (4) A tenant who is served a copy of the notice of cash grant under subsection (3) or this subsection must, within a prescribed time after the tenant's receipt of the copy of notice, serve a further copy of the notice —
>
> > (*a*) where the tenant is the PTO's landlord — on the PTO and such other person as may be prescribed; or
> >
> > (*b*) where the tenant is not the PTO's landlord — on the tenant of the first mentioned tenant that is part of the PTO chain, and such other person as may be prescribed.

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It is undisputed that at the material time, Hot Spring had no known tenants. There was thus no need for Hot Spring to further serve a copy of IRAS Notice on any other party under the CTMA.

31 Notwithstanding, the effect of the notice provisions in s 19F of the CTMA is that, from the "owner" down to the sub-tenant(s) of any landlord in the PTO chain, all tenants (and sub-tenants) are made aware that the "owner" has received a cash grant. It is clear that the purpose of the notice is to inform the tenant or sub-tenants that the "owner" (or its landlord) in the PTO chain has received notice of the cash grant. This notifies the tenants in the PTO chain that rental waiver relief under ss 19H(1) and 19J(1) of the CTMA is triggered.

32 Notably, there is no provision in s 19F of the CTMA requiring the "owner" to give notice to its landlord, if any. This supports JTC and the AG's submission that ss 19D(1) and 19F(1) read with ss 19H(1) and 19J(1) of the CTMA provide for the rental relief process to start with a cash grant being disbursed to the "owner" while downstream tenants (and sub-tenants) claim rental waivers from this "owner."

33 Hence, taking into consideration the text of ss 19H(1) and 19J(1) of the CTMA as well as the context of these provisions within Part 2A of the CTMA as a whole, I find that the likely and plausible interpretation is that an "owner" is distinct from and cannot also be the "tenant," and thus an "owner of a prescribed property" who receives rental relief in the form of a cash grant cannot also claim rental waiver as a "tenant" under ss 19H(1) and 19J(1) of the CTMA.

Step 2: Legislative purpose of Part 2A CTMA

34 I have in any event also analysed on the basis that there may be two possible interpretations ss 19H(1) and 19J(1) of the CTMA, as advocated by

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Hot Spring and submitted for by JTC and the AG, and considered the analysis of the statutory provisions through the second and third steps of the *Tan Cheng Bock* Framework.

35 The second step of the *Tan Cheng Bock* Framework for purposive interpretation is to ascertain the legislative purpose of the statute.

36 All parties relied on the explanations of the Minister for Law made in a Parliamentary Debate sometime after the release of the Budget Statement (Singapore Parliamentary Debates, Official Report (5 June 2020), vol 94 (Mr K Shanmugam, Minister for Law)), albeit in support of different propositions. The key extracts are set out below:

> The Bill will require landlords to match what the Government is doing. They will be required to grant qualifying SME commercial tenants an additional waiver of two months' rental, of base rent; and qualifying SME industrial and office tenants an additional one month's waiver of base rent.
>
> This additional relief will apply to SME tenants who have suffered at least a 35% drop in average monthly revenue in April and May 2020, compared to the same period in 2019. …
>
> …
>
> What we decided to do was … [to] put in place a framework that ensures that the assistance reaches the intended beneficiaries who are the actual company or business that is using the premises for business. Conceptually, … the Bill does not require cash to move from the Government to the property owner to the actual tenant or subtenant. What it does is put in place a framework of rental waivers mandated by law.
>
> … **Automatically, the subtenant does not have to pay his intermediate landlord, and the intermediate landlord does not have to pay the ultimate landlord**. …
>
> … **IRAS will give a notification of cash grant to the owner of the premises [*sic*] because the owner of the premises has already received the money, everyone else does not have to pay rental.** …
>
> [emphasis added]

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37 Hot Spring relies on the speech to submit that Parliament focused only on the landlord and tenant in respect of rental waivers, and that Parliament's intention was that, once the property eligible for relief is identified, the "PTO chain" starts from the lowest tenant in the "PTO chain" upwards all the way to the final landlord in the chain. Accordingly, since JTC is the ultimate landlord, rental relief under ss 19H and 19J of the CTMA must start from JTC and flow downwards to Hot Spring.

38 However, there is nothing in the Minister's speech that supports Hot Spring's submission. The mention of "ultimate landlord" in the extract of the Minister's speech above was made with reference to the rental relief starting with the cash grant to the "owner" of the premises. Contrary to Hot Spring's submission, the Minister's speech is clear that, because the "owner of the premises has already received the [cash grant]," "everyone else does not have to pay rental" as they, distinct from the owner, will benefit from the framework of rental waivers mandated by law. The Minister's speech thus reinforces what is stated in Page 3 of Annex B-2 of the Budget Statement – that Parliamentary intention was to exclude an entity that receives a cash grant under s 19D(1) of the CTMA from receiving a rental waiver under ss 19H(1) and 19J(1) of the CTMA.

Step 3: Comparing possible interpretations against purpose of Part 2A CTMA

39 Step 3 of the Tan Cheng Bock Framework for purposive interpretation is to compare the possible interpretations of ss 19H(1) and 19J(1) of the CTMA against the purpose of Part 2A of the CTMA. The interpretation which furthers the purpose of the written text is to be preferred to the interpretation which does not: *Tan Cheng Bock* at [36] and [54(c)] and s 9A(1) of the IA.

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40 It is clear from the above that Parliament never intended to confer both a cash grant and rental waiver relief on an "owner" who is also a "tenant." An eligible entity is entitled to only one form of rental relief. Part 2A of the CTMA was intended to operate through the provision of a cash grant to the "owner" of a property and for the benefit of this cash grant to then cascade downwards to its tenants and sub-tenants through the form of rental waiver.

41 Applying this, the only interpretation out of the two possible interpretations identified above, that is in line with the purpose of Part 2A of the CTMA, is that an entity that has received a cash grant as "owner" under s 19D(1) of the CTMA cannot also receive a rental waiver and additional rental waiver as "tenant" under ss 19H(1) and 19J(1) of the CTMA in respect of the same property. Consequently, Hot Spring having received a cash grant as "owner" of the Premises under s 19D(1) of the CTMA, cannot also claim for rental waiver as a "tenant" of the same Premises under ss 19H(1) and 19J(1) of the CTMA.

Conclusion

42 Hot Spring submitted that it has a *bona fide* defence and that there is a triable issue that renders this case unsuitable for summary determination - namely, the issue relating to whether Hot Spring is entitled to its counterclaim for two months of rental relief in the amount of $95,467.62. This is a purely legal issue involving the interpretation of ss 19H(1) and 19J(1) of the CTMA, which has been resolved here. Beyond this, Hot Spring has not identified any triable issue that arises such that the dispute should nevertheless go to trial.

43 For the reasons above, I allow the appeal. Summary judgment is granted in favour of JTC for the full sum claimed in its prayer 1(b) of HC/SUM

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762/2022 without reduction of the value of Hot Spring's rental relief counterclaim.

Kwek Mean Luck
Judge of the High Court

Tan May Lian Felicia, Uma Jitendra Sharma and Punya Charan (TSMP Law Corporation) for the appellant;
Ng Yuen and Gabriel Teh (Malkin & Maxwell LLP) for the respondent;
Ailene Chou and Chong Yun Ling (Attorney-General's Chambers) for the intervener

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