

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

[2024] SGHC 93

Originating Application No 27 of 2024

In the Matter of Order 13 of the Rules of Court 2021

And

In the matter of the Power of Attorney HC/PA 5222/2023 deposited in the
Registry of the High Court of Singapore pursuant to section 48 of the
Conveyancing and Law of Property Act 1886 and Order 26 of the Rules of
Court 2021

And

In the matter of the immovable property at 23 Akyab Road,
The Pavilion #19-01, Singapore 309978

Between

- (1) Xingang Investment Pte Ltd
- (2) Wang Joo Shi

... Claimants

And

Lai Jianling

... Defendant

JUDGMENT

[Injunctions — Mandatory injunction]

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**Xingang Investment Pte Ltd and another
v
Lai Jianling**

[2024] SGHC 93

General Division of the High Court — Originating Application No 27 of 2024
Choo Han Teck J
26 March 2024

2 April 2024

Judgment reserved.

Choo Han Teck J:

1 The 1st claimant is an excluded moneylender under s 2(e)(iii) of the Moneylenders Act 2008 (2020 Rev Ed). It carries on the business of lending money to corporations only. The 2nd claimant is the director of the 1st claimant. The 1st claimant had entered into a written loan agreement (“the Agreement”) with Zhongsen Trading Pte Ltd (“Zhongsen”) dated 8 August 2023 for a loan of \$800,000.00.

2 Pursuant to the Agreement, the defendant and her husband, who were directors and shareholders of Zhongsen, each executed a Deed of Guarantee in which they agreed to guarantee the repayment of the loan, interest and all moneys payable under the loan agreement. Given that the defendant is the sole registered owner of the property 23 Akyab Road, The Pavilion #19-01, Singapore 309978 (“the Property”), she also executed a power of attorney (“the POA”) in favour of the 2nd claimant, as required under the Agreement. The POA

was successfully registered and deposited in the Registry of the High Court in HC/PA 5222/2023, pursuant to s 48 of the Conveyancing and Law of Property Act 1886 (2020 Rev Ed) and O 26 r 4 of the Rules of Court 2021 (2020 Rev Ed).

3 The POA granted the 2nd claimant (on behalf of the 1st claimant), in express terms, the power to sell and/or dispose of the Property in the event of default by Zhongsen in the repayment of the loan agreement. The relevant terms setting out the scope of the powers are:

(a) Clause 1: “to assign, sell, transfer, dispose and effect any dealings in respect of the Property or any part thereof by private contract or in any other matter for such consideration and for this purpose to enter into any contract for such sale or disposition on such terms ...”

(b) Clause 2: “to do everything whatsoever which may be necessary or proper for carrying any agreement for the sale into complete effect and to sign and execute in such manner all or any documents relating to the sale of the Property ...”

(c) Clause 3: “to execute all applications, plans, notices, deeds, instruments, assurances, leases, agreements and documents and to do all such acts, matters, deeds and things as such attorney may deem expedient in respect of the Property ...”

(d) Clause 8: “in connection with any of the foregoing to appoint and engage any real estate agents and/or [a]dvocate and [s]olicitor to act for the [defendant] on their behalf for any of the purposes set out under this deed ... ”

- (e) Clause 9: “to ... do all acts and things which the attorney may consider to be necessary and proper for the purposes of carrying out the powers of attorney under this deed ...”

4 As provided by the Agreement, Zhongsen was required to repay the entire loan on or before 8 October 2023, but it did not. The 1st claimant’s solicitors then wrote to the defendant, on 20 November 2023, to inform her that the 1st claimant intended to exercise the rights and powers granted under the Power of Attorney. In order to conduct a valuation of the Property for the purposes of sale, the defendant was informed to “vacate the Property and hand over such keys or access cards” to the 1st claimant by 4 December 2023.

5 Despite subsequent attempts to serve the letter by AR registered post and WhatsApp to the defendant, no response was received from the defendant. On 5 December 2023, the 1st claimant’s representatives attempted to conduct a site visit of the Property but were prevented access. Upon sending another letter for the defendant to comply by 22 December 2023, they attempted to conduct a second visit but were again denied access. Thus, the claimants took out this application for a mandatory injunction under O 13 r 1 of the Rules of Court 2021 (2020 Rev Ed).

6 The claimants seek the following orders:

- (a) The defendant shall, whether by herself, her agents and/or servants or associates, render and/or provide all assistance necessary to the 2nd claimant, her servants and/or agents, without any delay, in order for the 2nd claimant to exercise the powers, rights and/or privileges granted to her under the POA including but not limited to:

- (i) To allow and/or provide access to the 2nd claimant, her servants and/or agents within three days from the service of this Order on the defendant, access to the Property in order to conduct a valuation and marketing exercise of the Property;
 - (ii) To allow and/or provide access, within two days of request and/or notice by the 2nd claimant, her servants and/or agents, to all prospective purchasers of the Property to view the Property;
 - (iii) To yield vacant possession of the Property to the purchaser(s) of the Property in accordance with and in compliance with the Agreement to be executed by the claimant[s] pursuant to the POA.
- (b) An order restraining the defendant, whether by herself, her agents and/or servants or howsoever caused, from preventing, interfering, precluding, disrupting and/or hinder the 2nd claimant, her servants and/or agents, from exercising the powers, rights and/or privileges granted to the 2nd claimant under the POA;
 - (c) The defendant to bear the costs of this application;
 - (d) Interests; and
 - (e) Such further and/or other relief this Honourable Court may deem fit and just.

7 Counsel for the claimants referred me to a previous High Court decision in *Zheng Hongfan v Singaravelu Murugan* [2019] SGHC 184 (“*Zheng Hongfan*”), in which Xingang’s application for a mandatory injunction had been

successful. There, a similar loan agreement and power of attorney were entered into and executed in favour of Xingang. The borrower had defaulted on its obligations under that loan agreement, and Xingang's representative brought the application to exercise its powers under the Power of Attorney. The defendant, who was the guarantor under that loan agreement, did not dispute the debt nor the default of the borrower, and was present at the hearing. The court found that the orders sought by the Xingang's representative, which are similar to the present case, fell within the scope of the power of attorney in that case, and therefore granted an order in terms.

8 The present case can be distinguished from *Zheng Hongfan*. The defendant here was absent, and unrepresented. I did not have the benefit of her arguments, if any. An application for a mandatory injunction compelling the defendant to comply, based on the claim that there was a default on the part of the defendant, is tantamount to granting a final judgment with leave to execute the judgment debt. I am of the view that the claimants should obtain judgment on the default of the Agreement, before they seek the remedy for breach, especially one as onerous as the present case. The sale of the Property is irreversible and irrevocable.

9 Further, I am not satisfied that the claimants will suffer serious damage if the mandatory injunction is not granted. The claimant seeks to recover a monetary debt under the Agreement, but that in itself is not sufficient to show that serious damage will be caused. Counsel for the claimants also submits that the blameworthiness of the defendant makes it fair to grant a mandatory injunction, because the defendant had ignored all of the correspondences issued by Xingang's solicitors. It may well be that once judgment is obtained, the defendant, or Zhongsen, may offer to discharge their obligations under the

Agreement, but if it does not, the claimants may execute on the judgment debt and reapply.

10 In the circumstances, I dismiss the present application, but grant the claimants liberty to apply when they have judgment debt to execute. There will be no order as to costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Cephas Yee Xiang and Darren Chia Wei Hong (Aquinas Law
Alliance LLP) for the claimant;
Defendant absent and unrepresented.
