IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[1999] SGHC 17

Suit 1476/1998, SIC 6645/1998

Between

Buckman Laboratories (Asia) Pte Ltd

… *Plaintiff*

And

Lee Wei Hoong

… *Defendant*

GROUNDS OF DECISION

Civil Procedure — Injunctions; Contract — Illegality and public policy — Restraint of trade

Version No 1: 20 Nov 2026 (00:35 hrs)

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Buckman Laboratories (Asia) Pte Ltd v Lee Wei Hoong

[1999] SGHC 17

Suit 1476/1998, SIC 6645/1998
Judith Prakash J
20 January 1999

Judgment:

JUDITH PRAKASH J

The plaintiff company is a member of a group of companies headed by Buckman Laboratories International Inc and Bulab Holdings Inc (collectively referred to as `the Buckman Group`) which were established in 1945 as manufacturers of speciality chemicals. The defendant is a young Singaporean, born in 1970, who was employed by the plaintiffs between March 1994 and May 1998. By this action, the plaintiffs seek to injunct the defendant from working with their competitors and from disclosing the plaintiffs` confidential information to such competitors.

2.The action was commenced on 28 August 1998. By an exparte summons filed the same day, the plaintiffs asked for, inter alia, the following orders: (1). the defendant terminate his employment with and refrain from being employed by or providing services to ECC International Pte Ltd or any other competitor of the plaintiffs (`competitor` as defined in cl 1.2 of the Contract of Employment

dated 15 September 1994 entered into between the plaintiffs and the defendant) until 6 May 1999;

(2). the defendant, whether by himself, his servants or agents or otherwise howsoever refrain from using and/or disclosing any confidential information acquired by the defendant during the course of his employment by the plaintiffs and/or any trade secrets of the plaintiffs including (but without prejudice to the generality of the foregoing) all planning and other confidential information relating to the nature, conduct, financing, products, services, markets, employees or customers of any business of the plaintiff or Bulab Holdings Inc, or any firm, company or organisation directly or indirectly controlled by, or is under common control with Bulab Holdings Inc;

(3). the defendant, as well as his servants and agents, to deliver forthwith to the plaintiffs all correspondence and other documents (including but not limited to correspondence and documents containing Proprietary Information - as defined in cl 1.5 of the Contract of Employment dated 15 September 1994 entered into between the plaintiffs and the defendant) and any other property belonging to the plaintiffs which is in his or his servant`s or agent`s possession, custody or power and including all copies thereof.

3.The plaintiffs` application was heard on an urgent basis the same day before His Honour Justice Lai Kew Chai. The learned judge granted the plaintiffs an order in terms of sub-para (3) above but ordered that the plaintiffs` summons-in-chambers be served on the defendant and that the other prayers of the said summons including the two prayers asking for injunctive relief be heard inter partes. Pursuant to this order, the plaintiffs` application came before me for hearing on 29 October 1998 and counsel appeared for both parties. I dismissed the application. The plaintiffs have appealed.

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Background

4. **(i) The plaintiffs**

According to the affidavit filed by Mr Dennis L Dalton, the managing director of the plaintiff company, the Buckman Group has the ability to create and manufacture chemicals to control the growth of micro-organisms. It provides advanced chemical treatment technologies and extensive technical service on a world-wide basis. The Buckman Group`s expertise spans a broad range of proprietary speciality chemicals which are used in many industries, for example the pulp and paper industry, the leather industry, the water treatment industry and the coating industry.

5.The Buckman Group has had a commercial presence in Asia as a speciality chemical supplier since 1975. In 1992, it set up the plaintiff company to be its regional technical service centre and operating headquarters for Asia. The plaintiffs also manufacture and warehouse products in Singapore. They are supported by technical specialists and analytical chemists. Geographically, the plaintiffs are responsible for Southeast and Southwest Asia and Mainland China. They have been serving customers in various industries in Singapore, China, Indonesia, India, Pakistan, Malaysia, Thailand, Taiwan, Vietnam, Hong Kong, the Philippines, Brunei, Nepal, Bangladesh and Sri Lanka. They have also been attempting to establish a permanent presence in other Southeast Asian countries as well as in the Middle East.

6.The plaintiffs` laboratories in Singapore create and evaluate new products for production and sale to its customers in the region. Their expenditure on research and development is substantial. Occasionally, the plaintiffs contract with third parties to mix the proprietary raw materials into finished proprietary products

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on behalf of the plaintiffs. The plaintiffs regard this information as highly confidential and secret and the third parties` contractors are not informed of the quantity nor the type of raw materials used to manufacture the finished products.

7.The plaintiffs also procure purchase-for-resale (PFR) products from other chemical companies which they re-label and sell under different names and identities to the plaintiffs` customers. These PFR products are sold as the plaintiffs` product although they are manufactured by other chemical companies. The sources of these PFR products as well as their new names are treated by the plaintiffs as secret information as they consider that divulging the same will enable their competitors to obtain these products and sell them to the plaintiffs` customers.

8.According to the plaintiffs, there are only three companies which are in direct competition with the Buckman Group on a world-wide basis in the pulp and paper industry. These are Nalco Chemical Company, Betzdearborn and ECC Overseas Investments Ltd, a United Kingdom company which has a subsidiary in Singapore named ECC International Pte Ltd (`ECC`). ECC specialises in water management technology and speciality chemical applications.

9. **(ii) The defendant**

The defendant graduated from the Simon Fraser University, Canada, in 1991 with a bachelor of science degree, having majored in chemistry. He then returned to Singapore and was enlisted for national service. After completing national service in November 1993, the defendant sought employment and in March 1994 he was offered his first job by the plaintiffs. They hired him as a `Technical Services Specialist` at a salary of $1,800 per month.

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10.The defendant was given an employment contract by the plaintiffs at about the time he started working for them, but he did not sign it immediately as he was not happy with the terms. Eventually, he signed the agreement in September 1994, about five months after he started his employment with the plaintiffs. He was told that it was a standard contract used for all the plaintiffs` employees irrespective of their responsibilities and functions in the company. At that time the plaintiffs had about four local employees and four expatriate employees. The defendant believes that the terms of employment for the local employees who held the posts of administration officer, logistics and warehouse officer, finance manager and technical cum laboratory manager, all contained substantially the same if not identical terms as those in the defendant`s contract.

11. **(iii) The defendant`s employment**

According to the defendant, as a technical service specialist with the plaintiffs, his job included the testing and analysis of the plaintiffs` chemical products to ascertain: (a). which product was suitable for use against micro-organisms, deposits control, foaming problems or other conditions present in a customer`s site and products; and

(b). whether a new product formulated by the plaintiffs was better than an existing product in treating the conditions present at the customer`s site and products.

These tests were carried out by using the plaintiffs` products on samples of the customers` products in the laboratory in Singapore or at the customers` site to deal with the specific site conditions. Over his four years with the plaintiffs, the defendant estimated that he would have carried out hundreds of such tests on

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the plaintiffs` products. The plaintiffs have about ten categories of products and at least 50 different products in each category.

12.The defendant asserted that during his first two years with the plaintiffs he was mostly working in the laboratory and that it was only his last year with them that he spent more time in the field at the customers` sites. He was never involved in the formulation of the chemicals which make up the plaintiffs` products.

13.There is a dispute over the scope of the work which the defendant carried out. The plaintiffs` description of this work is much more expansive than the defendant`s. They say that he had full access to active knowledge of the plaintiffs` proprietary and confidential information and sensitive data bases. Further, he conducted and presented many research and development reports on various newly developed bio-science products. These are detailed analytical reports on the effectiveness of various novel and active ingredient combinations vis--vis different bacteria and fungus collected from the plaintiffs` customers` production lines and plants as well as on the strength and weaknesses of the Buckman Group`s existing proprietary products. The plaintiffs assert that the defendant is aware of the specific composition of each and every proprietary chemical product tested. The plaintiffs also say that the defendant had access to the names and contact information of the chemical companies which supply the plaintiffs with PFR products; he knew the names and identity of such products as well as the names and labels given to them when they were subsequently sold by the plaintiffs as the latter`s own products.

14.The defendant`s basic answer to the plaintiffs` assertions about his knowledge is that he conducted hundreds of tests during his employment with them and it would be impossible to remember the results of such tests. Further,

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the tests he conducted involved the checking of the performance of the plaintiffs` products. He is not aware of the specific composition of each and every Buckman proprietary chemical product tested as he is not a formulator and his work with the plaintiffs never involved the formulation of such products. As regards the PFR products, he says the identity of the plaintiffs` suppliers is not a secret but that apart from two of the PFR products he does not know the new names under which the plaintiffs marketed such products. He also denies that he had full active knowledge of the plaintiffs` proprietary and confidential information and sensitive data bases through the computer system called `the Buckman Knowledge Network`. According to the defendant, there are different levels of access to this network depending on the seniority of an employee in the plaintiffs` organisation and that the level of access which he had was the lowest level. He did not have access to higher levels of information such as the plaintiffs` formulae for their products.

15.In January 1997, the defendant expressed an interest in moving into a different area of work. In April 1997, Mr Dalton agreed to explore the defendant`s capabilities in sales by increasing his field work support. The plaintiffs sent the defendant on numerous trips to the IKPP/Sinar Mas/APP group of companies. This is the plaintiffs` largest customer in Asia. It has many factories, one of which is situated in Pekan Baru, Indonesia. In January and February 1998, the defendant was sent for courses to upgrade his knowledge in the pulp and paper industry. In March 1998, he was sent for a marketing training programme.

16.On 7 May 1998, the defendant tendered his letter of resignation and requested to leave the plaintiff company at `the earliest time possible`. Mr Dalton spoke to the defendant to persuade him to remain at the plaintiffs but he was not responsive. According to Mr Dalton, when the defendant was asked

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where he was going he was evasive and unwilling to disclose the names of his new employers. On 12 May 1998, the plaintiffs wrote to the defendant to accept his resignation and to remind him of the confidentiality and post-termination restriction clauses of the contract of employment.

17.Some time in early July 1998, Mr Dalton heard rumours that the defendant had joined the plaintiffs` competitor, ECC. On 17 July plaintiffs instructed an investigation agency to find out whether the defendant was working for ECC. A week later, they were told that the defendant was indeed working for ECC and had travelled to Pekan Baru with other employees of ECC. In early August, the plaintiffs were informed that ECC was to run a slime control programme at the IKPP Parawang-Pekan Baru mill. The plaintiffs believed that ECC was using the defendant`s active knowledge of the plaintiffs` proprietary information as a springboard to gain entry into the plaintiffs` largest customer in Asia, IKPP.

18.The defendant does not deny that he now works for ECC. He does deny passing the latter confidential information belonging to the plaintiffs or assisting them in any way to obtain the IKPP account. The defendant says that he works for ECC as a regional support specialist and in this position he meets ECC`s customers in Indonesia and gives them advice on which ECC products they should use. He asserts that he has not dealt with the plaintiffs` customers since he joined ECC and that he has not visited the IKPP Parawang mill since then. His visits to Pekan Baru have been in order to get access to Kerinchi, a small town near Pekan Baru, to do other work on behalf of ECC.

19. ***Relevant terms of the employment contract***

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The contractual terms which the plaintiffs seek to enforce against the defendant are cll 1, 8 and 12 of the employment contract. These read:

> 1 In this Agreement the following expressions shall have the following meanings:
>
> 1.2 `Competitor` shall mean any company, subsidiary company, person, firm or organisation (or division or part thereof) engaged in the production or sale of any Competitive Product or Service.
>
> 1.3 `Competitive Product or Service` shall mean a product made or sold or service performed by a Competitor which is the same as, or directly competitive with, a product or service offered by [the plaintiffs] at the Termination Date or within one year thereafter.
>
> 1.5 `Proprietary Information` shall mean all planning and other confidential information relating to the nature, conduct, financing, products, services, markets, employees or customers of any business of [the plaintiffs] or any Associated Company.
>
> 8 Confidentiality
>
> 8.1 The Employee:
>
> 8.1.1 shall not, either during the course of the Employment (otherwise than in performing his duties hereunder) or thereafter, without the prior consent of [the plaintiffs] being first obtained use either for his own or other person`s purposes, or divulge to any other person any Proprietary Information which comes to the knowledge of the Employee during the Employment. In addition, the Employee shall at all times during the Employment use his best endeavours to prevent the publication or disclosure of any Proprietary Information to any unauthorised person. These provision shall cease to apply to any Proprietary Information after it has come into the public domain without breach of contract or misfeasance by any person;
>
> *Post-termination Restrictions*
>
> 12.1 During period of one year from the Termination Date, the Employee shall not (except with [the plaintiffs`] prior written approval) work on his own behalf in connection with the development, manufacture, sale, merchandising or promotion of any Competitive Product or Service:

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> 12.1.1 in Taiwan, Hong Kong, Philippines, Brunei, Malaysia, Singapore, Thailand, Vietnam, Burma, People`s Republic of China, Nepal, Indonesia, Bangladesh, India, Pakistan, Sri Lanka.
>
> 12.1.2 in Kampuchea, Laos, Afghanistan, Iran, Saudi Arabia, Kuwait, Qatar, United Arab Emirates, Oman;
>
> 12.2 During the period of one year from the Termination Date, the Employee shall not (except with [the plaintiffs`] prior written approval) render services as an employee, consultant, director, partner or in any other way directly or indirectly for any Competitor:
>
> 12.2.1 in Taiwan, Hong Kong, Philippines, Brunei, Malaysia, Singapore, Thailand, Vietnam, Burma, People`s Republic of China, Nepal, Indonesia, Bangladesh, India, Pakistan, Sri Lanka;
>
> 12.2.2 in Kampuchea, Laos, Afghanistan, Iran, Saudi Arabia, Kuwait, Qatar, United Arab Emirates, Oman;
>
> 12.6 The Employee expressly acknowledges that the periods of one year in the above restrictions in his clause 12 and the geographical extent of the above restrictions, are reasonably necessary to give adequate protection to the interests of [the plaintiffs] and each Associated Company in the Proprietary Information. Nevertheless, it is recognised that restrictions of this nature may fail for technical reasons. Accordingly, if any of the above restrictions is, either by itself or taken with others, adjudged to be invalid as exceeding of the interests of [the plaintiffs] and its Associated Companies, but would be valid and enforceable if any particular restriction or restrictions were deleted or restricted or limited in a particular manner; or if the period or area thereof were reduced or curtailed; then the said restriction shall apply with such deletions, restrictions, limitations, reductions, curtailments and modifications as may be necessary to make it valid and enforceable.
>
> 12.7 The Employee also expressly acknowledges that damages are unlikely to be adequate remedy for any breach by the Employee of any restriction in this clause 12.

20.The plaintiffs` position is that the defendant is in breach of cl 8 and cl 12.1.

21. ***Analysis***

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It is well-known that an employer who wishes to enforce a restraint of trade provision in a contract with an ex-employee must show that it was intended to protect the employer`s legitimate interests and that it was reasonable in all the circumstances. In ascertaining the validity of such a clause, the first step is to determine what those interests are and the second is to consider whether the clause as drafted is no wider than is necessary to protect such interests. The court will not give effect to a clause if its main function is to inhibit competition in business.

22.To determine the interest intended to be protected by a restraint of trade covenant, the court must first of all construe the contractual wording to determine whether it indicates what that interest is. Where the wording of a restriction does not specifically state the interest of the employer which it is intended to protect, the court is entitled to look both at the wording and at the surrounding circumstances for the purpose of ascertaining that interest by reference to what appear to have been the intentions of the parties. But if the employer states specifically what interest the covenant is intended to protect, the employer cannot thereafter seek to justify it by reference to a separate interest which has not been specified. See **Office Angels Ltd v Rainer-Thomas & Anor** [1991] 1 IRLR 214.

23.In this case, the purpose of cl 12.2 is to prevent the defendant from working for any `Competitor` of the plaintiffs in any specified country during a specified period. Clause 12.2 does not itself specify the interest to be protected but this can be gathered from cl 12.6 where the employee acknowledges that the period of one year and the geographical extent of the restriction are reasonably necessary `to give adequate protection to the interests of [the plaintiffs and their associated companies] in the Proprietary Information`. The term `Proprietary Information` has been very widely defined in the employment agreement to

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include all confidential information relating to `the nature, conduct, financing, products, services, markets, employees or customers` of any business conducted by the plaintiffs or any of their associated companies. It thus appears that the plaintiffs are seeking to protect not only one aspect of their business like the content of their products but all its aspects. As not all the aspects of the plaintiffs` business can be unique to them, and there must be aspects of their business which are shared by businesses generally, such a wide restriction leads to the inference that the main purpose of the clause is to inhibit competition by former employees whether by themselves (the situation covered by cl 12.1) or as employees of third party businesses.

24.Even if I have interpreted the interest to be protected too widely, there is another difficulty which the plaintiffs will face in establishing that the restraint imposed is reasonable. The geographical area covered by the clause is extensive. In effect, it prevents the defendant from working for any competitor company in most of Asia. Among the countries where the defendant cannot work are Kampuchea, Laos, Afghanistan, Iran, Saudi Arabia, Kuwait, Qatar, United Emirates and Oman. The plaintiffs do not directly assert that they have customers in those countries. What they say is that they are trying to `establish a permanent presence` in the same. It would appear that what they are trying to protect is their potential business rather than their actual business in those countries. Further, the defendant appears to have done most of his work for the plaintiffs in Singapore. Whilst the plaintiffs do assert that he visited customers outside this country, from Mr Dalton`s affidavit it appears that such visits were only to customers in Indonesia. It was the defendant himself who stated that he had also visited factories in Singapore, Malaysia, Taiwan, China, Pakistan and Thailand. Even on this basis, it appears that the defendant was not, in the course of his employment, exposed to the plaintiffs` customers in the Philippines,

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Brunei, Vietnam, Nepal, Bangladesh, India, Pakistan and Sri Lanka and yet by cl 12.2.1 the plaintiffs seek to prevent him from working in any of these countries without regard to whether he had had prior contact with the customers there or not. A more reasonable clause would have limited the restriction to countries in which the defendant had actual and significant customer contact.

25.The restrictive covenants apply to all areas of the plaintiffs` business and not just to the pulp and paper industry which was the industry that the defendant`s employment related to. The plaintiffs identified three companies as being their competitors in the pulp and paper industry and argued that the restrictive covenant operated only to prevent the defendant from working for any of these companies. They said it did not restrain him from seeking employment in any of the other chemical companies operating in Singapore. This is a benign interpretation of the clause which is difficult to accept in view of the geographic area which it covers and the fact that it is related not only to products or services supplied in connection with the paper and pulp industry but covers all products and services supplied by the plaintiffs both at the time the defendant left their employ and for one year thereafter. The Buckman Group is involved in many industries and the plaintiffs have not anywhere stated that their own business is restricted to the paper and pulp industry. If the plaintiffs had only wanted to stop the defendant from working for the three competitors they identified, they could very easily have tailor-made a clause to this effect.

26.Another problem with the validity of the restraint of trade clauses in the employment contract here is the allegation made by the defendant that identical clauses existed in the contracts of all the plaintiffs` local employees, irrespective of the type of work they did for the plaintiffs or the level of information that they had access to. This allegation has not been denied by the plaintiffs. If it turns out to be true, it would be another pointer towards the true purpose of the

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clauses being the restraint of competition rather than the protection of legitimate interests.

27.The plaintiffs appear to have recognised that the restrictive covenants in cll 12.1 and 12.2 were too wide and could not be well-received by a court. They therefore inserted cl 12.6 in an effort to save some minimum portions of these clauses in the event a court considered parts of them to be invalid. Whilst I have not heard full argument on this issue, I have grave doubts that an invalid clause can be saved in this manner because it would lead to uncertainty. An employee with a contract containing such clauses would have no way of knowing the extent of his obligations under them and would be put in an invidious position regarding his future employment if he ever sought to leave the plaintiffs` employ.

28.I have expressed my views on the restrictive covenants at some length as the first issue which I had to consider in deciding whether or not to grant the interim injunction was whether there was a serious issue to be tried in the action. Whilst I had grave doubts about the enforceability of those covenants, it was not an issue I could decide at that stage of the proceedings. The plaintiffs` case is not obviously frivolous or vexatious and the facts disclosed did satisfy the low threshold of `serious question to be tried` in relation to the restrictive covenants.

29.In relation to the issue of breach of the covenant not to disclose confidential information, the plaintiffs, via Mr Dalton`s affidavit, set out a number of areas in which they believed the defendant to possess confidential information belonging to them. These related to the formulae for their products; the effectiveness of their products; the contact particulars of their customers; the conditions present on a customer`s site or products; the contact particulars of their suppliers for resale products; the original names and new names of these

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resale products; and information obtained through the Buckman knowledge network, the plaintiffs` computer data base.

30.As stated earlier, the defendant`s response was that the information he had access to was either not confidential or easily discoverable by competitors of the plaintiffs who were willing to go to the necessary trouble or that in so far as he did have certain confidential information, he was unable to recall the same as he had done work for the plaintiffs over a long period of time and could not remember the results of all the various tests carried out. The defendant in any case denied having passed any confidential information to his new employer. The defendant specifically denied knowing the plaintiffs` secret formulae. He was only involved in the development of new products to the extent that he tested the effectiveness of such products. This did not give him access to the secret formulae of the products. The only occasion on which he was given the formulae for a few of the plaintiffs` new products was many years ago and the defendant asserted he no longer remembered those formulae. He did not know whether such chemicals had actually been launched as products.

31.It would also be noted that the defendant`s position as a technical service specialist was a relatively junior one. The defendant was originally, to use the plaintiffs` description of another employee of theirs, `an entry level employee`. This was his first job after completing his studies and national service and although he worked for the plaintiffs for four years, he had not attained a senior position by the time he left. Most of the defendant`s employment related to the provision of technical services. His access to the plaintiffs` customers related to such services and he was not involved in the marketing and sales of the plaintiffs` products. It was only in his last year with the plaintiffs that the defendant left the laboratory and went out into the field more frequently to meet the plaintiffs` customers. Thus, again, although the plaintiffs had satisfied the

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requirement of serious question to be tried in relation to confidentiality, the facts disclosed in relation to the defendant`s employment did not rise much above that threshold. Here the plaintiffs were somewhat hampered by a lack of specificity in relation to their description of the confidential information in the defendant`s possession and the damage which the release of the information could do to them. The plaintiffs, I noted, did not reply to the defendant`s allegations about much of the information being either in the public domain or easily discoverable by a determined competitor.

32.I then turned to consider whether damages would be an adequate remedy for the plaintiffs if I refused to grant the injunction or whether they would be an adequate remedy for the defendant if I did grant the injunction. The plaintiffs argued that it would be difficult for them to estimate the damages sustained by the breaches of covenant and, secondly, the defendant would not be in a financial position to satisfy an award of damages. Whilst the assessment of damages might not be as difficult as the plaintiffs contended since they should have records of their volume of business while the defendant worked with them and should be able to justify an estimate of the value of the business lost by reason of his working for ECC during the one year restraint period, I accepted that the defendant would probably be unable to satisfy a substantial award since he is not rich and is only at the start of his career. Additionally, there are, of course, advantages which cannot be quantified to be gained from employing an ex-employee of one`s competitor. Overall, it appeared to me that damages would not be an adequate remedy for the plaintiffs if they succeeded. But this also appeared to be the case for the defendant. Whilst the monetary loss to him of being unable to work during the restraint period could be easily quantified, what would be more difficult to assess would be the impact on his future career development. This is a consideration that must be taken into account as shown

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by **Fellowes & Son v Fisher** [1976] QB 122. In relation to the defendant in that case, Lord Denning stated:

> *If the clause is invalid, and yet an injunction is granted, it would be difficult to assess the damages recoverable by the defendant upon the undertaking in damages. He would have lost a good job with excellent prospects. Even if he gets another job with like wages, it would be difficult to assess the difference in terms of prospects and happiness.*

33.Having found that damages would not be an adequate remedy, I had to consider what would be the balance of convenience and in the end which course would be less likely to lead to injustice no matter what the outcome of the case. In doing this, it is established that one must take some account of the relative strength of each party`s case. Here, my initial opinion was that the plaintiffs` case was relatively weak. Secondly, the status quo which was that the defendant had already left the plaintiffs` employ and started work for ECC would be disturbed if I granted the injunction. Where there is reasonable doubt over the possibility of the plaintiffs` eventual success, it would be preferable not to disturb that status quo.

34.The plaintiffs argued strenuously that if the defendant were not prevented from continuing to work for ECC, they would, even if the restrictive covenant was eventually upheld, lose the benefit of it since it has a duration of only one year and it is unlikely that this case would be disposed of within that year. This was, perhaps, the plaintiffs` best argument for the issue of the injunction. It was not compelling, however, because it appeared from the facts that any delay in the hearing of the action had been contributed to by the plaintiffs themselves. Although the defendant resigned in early May 1998, the plaintiffs did not commence this action until the end of August, nearly four months later. The defendant said they could have acted sooner since he did tell them that he would be joining a competitor. The plaintiffs denied receiving this information but did

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admit that the defendant had acted `evasively` when asked about his future employment. This should have given them a hint that he might be doing something prohibited by the contract and they could have investigated his conduct much earlier. Even though they were aware of the limited duration of the covenant, the plaintiffs only instructed private investigators in the middle of July. Then, though the investigator`s report was furnished on 23 July 1998, and confirmed the plaintiffs` fears, they still took another month to commence the action. Once the action was started, the plaintiffs were again slow. Their statement of claim should have been filed by 16 September 1998 and if it had been pleadings could have been closed by the time I heard the inter partes injunction application on 29 October. That could have meant the actual trial being fixed for hearing within 1998 itself or in early 1999. The plaintiffs could also have asked for an expedited trial in view of the need to have their legal rights determined before the relevant period expired. But the statement of claim was not filed until after the 29 October hearing.

35.There is another point to be made regarding the injunction against disclosure of confidential information. As can be seen from [para] 2 above, the plaintiffs wanted an injunction cast in very wide language. Nowhere in the prayer did the plaintiffs specify the types of information covered by the prospective injunction. Instead they were contend to repeat the wording of cl 8 of the employment contract. An injunction in such wide terms would stand on its own and would not be impliedly restricted to whatever the plaintiffs had, in their supporting affidavit, identified as the information sought to be protected. Such an injunction would be embarrassing and oppressive to the defendant because of its vague and wide scope. He would not know how to comply with it and would face the risk of being cited for contempt of court.

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36.Bearing in mind all the circumstances of the case and especially the relative youth of the defendant and the blight that such injunctions could cast on his future career development and prospects, I considered that this was a case in which it was not convenient to grant the injunctions prayed for. I therefore dismissed the plaintiffs` application.

Judith Prakash J

Khoo Kah Ho and Fabian Teo (Fabian & Khoo) for the plaintiffs
Andre Yeap and Lim Wee Ming (Allen & Gledhill) for the defendant

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