

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[1998] SGHC 68

Suit 2004/1993, SIC 1027/1998, SIC 1325/1998

Between

Kea Resources Pte Ltd

... Plaintiff

And

Marine Technologies Holdings
Pte Ltd

... Defendant

GROUND OF DECISION

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Kea Resources Pte Ltd v Marine Technologies Holdings Pte Ltd

[1998] SGHC 68

Suit 2004/1993, SIC 1027/1998, SIC 1325/1998

G P Selvam J

06 March 1998

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Judgment:

2 GROUNDS OF DECISION

3 By two summons-in-chambers (Nos 1027 of 1998 and 1325 of 1998) the
defendants in Suit

No 2000 of 1996 applied to vacate the hearing dates from 30 March 1998 to 3 April 1998 and

for additional 5 hearing days and to join another party, Ngiam Choong Kam,
and stay of

proceedings until the plaintiffs amend the writ of summons and statement of claim and

consequential orders.

4 I dismissed both applications. These are my reasons.

5 1. This is a part heard matter. It was part heard on 18, 19, 24, 25, 26, 29
and 30

September 1997. The plaintiffs case has effectively been concluded in that the principal

witnesses have all given their evidence and have been cross-examined. One
more witness on

valuation remains to be called.

6 2. If another party is added at this stage it will be forcing the plaintiffs
to proceed

against someone they do not wish to. At the trial I asked why Ngiam Choong
Kam had not

been added as a party. I was informed that the plaintiffs had agreed not to
proceed

against him. In view of that I do not see how the Court can force them to do
that.

7 The nature of the case is such that if the plaintiffs are now forced to plead against

Ngiam Choong Kam it will give rise to absurdities. The plaintiffs said that they have

waived the cause of action.

8 3. More importantly as the judge who heard the case I will find it extremely unwieldy

to recall the plaintiffs' witnesses and ask them to replead and reprepare the case. I

cannot do it with efficiency and justice if it can be done at all.

9 It will be oppressive and distressing to the plaintiffs and their witnesses. It will

also cause unjustifiable delay to them.

10 4. The present application was caused by the applicant's decision to change his

solicitor and counsel. They have had an opportunity but thought fit not to make the

application.

11 5. The present applicant Chan Kern Miang and Ngiam Choong Kam
have already been before

Christopher Lau JC in another case. That case and this case, if Ngiam Choong
Kam is

joined, would have common features on evidence. That case was abandoned
after the parties

agreed to have their disputes arbitrated. The court procedure thus is being
abused.

12 6. The application to vacate was filed as early as 23 February 1998
although it was

heard by me only on 3 March 1998. The defendants and their present lawyers
have had

sufficient time to arrange for another counsel to take over the matter. A vacation
of 5

hearings days will cause administration difficulties and loss of public funds.

13 7. In effect these applications seek to impose on the plaintiffs and the
Court the

convenience of the defendants and their lawyers even though it will be
oppressive and

distressful on the plaintiffs. It will also complicate my further conduct of the case with

Ngiam Choong Kam as an additional party. Adding Ngiam Choong Kam as a third party at this

stage will not alleviate the problems I have mentioned. If he is added as a third party,

the defendant Chan Kern Miang will achieve indirectly what he cannot get directly.

14 8. In the cases relied on by the applicants the application to add the party were made

before the trial. There are cases where a party can be added at any time. But the

circumstances of this case are heavily weighed against addition because it was made so

late in the proceedings.

15 9. It was argued for the applicant that Ngiam Choong Kam ought to be inducted into the

present proceedings in order to avoid multiplicity. Ironically it is his induction that

will result in duplication because the plaintiffs and the Court will be forced to

rehearse

their case twice over. The Court will have to start all over again and rehear a half

completed case. Further the case has been slated for 5 more hearing days. The applicant

now wants that number to be doubled and the plaintiffs have to bear the wastage. This

cannot be remedied by costs because the plaintiffs' are very busy business people. Costs

cannot adequately compensate the wastage of their time and effort.

16 **G P SELVAM**

17 **JUDGE**

Kea Resources Pte Ltd v Marine Technologies Holdings Pte Ltd [1998] SGHC 68

Solicitors: Hee Teng Fong & Co Wong Partnership C Arul & Partners

G P Selvam J

Hee Theng Fong with Doris Lee (Hee Theng Fong & Co) for the
plaintiffs
Mohan Pillay with Chan Hock Keng (Wong Partnership) for the
defendants in S 2000/96
Arivanantham s/o krishnan for the defendants (C Arul & Partners) in
S 2004/93
