IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[1999] SGHC 251

Suit 2019/1998

Between

Pinetree Resort Pte Ltd

… *Plaintiff*

And

PT AFP Dwilestari (formerly known as PT Amcol Dwilestari)
AFP Resort Marketing Services Pte Ltd (formerly known as Amcol Resort Marketing Services Pte Ltd)

… *Defendant*

GROUNDS OF DECISION

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

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Pinetree Resort Pte Ltd v PT AFP Dwilestari (formerly known as PT Amcol Dwilestari) and Another

[1999] SGHC 251

Suit 2019/1998
Lim Teong Qwee JC
29 September 1999

JUDGMENT:

1. This is a claim against the first defendant for $1.5m for money had and received by the first defendant to the use of the plaintiff or alternatively for money lent to the first defendant or alternatively damages for breach of contract. The claim against the second defendant was withdrawn by consent at the commencement of the trial.

2. It is not disputed that between December 1994 and June 1995 the plaintiff paid a total sum of $1m to the first defendant and a total sum of $500,000 to the second defendant for the account of the first defendant. In para 3 of its defence the first defendant said:

> "The 1st defendants aver that a valid and binding agreement ('the Agreement') was entered between the 1st defendants and the plaintiffs upon the terms of the 1st defendants' letter of 30th November 1994 for the purchase by the plaintiffs of 100 memberships in Palm Spring for S$15,000 per membership. The purchase price of each membership is made up of an entrance fee of S$3,000 and the subscription of S$12,000 for an unsecured non-interest bearing note (each a 'Note', or collectively 'Notes') issued by the 1st defendants to members of

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> Palm Spring. Pursuant to the Agreement the 1st defendants issued 100 Notes to the plaintiffs and the plaintiffs made payment of the purchase price totalling S$1,500,000 to the 1st defendants."

Particulars of the agreement were not given or asked for but when Mr Ng opened the defence he said that the agreement was concluded on or about 30 November 1994 when Mr Yeo Song Kuan said "certain words" to Mr Chng Heng Tiu the chairman of the plaintiff. He could not say what words were spoken and he referred to para 7 of Mr Yeo's affidavit where he said:

> "By or around 30 November 1994, I confirmed with Mr Chng the terms of the purchase of the memberships with the plaintiffs and sent on the 1st defendants' behalf a letter of that date, setting out the description of the type of membership purchased and the privileges attached to the memberships."

This letter is the letter dated 30 November 1994 referred to in para 3 of the defence. The first defendant's case is that an agreement was made between Mr Yeo and Mr Chng and following that the letter of 30 November 1994 was sent.

3. Mr Ng said that the first defendant's alternative case is that the letter of 30 November 1994 was an offer which the plaintiff accepted by payment of $600,000 (part of the $1.5m) on 2 December 1994. He referred to the plaintiff's letter of that date in which the plaintiff wrote "Enclosed first payment of S$600,000 per agreement. Kindly acknowledge receipt." Alternatively the offer was accepted when the balance was paid on 1 June 1995.

4. At the conclusion of the trial I gave judgment for the plaintiff for money had and received to its use. The first defendant has given notice of appeal and these are my written grounds.

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5. The plaintiff is the proprietor of a proprietary club in Singapore known as Pinetree Town & Country Club ("Pinetree Club") and the first defendant is the proprietor of a proprietary club in Batam, Indonesia, known as Palm Spring Golf & Country Club ("Palm Spring Golf Club"). Mr Yeo was employed as the general manager of Palm Spring Golf Club in February 1994 and part of his duties was to market its golf memberships. Palm Spring Golf Club was as Mr Chng said in need of substantial funds for its development. Mr Yeo was well acquainted with Mr Chng and some time in July 1994 he held discussions with him in the course of which Mr Yeo offered the plaintiff corporate group memberships in Palm Spring Golf Club. Mr Chng said in his affidavit:

> "Pinetree Club had no golf course and Palm Spring with its golfing facilities would be a good fit. Mr Yeo said he would work out for me a special package with attractive pricing."

6. Following these discussions Mr Yeo wrote to Mr Chng on 3 August 1994:

> "CORPORATE GROUP MEMBERSHIP
>
> We are pleased to offer to your esteemed club a special corporate group membership at Singapore dollars fifteen thousand only (S$15,000) per membership.
>
> The offer is as follows:-
>
> Your club will purchase one hundred (100) corporate memberships on the following conditions."

Five paragraphs of conditions were set out in the letter which concluded with "Looking forward to hear from you soon."

7. Mr Yeo did not hear from Mr Chng and on 19 September 1994 he wrote another letter this time submitting what he called the "procedure" for Mr Chng's perusal. He set out some of the facilities offered and the arrangements to be made to enjoy the facilities. The letter concluded "Mr Chng, we hope the above

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is acceptable by your members and their guests. We look forward to welcome your members and guests to our club."

8. On 22 September 1994 the second defendant presumably as the resort marketing services arm of the group which included the two defendant companies wrote with a proposal for three different membership schemes called "term membership", "ordinary membership" and "special corporate membership" with a brief summary of the features of the schemes. This letter was followed by four others dated 10 October 1994, 27 October 1994, 15 November 1994 and 30 November 1994 all from Mr Yeo. The last of these letters is the letter referred to in para 3 of the defence. The letter from the second defendant and all the four letters from Mr Yeo were in each case addressed to Mr Tim Allen who was then the general manager of Pinetree Club until he was succeeded by Mr Rowland Wong in January 1996.

9. All the letters from Mr Yeo carried the heading "Corporate Group Membership". The letter dated 15 November 1994 said:

> "We are pleased to confirm your interest in our Corporate Group Membership. A special membership application has been arranged strictly for your club only."

This was followed by three main paragraphs entitled "Type of Membership", "Privileges" and "Documents". Under "Type of Membership" the letter said that $1.5m for 100 "floating cards" was payable as to $600,000 by 1 December 1994, $450,000 by 1 March 1995 and $450,000 by 1 June 1995. The first payment of $600,000 was for "40 members". The entrance fee was $5,000 per member and "unsecured notes" at $10,000 per member for the total price of $1.5m. It is not disputed that "unsecured notes" was a reference to unsecured notes to be issued by the first defendant as part of a series of such notes for money deposited with

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it. The letter also said that Palm Spring Golf Club had introduced "Corporate Group Membership" as a new class of membership.

10. The letter dated 30 November 1994 also said:

> "We are pleased to confirm your interest in our Corporate Group Membership. A special membership application has been arranged strictly for your club only."

It went on to say:

> "This letter will supersede our previous letter ... dated 15 Nov 94."

It is otherwise the same as the letter dated 15 November 1994 except that the entrance fee was reduced to $3,000 per member and the payment for the unsecured notes was correspondingly increased to $12,000 per member. This letter and the letter it was said to have superseded were as noted above both addressed to Mr Allen. Neither of these letters made any reference to Mr Chng or any discussions with him or anything said to him or by him.

11. Mr Chng did not say in his affidavit if he met with Mr Yeo at any time at all in November 1994. I would think that this is not unexpected having regard to the way the defence has been pleaded. Under cross-examination it was not even put to him that there had been any occasion before the letter dated 30 November 1994 was sent to Mr Allen that Mr Yeo had said anything to him (Mr Chng) or that they had said anything to each other.

12. Mr Yeo himself in his affidavit did not point to any occasion before he wrote the letter of 30 November 1994 when as Mr Ng said from the bar he Mr Yeo had said "certain words" to Mr Chng. I have set out what Mr Yeo said in his affidavit. He said the letter was sent after he had "confirmed with Mr Chng the

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terms of the purchase of the memberships". This is part of his evidence under cross-examination:

> "Q: PB-11. 15/11/94. Para 1. Sentence 1. At that stage all plaintiff expressed was interest in this category of membership?
>
> A: Yes.
>
> Q: PB-14. 30/11/94. Para 1. Sentence 1. At that date all plaintiff had was interest in corporate group membership?
>
> A: Yes.
>
> Q: PB-16. Para 2. Fair to say your letter was proposal to plaintiff following expression of interest on their part?
>
> A: Yes. After discussions. My letter went out as confirmation of matters discussed.
>
> Q: When discussions?
>
> A: Between 30/11/94 and 15/11/94. After that PB-11 was sent.
>
> Q: Discussions with?
>
> A: Tim Allen."

13. Mr Yeo did not have any discussions with Mr Chng between writing the letter dated 15 November 1994 and the letter dated 30 November 1994 which superseded the earlier letter. He did not confirm any terms of purchase with him. He knew that when he wrote the letter of 30 November 1994 all that could be said was that the plaintiff had expressed interest in the corporate group membership of Palm Spring Golf Club. That was what he wrote in his letter. Clearly no agreement to purchase any such membership was entered into by any exchange of words spoken between Mr Yeo and Mr Chng upon the terms contained in the letter of 30 November 1994.

14. Mr Yeo also said in para 4(a) of his affidavit that a valid and binding agreement was entered into upon the terms contained in that letter. Under cross-examination he said:

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> "Q: Yeo (1). Para 4(a). In your mind when first time valid and binding agreement constituted?
>
> A: The minute I spoke to Chng Heng Tiu. Before I sent first letter to him on 3/8/94 (PB-1).
>
> (To court): I confirm."

This part of the cross-examination came immediately after the part referred to above. I thought it right to repeat the question and Mr Yeo confirmed his answer. The cross-examination continued:

> "Q: Said series of letters to confirm plaintiff's interest in corporate group membership in Palm Spring?
>
> A: Before 30/11/94 I had series of discussions with Chng Heng Tiu. Subsequently he agreed to purchase. He said that to me. Later asked me to deal directly with Tim Allen. We corresponded in black and white from then on.
>
> Court: Witness warned.
>
> Q: If still your evidence binding agreement in August 1994 following discussion with Chng Heng Tiu para 4(a) Yeo (1) is wrong?
>
> A: Don't agree.
>
> Q: If binding agreement between plaintiff and D1 in August 1994 could members of Pinetree Club be in a position to make use of corporate group membership scheme you introduced?
>
> A: Yes.
>
> Q: Immediately?
>
> A: Yes.
>
> Q: Even before rules and regulations put in place?
>
> A: No. Not before rules and regulations put in place.
>
> Q: When rules and regulations put in place for this category of membership?
>
> A: Not when I left Palm Spring in February 1998. Not at any time before that. Don't know after I left.
>
> Q: At earliest February 1998 Pinetree Club members could not make use of their membership?

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> A: Don't agree.
>
> Q: Explain?
>
> A: In rules and regulations clause whereby Palm Spring can create another category of membership.
>
> (To court): Not created yet by February 1998."

The statement in both the letters of 15 November 1994 and 30 November 1994 that this class of membership had been introduced was false and Mr Yeo must have known it was false.

15. I find Mr Yeo's evidence on the agreement alleged to have been made between him and Mr Chng on the terms of the letter of 30 November 1994 to be wholly unreliable and I reject it. There was no such agreement made before Mr Yeo wrote the letter of 30 November 1994. It remains to consider the first defendant's alternative case.

16. It is not disputed that from a date prior to 1994 there have been in place rules and regulations governing Palm Spring Golf Club and the rights and privileges of its members. The rules and regulations provide for categories of members. It is also not disputed that there has not been a category known as "corporate group member". There was no such category in the rules and regulations when Mr Yeo was employed as general manager. There is still no such category.

17. On 2 December 1994 the plaintiff paid $600,000. I have already referred to the plaintiff's letter of that date. It was written by Mr Jason Chong the finance and administration manager. On 12 January 1995 Mr Yeo wrote to Mr Chong. The letter said:

> "Further to our teleconversation this morning, we confirm that the Corporate Group Membership will be activated with effect from 01 April 1995.

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> This is to give time to make announcement to the public that Pinetree Club has bought 100 memberships. As you are aware, Mr Chng Heng Tiu is also a director of both our companies."

The letter of 30 November 1994 stated that the proposal set out in it would take effect on 1 January 1995. It was now "confirmed" by Palm Spring Golf Club that the membership would be "activated" on 1 April 1995. There was more to it in the letter. An announcement had to be made if an agreement had been made for the sale of what could only be described as a proposed category of memberships and this announcement had to be made by the first defendant or its holding company as Mr Yeo admitted under cross-examination. No such announcement had been made when he wrote the letter in January 1995. By June 1995 when full payment of $1.5m had been made no such announcement had still been made. It has never been made at all.

18. Mr Chng is as I have noted above the chairman of the plaintiff. He has held and still holds all but one of the two million issued shares of a private company which in turn holds all the issued shares of the plaintiff. Until June 1996 he was also a director of Amcol Holdings Ltd ("Amcol")(as it was called at the relevant period of time) a public company listed on the Stock Exchange of Singapore ("SES"). The first defendant is a subsidiary of Amcol. Mr Chng was also a director of the first defendant.

19. On 8 March 1996 Ms Christine Wong of Amcol sent an internal memorandum to one of its directors Mr Bay Yew Chuan on the proposal to include the sale of 100 memberships to the plaintiff as a "related party transaction" in a circular concerning an unconnected matter referred to as "Costa Rhu". The memorandum said:

> "The following information was provided:

> 1. The 100 memberships in Palm Springs are proposed to be sold to Pine Tree on terms based on a letter dated 30 December 1994 to Pine Tree. As I understand from the letter, the salient points are:
>
> - Corporate membership at $15000 per membership (total of S$1.5 million) of which S$3000 shall be entrance fee and S$12000 shall be based on Unsecured Notes. - Pine Tree need not identify a nominee but can only use 25 memberships each time at the same time. As such the normal monthly subscription of S$60 is payable for these 25 memberships only. - The total amount of $1.5 million has been paid already and accounted in the company's 1995 revenue already. - The memberships have not been activated and therefore the S$60 monthly subscription fee for the 25 memberships have not been paid todate.
>
> A copy of letter dated 7 March 1996 from Richard Yeo together with the 30 December 1994 are enclosed."

It is not disputed that the letter referred to is in fact the letter dated 30 November 1994. Mr Yeo admitted in cross-examination that it was he who provided the information. Ms Wong went on to say in the memorandum:

> "2. This matter was originally included as an item in the Costa Rhu circular but was later taken out because the lawyers handling the circular were informed that the prospectus upon which the offer was made to Pine Tree in respect of the membership had been registered in Singapore more than 6 months ago. As such the prospectus was no longer valid under the Companies Act which requires the Notes to be issued no later than 6 months after the date of the prospectus. Since no further prospectus was issued in Singapore, the Notes could not be allotted to Pine Tree and the item was accordingly removed from the circular."

Allen & Gledhill were the lawyers who had given the advice and their letter dated 7 March 1996 was produced.

20. On 26 April 1996 Drew & Napier who appear to have been appointed in place of or in addition to Allen & Gledhill submitted a draft set of circular resolutions to the first defendant for the attention of Mr Yeo. The resolutions

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were to be considered and if thought fit passed by the shareholders and directors of the first defendant. The resolutions would create the category of membership known as "corporate group membership" upon the terms and conditions annexed. The rules and regulations were also said to be annexed but neither these nor the terms and conditions were produced. The resolutions would also authorise the directors to invite applications for the new category of membership.

21. On 12 April 1996 which was about two weeks before Mr Yeo received the draft resolutions he wrote to Mr Wong the chief executive officer of Pinetree Club. This letter also began with:

> "We are pleased to confirm your interest in our Corporate Group Membership. A special membership application has been arranged strictly for your club only."

just as his letter dated 30 November 1994. Both the letters also concluded with:

> "… I hope the above covers completely what was discussed and we look forward to welcome your members and guests to our club."

Down to 12 April 1996 all that the plaintiff had expressed was interest in the corporate group membership.

22. What the letters dated 30 November 1994 and 12 April 1996 "cover" are significantly different.

The table below will point to a few of the differences:

Letter dated

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30 November 1994

Letter dated

12 April 1996

Corporate group

Membership price

$3,000 each;

$12,000 each for

unsecured notes

$20,000 each

Total price for 100 cards

$300,000;

$1.2m for unsecured

notes

$2m

Monthly subscription

$60 per member for

25 members

$80 per member for

100 members

Privileges

25 tee times and 50 social guests per day

100 tee times per day

"Tee times" is a reference to the number of members scheduled to play golf on the day.

23. Mr Chng said in his affidavit:

> "On or about 24.4.96, at a discussion with Mr Richard Yeo, Mr Yeo told me that if I could agree to a change in consideration per membership from S$15,000 to S$20,000, there would be no problem for both parties to work out the arrangements to finalise the agreement and Pinetree Club could enjoy the benefits of Palm Spring club membership. I told him that Pinetree Club would not pay any more money above the agreed sum of S$1,500,000 which had already been paid. He said that the number of memberships purchased could be reduced from 100 to 75 and the plaintiffs would not have to pay more money. I was somewhat irritated they had taken so long to work out the agreement and to activate the memberships. Nevertheless I was prepared to bend backwards to accommodate them as I was still a director of the 1st defendants. I informed Mr Yeo that I agreed in principle to his suggestion and told him to work out the details with Mr Rowland Wong (Mr Wong) (my Chief Executive Officer at Pinetree Club)."

Under cross-examination he said:

> "Q: Plaintiff and Pinetree Club lose benefit of 25 memberships. Not too much?
>
> A: Not too much. Explain. All we were interested in is 25 tee times for club members which I consider sufficient. 25 tee times on any one day. Really doesn't matter too much whether 100 membership cards or 75. Especially because this was my related company. I wanted to accommodate. Although at loss to my benefit."

24. The price for each of the 100 memberships had quite significantly gone up. Under the letter of 30 November 1994 it was only $3,000 and in addition Pinetree Club had to deposit $12,000 for which it would receive an unsecured note. Now it was $20,000 for each membership. 100 tee times was of no real benefit as Mr Chng considered 25 tee times on any one day to be sufficient.

25. Mr Yeo was taken through the differences in the terms under the two letters under cross-examination. Following that he said:

> "Q: Agree terms which are different are materially different?
>
> A: Yes.
>
> Q: PB-29. Only confirmation of interest?
>
> A: Yes."

PB-29 is Mr Yeo's letter dated 12 April 1996.

26. On 25 April 1996 Mr Yeo wrote to Mr Wong:

> "Further to my discussion with your Chairman, Mr Chng Heng Tiu, he has agreed that Pinetree Town and Country club will purchase Seventy-Five (75) Corporate Group Membership.
>
> Total Price : 75 x S$20,000 = S$1,500,000
>
> Pre-paid : = S$1,500,000
>
> _____
>
> Balance : = Nil

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> We have issued to your club One Hundred (100) Unsecured Notes. Kindly return us Twenty-Five (25) Unsecured Notes for cancellation.
>
> Due to Mr Chng's interest in both the Companies, we would like to bring it up to the Stock Exchange of Singapore and the Shareholders' attention."

27. Mr Yeo said in his affidavit:

> "I was surprised and immediately replied in a letter dated 9 July 1996 ... to clarify that the conditions of sale is now based on the Varied Agreement as set out in the 1st defendants' letter dated 12 April 1996 ... and confirmed in the letter dated 25 April 1996 .... For good measure, I also sent on the same day a fresh letter ... setting out all the same terms of the earlier letter of 12 April 1996, but with the number of memberships sold (and consequently, number of tee times per day) specified at the agreed 75 rather than the original 100."

He was surprised because the plaintiff had written a letter referring to certain terms contained in the first defendant's letter of 15 November 1994 which had been superseded by its letter of 30 November 1994.

28. The material part of Mr Yeo's letter of 9 July 1996 said:

> "Further to your letter dated 4th July '96, we would still have to inform the Singapore Stock Exchange due to the fact that Mr Chng was with Amcol. By next week, we are able to get the clearance from the Authority and will inform you the soonest.
>
> The condition of the sale is based on our two [letters dated 12 April 1996 and 25 April 1996]. Therefore, Pinetree Town & Country Club have purchased only seventy-five (75) memberships.
>
> While we are waiting for the final approval, enclosed please find the new application forms for your signature and kindly return them together with the balance of the unsecured notes for cancellation.
>
> This new Corporate Group Membership does not need unsecured notes."

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Under cross-examination Mr Yeo said:

> "Q: 2 letters. PB-29. Fresh proposal?
>
> A: Confirmation he will purchase.
>
> Q: Only confirmation he agreed number reduced to 75 at $20,000 each?
>
> A: Yes.
>
> Q: Yeo (1). Para 24. Sentence 3. How PB-38 confirmed PB-29?
>
> A: No variation in PB-38. Still same. I mean no change in price $20,000 per member. Only change from 100 members to 75 members.
>
> Q: PB-38. 100 unsecured notes. 25 to be returned for cancellation. Notes referred to in PB-29?
>
> A: No.
>
> Q: PB-38. Chng Heng Tiu's interest. Any reference in PB-29?
>
> A: No.
>
> Q: PB-38. Last para. Any reference to this in PB-29?
>
> A: No. Not same.
>
> Q: How PB-38 confirmed PB-29?
>
> A: (Witness does not answer).
>
> Q: If you knew you had to get clearance or approval from SES why so persistent in writing these letters to plaintiff?
>
> A: At that point of time couple of things happening. Pinetree Club about to launch new membership. 1995. Mid-1995. $15,000 price right at that time. Good price for both. I was trying to close deal as soon as possible.
>
> No more.
>
> Q: April to July 1996? Not mid-1995?
>
> A: Plaintiff already paid $1.5m in full. New board gave me instruction for fee increase from $15,000 to $20,000. I thought I could just close it as soon as possible. Don't really remember when new board appointed. Think 1995."

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29. Mr Yeo referred to the second letter of 9 July 1996 that he said he wrote "for good measure". It is unnecessary to refer to its terms but this is what he said under cross-examination:

> "Q: PB-43. 9/7/96. From you. Para 1. Sentence 1. Confirming interest still in July 1996?
>
> A: Yes.
>
> Q: Terms in letter. Not only different from terms at PB-14 (30/11/94) but also PB-29 (12/4/96)?
>
> A: Agree.
>
> Q: Letter represents yet another variation of agreement you said entered into with plaintiff?
>
> A: Yes.
>
> Q: Plaintiff agreed to these terms? Terms in PB-43?
>
> A: Yes.
>
> Q: PB-49. Rowland Wong said agreed?
>
> A: No.
>
> Q: Any correspondence to say plaintiff agreed?
>
> A: No."

PB-43 is the second letter dated 9 July 1996.

30. In his letter of 10 July 1996 which is PB-49 Mr Wong asked for a meeting "in order to discuss and clarify the terms and conditions fully". On 25 October 1996 he wrote another letter referring to the "many times" they had spoken but that he was still waiting for Mr Yeo’s advice as to when he could "receive the proper documents in order that [they might] proceed".

31. On 28 October 1996 Mr Yeo wrote:

> "CORPORATE GROUP MEMBERSHIP

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> Thank you for your reminder on the above. We regret to inform that our Indonesian lawyer, Mr Arifin Kadarisman would not endorse the above as they mentioned about the Amcol problem and that most of the Directors have resigned. Have spoken him that all the Indonesian Directors have resigned. As for Amcol Directors, Mr Bay Yew Chuan and Mr Chng have already signed the Circular Resolution."

Under cross-examination Mr Yeo said:

> "Q: Your response PB-51. Para 1. Sentence 2. Your meaning of 'above'?
>
> A: I mean would not endorse corporate group membership.
>
> Q: Meaning Arifin Kadarisman was against it? Advised against it?
>
> A: Not saying he was against it or that he advised against. Only saying he would not endorse it and he mentioned Amcol problem.
>
> Q: What has Arifin Kadarisman's opinion to do with this?
>
> A: Arifin Kadarisman would raise matter for board's consideration and approval. If he would not endorse he would not raise matter for board's consideration. No likelihood of approval.
>
> Q: PB-51. Para 1. Sentence 2. 'most of the Directors'. Singapore directors?
>
> A: Indonesian directors.
>
> Q: Sentence 3. All Indonesian directors have resigned?
>
> A: Yes. Arifin Kadarisman told me most of the Indonesian directors have resigned. I told him all the Indonesian directors have resigned.
>
> Q: How was Arifin Kadarisman going to raise matter?
>
> A: Won't be able to."

32. Mr Yeo received a set of the draft resolutions on 26 April 1996. The rules and regulations governing corporate group membership and the terms and conditions of such membership had not been considered by the directors of the first defendant and Mr Yeo knew that. They had not been communicated to the

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plaintiff. The whole substance of the transaction between the plaintiff and the first defendant lay in the rules and regulations and the terms and conditions. They had not been considered. By October 1996 they were not going to be considered any more. Mr Yeo knew that. He knew that throughout all that the plaintiff had expressed was interest in the corporate group membership. He knew that the rules and regulations and the terms and conditions had not been agreed. He was only as he said trying to close the deal as soon as possible.

33. The substance of what the plaintiff was to purchase from the first defendant had not been agreed upon. There was no certainty as to the corporate group membership that the plaintiff had expressed an interest in. As late as April 1996 the first defendant was still trying to put something together and this has now become impossible. The parties had agreed upon the price and the number of tee times but there was much more to be agreed between them. In my judgment there has been no concluded bargain between them. The first defendant's letter dated 30 November 1994 did not contain any offer and the plaintiff did not accept any offer by paying $1.5m or any part of it.

34. The plaintiff did in fact pay $1.5m and in its letter of 2 December 1994 the plaintiff said "Enclosed first payment of S$600,000 per agreement." I think that having regard to all the circumstances the "agreement" referred to was no more than an agreement as to the price and the instalments by which it was to be paid. It was not a reference to an agreement to purchase the memberships. It was not evidence of an acceptance of any offer to purchase any membership.

35. The plaintiff is as pointed out above effectively owned by Mr Chng and Mr Chng was a director of the first defendant and its holding company. The first defendant was in need of funds for its development and Mr Chng would have

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known that. As he said under cross-examination he would trust the company for $1.5m. I think it is quite understandable that the plaintiff would pay the agreed amount of $1.5m by instalments as an advance before the terms of the agreement had been settled. Mr Chng would not have thought that there would have been any difficulty over the terms as long as they were fair to the first defendant and he himself did not participate in the decision making on the first defendant's part.

36. In some of the plaintiff's letters and in its statutory report and financial statement the plaintiff regarded itself as having bought memberships in Palm Spring Golf Club. Having paid $1.5m in these circumstances I think it is reasonable for it to so regard itself. Mr Chng has demonstrated his willingness to accommodate the first defendant. He would have every reason to think that the deal was as good as closed to borrow the phrase from Mr Yeo. Whether there has or has not been a concluded bargain between the parties is for this court to determine and the determination is that there has not. There will be judgement for the plaintiff accordingly.

Dated this 29th day of September 1999.

LIM TEONG QWEE

JUDICIAL COMMISSIONER

Lim Teong Qwee JC

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Pinetree Resort Pte Ltd v PT AFP Dwilestari (formerly known as PT Amcol Dwilestari) and Another [1999] SGHC 251

Woo Tchi Chu and Lim Sin (Robert WH Wang & Woo) for the plaintiff
Ng Hwee Chong and Oliver Quek (Rodyk & Davidson) for the defendants

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