Sunlink Engineering Pte Ltd v Koru Bena Sdn Bhd
[2003] SGHC 120

Case Number : Suit 1315/2002, RA 51/2003

Decision Date : 30 May 2003

Tribunal/Court : High Court

Coram : Tan Lee Meng J

Counsel Name(s) : Tan Tian Luh (Rajah & Tann) for the appellants/defendants; Genevieve Chia (Tan Peng Chin LLC) for the respondents/plaintiffs

Parties : Sunlink Engineering Pte Ltd — Koru Bena Sdn Bhd

Courts and Jurisdiction – Judges – Transfer of cases – Transfer of case from High Court to Subordinate Courts – Whether case should be heard in High Court when amount sued for is below minimum required – Whether sufficient that plaintiff requires High Court judgment for enforcement in Malaysia under reciprocal enforcement legislation

1. The appellants, Koru Bena Sdn Bhd ("Koru Bena"), who were sued by the respondents, Sunlink Engineering Pte Ltd ("Sunlink"), for the sum of $46,051.90, applied to have the action transferred from the High Court to the Subordinate Courts. The application was dismissed by the Assistant Registrar. I allowed Koru Bena's appeal against the Assistant Registrar's decision and now give the reasons for my decision.

2. Koru Bena, a Malaysian company with a registered office in Singapore, were the contractors for the construction of Ping Yi Primary School. Sunlink, a Singapore company, were their sub-contractors for the supply of material, labour, tools and equipment required for the fabrication and installation of structural steel roof trusses for the school. Sunlink, which claimed that Koru Bena breached the contract by failing to pay them the sum of $46,051.90, instituted legal proceedings in the High Court to recover the amount allegedly owed to them. As the sum claimed by Sunlink from Koru Bena was very much less than the minimum amount required for a claim to be heard in the High Court, the latter understandably applied for the action to be transferred from the High Court to the Subordinate Courts.

3. As far as the power of the High Court to transfer an action to the Subordinate Courts is concerned, reference should first be made to section 18 of the Supreme Court of Judicature Act ("SCJA") (Cap 322), which provides as follows:

> Powers of High Court
>
> (1) The High Court shall have such powers as are vested in it by any written law for the time being in force in Singapore.
>
> (2) Without prejudice to the generality of sub-section (1), the High Court shall have the powers set out in the First Schedule.

Paragraph 10 of the First Schedule of the SCJA provides as follows:

> Transfer of Proceedings
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> Power to transfer any proceedings to any other court or to or from any subordinate court, and in the case of transfer to or from a subordinate court to give any directions as to the further conduct thereof, except that this power shall be exercised in such manner as may be prescribed by Rules of Court.

4. Reference should also be made to section 37 of the Subordinate Courts Act (Cap 321), which provides as follows:

> (1) In any action commenced by way of writ of summons in the High Court in the exercise of its original civil jurisdiction, any party may for any sufficient reason at any time apply to the High Court for an order that the proceedings be transferred to a District Court.
>
> (2) The High Court may thereupon, if it thinks fit, order that the proceedings be transferred accordingly notwithstanding any other provisions of this Act.

5. The circumstances under which a case may be transferred from the High Court were considered by Chan Sek Keong JC, as he then was, in *Australian Builders Co Pty Ltd v Ng Tai Tuan* [1987] SLR 539. He said that the words of the above-mentioned section of the Subordinate Courts Act give the High Court an unfettered discretion to transfer at any time any proceedings commenced by writ of summons to the District Court. Stressing that each application for a transfer of a case from the High Court must be considered on its own merits, he added that it is not desirable to lay down specific rules as to when the High Court should exercise its discretion.

6. The present case does not involve complex issues of law or fact and the only reason given by Sunlink for wanting this action to be heard in the High Court is that this enables them to take advantage of the Malaysian Reciprocal Enforcement of Judgments Act 1958 if they should succeed in their claim against Koru Bena in the High Court. This Malaysian Act only concerns judgments of superior courts and while the Singapore High Court is regarded as a superior court, the Subordinate Courts are not.

7. There are good reasons for requiring a plaintiff who is claiming a relatively small sum from the defendant to institute legal proceedings in the Subordinate Courts. The fact that the defendant is a foreigner whose country's legislation on the reciprocal enforcement of foreign judgments only recognises High Court judgments does not, without more, allow the plaintiff to insist that his case be heard in the High Court if it ought to be heard by a district judge or a magistrate in the normal course of events. Otherwise, a different set of rules will, without exception, apply to every such foreign defendant and there could be a misallocation of High Court resources as time may be unjustifiably spent on claims which ought to be dealt with by a magistrate or a district judge.

8. While each case must depend on its own facts, much more was required in the present case to persuade me not to exercise my discretion to have the suit transferred to the Subordinate Courts. After all, Koru Bena have a registered office in Singapore and have managed to secure a multi-million dollar contract for the construction of a Singapore school. It is most unlikely that Koru Bena would choose to abandon their business interests in Singapore and flee the jurisdiction just to avoid paying Sunlink $46,051.90 if the latter should succeed in their action in the Subordinate Courts. These facts appear to have been totally ignored by Sunlink.

9. After taking all circumstances into account, I had no doubt that the resources of the High Court should not be utilised in this case to hear a claim for a relatively small sum. As such, I allowed Koru Bena's appeal with costs.

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