OCM Opportunities Fund II, LP and Others v Burhan Uray (alias Wong Ming Kiong) and Others (No 2)
[2005] SGHC 81

Case Number : Suit 50/2004, NM 105/2004

Decision Date : 26 April 2005

Tribunal/Court : High Court

Coram : Belinda Ang Saw Ean J

Counsel Name(s) : Davinder Singh SC, Yarni Loi and Vanita Jegathesan (Drew and Napier LLC) for the plaintiffs; N Sreenivasan and Collin Choo (Straits Law Practice LLC) for the first to fifth and seventh defendants

Parties : OCM Opportunities Fund II, LP; Columbia / HCA Master Retirement Trust; Gryphon Domestic VI, LLC; OCM Emerging Markets Fund, LP; ASO I (Delaware) LLC — Burhan Uray (alias Wong Ming Kiong); Wong Kiia Tai Joseph alias Wong King Tai; Soejono Varinata; H. Sudradjat Djajapert Junda; Hendrik Burhan; Joseph Siswanto; P.T. Daya Guna Samudera TBK; DGS International Finance Company BV; Rosmini Binte Sulong; Chan Wei Long Gary; WMP Trading Pte Ltd; Betty Pai alias Pai Sha; Borneo Jaya Pte Ltd; Natura Holdings Pte Ltd; Handforth Profits Ltd

Civil Procedure – Rules of court – Non-compliance – Defendants and non-party ignoring court orders on basis of belief orders wrong and should be set aside – Whether contempt of court established – Whether court having jurisdiction to commit for contempt non-party to proceedings – Appropriate punishment for contempt

Civil Procedure – Service – Personal service of orders to be enforced by committal – Whether court having discretion to retrospectively dispense with personal service for mandatory orders as opposed to prohibitory orders – Whether court having discretion to dispense with penal notice – Whether discretion should be exercised – Order 45 r 7 Rules of Court (Cap 322, R 5, 2004 Rev Ed)

26 April 2005

Belinda Ang Saw Ean J:

1 The first five defendants, namely Burhan Uray (alias Wong Ming Kiong) ("D1"), Joseph Wong Kiia Tai (alias Wong King Tai) ("D2"), Soejono Varinata ("D3"), H Sudradjat Djajapert Junda ("D4") and Hendrik Burhan ("D5"), together with Johnson Sihombing ("JS") (collectively "the contemnors") have appealed against my order dated 11 January 2005 in which the contemnors were committed to prison for six months from the date of apprehension. The contemnors were deponents of affidavits of assets affirmed by them either for themselves and/or as representatives for the corporate defendants, namely PT Daya Guna Samudera Tbk ("D7"), WMP Trading Pte Ltd ("D11"), Borneo Jaya Pte Ltd ("D13"), Natura Holdings Pte Ltd ("D14") and Handforth Profits Limited ("D15"). D1 to D5, D7, D11 and D13 to D15 are hereinafter referred to as "the majority defendants".

History

2 I start with an explanation of how the plaintiffs' application for the contemnors to be committed to prison or, alternatively, fined for contempt of court in failing to comply with a number of court orders came to be made. The events that developed and led to the present committal proceedings began essentially with the dismissal on 5 March 2004 of the majority defendants' application to set aside an injunction prohibiting disposal of assets worldwide dated 19 January 2004 ("the Mareva injunction") as well as to strike out the Writ of Summons and Statement of Claim or, in the alternative, to stay the proceedings ("the Order of 5 March 2004"). A fuller account of the

setting aside application appears from my judgment in *OCM Opportunities Fund II, LP v Burhan Uray* [2004] SGHC 115.

3 The majority defendants were required under the terms of the Mareva injunction to, *inter alia*:

> **Disclosure of information**
>
> … inform the Plaintiffs in writing at once of all [their] assets whether in or outside Singapore and whether owned legally or beneficially by [them] and whether in [their] own name or not and whether solely or jointly owned, giving the value, location and details of all such assets.
>
> …
>
> **EXCEPTIONS TO THIS ORDER**
>
> (1) Provided that the terms of this order which appear under the heading "Disclosure of Information" have first been fully complied with to the satisfaction of the Plaintiffs, this order does not prohibit each of the Defendants, insofar as they are natural persons, from spending a reasonable amount a week towards his ordinary living expenses, and in respect of all the Defendants, a reasonable sum on legal advice and representation. But before spending any money the Defendants must inform the Plaintiffs' solicitors where the money is to come from.
>
> (2) This order does not prohibit each of the Defendants from dealing with or disposing of any of its assets in the ordinary and proper course of business. Each of the Defendants shall account to the Plaintiffs weekly for any assets so disposed of and for the amount of money spent in this regard.

4 On 6 February 2004, I refused the majority defendants' application to suspend any disclosure of assets until after the hearing and determination of their application to set aside, *inter alia,* the Mareva injunction. The first set of affidavits of assets was affirmed between 17 and 27 February 2004. A second set of affidavits was subsequently affirmed between 8 and 12 April 2004, some of which, *inter alia*, disclosed additional assets or furnished details of assets already disclosed.

5 On 1 March 2004, the plaintiffs applied to cross-examine the contemnors on the affidavits of assets. On 9 March 2004, the majority defendants (by way of Civil Appeal No 19 of 2004) appealed against the Order of 5 March 2004. Their application for an expedited appeal was refused by Chao Hick Tin JA. Notably, the plaintiffs were permitted to continue with any matters relating to securing compliance with the Mareva injunction and the majority defendants were required to file their defence.

6 On 24 March 2004, D1, D13 and D14 applied for a variation of the Mareva injunction to allow for the withdrawal of moneys to make various payments. The application was dismissed by Lai Kew Chai J. D1, D13 and D14 had not shown that there were no other assets available to meet the various payments.

7 On 25 May 2004, I granted the plaintiffs' application to cross-examine the contemnors. I had refused an earlier application to stay the hearing of the application for cross-examination of the deponents of the affidavits of assets pending the hearing and determination of Civil Appeal No 19 of 2004. I should mention that I ordered cross-examination as the affidavits of assets were, as I found them, simply "holding affidavits" in that the material contained in them did not satisfy the

requirements of the disclosure order. They were wholly inadequate and lacking in particulars. A fuller account of my decision appears from my judgment in *OCM Opportunities Fund II, LP v Burhan Uray* [2004] 4 SLR 74 at [43], [48]–[49].

8 On 26 May 2004, the majority defendants (by way of Civil Appeal No 34 of 2004) appealed against my order for cross-examination. On 31 May 2004, the majority defendants applied for a stay of the cross-examination pending the hearing and determination of Civil Appeal No 34 of 2004. The stay application was on 11 June 2004 dismissed by V K Rajah JC (as he then was) sitting as a single judge in the Court of Appeal. On 5 July 2004, the majority defendants applied to discharge or vary the decision of Rajah JC in that they wanted the cross-examination stayed pending the hearing and determination of Civil Appeal No 34 of 2004, or in the alternative, for an expedited hearing of Civil Appeal No 19 of 2004. On 23 July 2004, Chao Hick Tin JA dismissed the application for an expedited appeal. The application for a discharge or variation of Rajah JC's order was subsequently withdrawn.

9 I now come to the events leading to the default judgment of 1 September 2004. The contemnors did not turn up in court on the day fixed for cross-examination. A peremptory order was sought and granted on 30 August 2004 in which the contemnors were given another opportunity to appear in court for cross-examination, failing which the Defence of the majority defendants would be struck off and default judgment entered against them. On the adjourned hearing on 1 September 2004, the contemnors again did not attend court for cross-examination. Consequently, default judgment for damages to be assessed was duly entered against D1 to D5, D7 and D11. In default, it was also declared that the assets of D13, D14 and D15 were the beneficial property of D1 to D5, D7 and D11. The permanent injunction obtained on 1 September 2004 was effectively a continuation of the Mareva injunction until the judgment sum after assessment was paid in full.

10 Eventually, Civil Appeal No 19 of 2004 came up for hearing on 23 September 2004. Counsel for the plaintiffs, Mr Davinder Singh SC, urged the Court of Appeal not to hear the appeal as the majority defendants were in contempt of court for violating the peremptory order of 30 August 2004. Agreeing with Mr Singh, the Court of Appeal declined to hear the appeal of the majority defendants but agreed to hear the appeal of Joseph Siswanto ("D6"). As for Betty Pai ("D12"), who was unrepresented and absent at the hearing, her appeal was dismissed. Civil Appeal No 19 was adjourned at the request of Mr N Sreenivasan, counsel for the majority defendants and D6. At the adjourned hearing on 24 November 2004, the majority defendants' appeal was dismissed without consideration of the merits.

11 As for Civil Appeal No 34 of 2004, it was deemed withdrawn pursuant to O 57 r 9(4) of the Rules of Court (Cap 322, R 5, 2004 Rev Ed) as the majority defendants had not filed the Appellants' Case, the Record of Appeal and the Core Bundle by 6 September 2004.

12 On 22 October 2004, MPH Rubin J granted the plaintiffs leave to commence committal proceedings.

Committal proceedings

13 Briefly, in the statement made pursuant to O 52 r 2(2) of the Rules of Court, the plaintiffs made the following allegations against the contemnors:

(a) failure to inform the plaintiffs of all the majority defendants' assets, whether in or outside Singapore and whether owned legally or beneficially by them and whether in their own name or not and whether solely or jointly owned giving the value, location and details of all such assets by way of affidavit in compliance with the Mareva injunction;

(b) failure to comply with Exception (1) of the Mareva injunction (see [3] above);

(c) failure to comply with Exception (2) of the Mareva injunction (see [3] above);

(d) failure to attend court for cross-examination pursuant to the order for cross-examination dated 25 May 2004;

(e) failure to attend court for cross-examination pursuant to the peremptory order dated 30 August 2004;

(f) continued breaches of the Mareva injunction as set out in sub-paras (a), (b) and (c) above pursuant to the permanent injunction obtained under the Judgment dated 1 September 2004.

14 Except for JS, all the majority defendants did not file an affidavit to resist the committal proceedings. It should be noted that an adjournment of the committal proceedings was granted on 12 November 2004 to enable the majority defendants to file their affidavits by 8 December 2004. In the result, D1 to D5 had not given an explanation for the non-compliance with the orders of court. JS, who filed an affidavit on 7 December 2004, explained that his non-attendance in court for the cross-examination was due only to the fact that his appointment as attorney of D7 was revoked on 11 August 2004 and as such he was no longer authorised to attend court on D7's behalf. On his role, he explained that he was previously asked by D7 to file the necessary affidavits on its behalf "in compliance with the [Mareva] injunction as well as the applications that had been taken out in the action". He was then given a power of attorney on 2 February 2004 to act on behalf of D7 which he said was later revoked.

15 It was, in these circumstances, that the contemnors resisted the proceedings principally on procedural grounds. Mr Sreenivisan argued that O 45 r 7 had not been complied with. Order 45 r 7(2) provides for personal service of orders that are to be enforced by committal. The contemnors and D7 were not served personally with the orders contrary to O 45 rr 7(2) and 7(3). Besides, notice of the two orders was not accompanied by a penal notice as required by r 7(4).

16 It was not disputed that Mr Sreenivasan's practice, Straits Law Practice LLC, accepted service as solicitors for the majority defendants of the following:

(a) the Mareva injunction with penal notice;

(b) the order for cross-examination dated 25 May 2004;

(c) the peremptory order dated 30 August 2004;

(d) the Judgment dated 1 September 2004 with penal notice.

17 While Mr Sreenivasan accepted that the court has the power under O 45 r 7(7) to dispense with personal service retrospectively, he argued that such power was available only for prohibitory orders. The plaintiffs sought committal for breaches of the mandatory orders and personal service was therefore required. Service on solicitors could not amount to personal service for purposes of r 7(2).

18 It is convenient to set out the text of O 45 rr 7(6) and 7(7). They provide:

(6) An order requiring a person to abstain from doing an act may be enforced under Rule 5

notwithstanding that service of a copy of the order has not been effected in accordance with this Rule if the Court is satisfied that, pending such service, the person against whom or against whose property it is sought to enforce the order has had notice thereof either —

(*a*) by being present when the order was made; or

(*b*) by being notified of the terms of the order, whether by telephone, telegram or otherwise.

(7) Without prejudice to its powers under Order 62, Rule 5, the Court may dispense with service of a copy of an order under this Rule if it thinks it just to do so.

19 There was no merit in Mr Sreenivasan's contentions. The case Mr Sreenivasan cited, *Allport Alfred James v Wong Soon Lan* [1988] SLR 987, is not authority for the proposition that in respect of mandatory orders the court does not have discretion to dispense with service under O 45 r 7. It stood for the proposition that the court has discretion to dispense with the failure to incorporate a penal notice in a prohibitory order under r 7(6). In that case the husband obtained an interim injunction restraining the wife from disposing the net proceeds of sale of the matrimonial property. The copy of the injunction was served personally on the wife but it did not contain a penal notice. A subsequent order for the continuation of the interim injunction was served on the wife's lawyers but that too did not contain a penal notice. The wife acted in breach of the injunction but argued that she did not know the consequences of so acting as she was not served with a penal notice. The Court of Appeal held that the absence of the penal notice in the copy of the order served on the wife was not fatal to the application for committal for contempt. This was because she had full knowledge of the terms of the injunction (*ie*, prohibitory order).

20 I accepted Mr Singh's views that the court has a discretion to retrospectively dispense with service of the orders under O 45 (both in respect of the requirement for penal notice and for personal service) for both mandatory orders under r 7(7) and prohibitory orders under r 7(6). Mr Singh cited some cases from England and Hong Kong. I should mention that O 45 rr 7(6) and 7(7) of the English and Hong Kong rules of court are *in pari materia* with our sub-rules. Of the authorities referred to, I found most helpful the observations of the English Court of Appeal in *Davy International Ltd v Tazzyman* [1997] 1 WLR 1256 in construing rr 7(6) and 7(7). The appellate court observed that r 7(6) applied to prohibitory orders and the discretion thereunder for dispensing personal service of a prohibitory order under r 7(6) was only available when the conditions prescribed by it were met. Whilst r 7(6) might not sit comfortably with r 7(7), nonetheless r 7(7) was unrestricted in its wording and imposed no conditions for the exercise of discretion and it was wide enough to cover mandatory and prohibitory orders. The English Court of Appeal held that the discretion in O 45 r 7(7) might be exercised retrospectively.

21 The observations made in *Davy International Ltd v Tazzyman* were followed and applied in *Axa China Region Insurance Co Ltd v Li Yu Ping Ellen* [2002] 3 HKC 339, a decision of the Court of Appeal in Hong Kong SAR. In that case, the defendant was required to deliver up some documents within a specified time. The first mandatory order was served on the defendant personally and it was also endorsed with a penal notice. It was varied by consent so as to give the defendant more time to deliver up the documents. This second order was not served personally on the defendant but upon her solicitors and the copy that was served was not endorsed with a penal notice. The plaintiff maintained that the defendant did not deliver up the documents in her possession. It was held that although personal service was required, the court nonetheless had the power under O 45 r 7(7) where there had been a failure to serve an order which required a person to do an act to dispense with personal service and may do so retrospectively. Applying *Jolly v Staines County Court circuit judge*

[2000] 2 FLR 69 ("*Jolly v Staines*"), the appellate court went on to hold that if the power to dispense with service of an order was properly exercised, the requirement to endorse a copy of the order with a penal notice under O 45 r 7(4) also fell away even though there was no express power to dispense with a penal notice in the rules of court.

22 In *Jolly v Staines,* a penal notice was attached to a mandatory order under which the husband was ordered to allow the wife access to the former matrimonial home. There was non-compliance with the order and the wife applied for his committal to prison. The circuit judge adjourned the committal application and made a further order that the husband give up possession of the home. No penal notice was included in the further order. The husband failed to comply with the further order and he was committed to prison for 14 days. On appeal, the Court of Appeal held that as a matter of discretion the court was empowered to dispense with the requirement of penal notice and so could proceed to consider an application to commit notwithstanding the absence of a penal notice on the order itself. In principle the jurisdiction to dispense with the requirement of a penal notice was not to be exercised too readily. On the facts the judge had in mind that the husband was aware of the mandatory order made by the court not so long before and about which the husband had already been served with a notice of application to commit, and which had given unequivocal warnings of the risks.

23 I was referred to *Chou Yi Feng v Chou Yi Chen* (HCA 4393/2001, 23 November 2002, unreported) a decision of the High Court of the Hong Kong SAR where *Davy International Ltd v Tazzyman* was followed and Andrew Chung J rejected the defendants' submissions that the discretion in O 45 r 7(7) was to be exercised only where it could be shown that the persons against whom enforcement was sought (a) had notice of the order and (b) was evading service of it. I agree with Chung J that it was not so limited. The wording of r 7(7) gives the court an unfettered discretion to dispense with personal service and the discretion can be exercised whenever the court thinks it is just to do so. On the facts of that case, Chung J did not exercise his discretion in favour of the applicant.

24 Turning to the facts of the present case, I was satisfied that the Mareva injunction with penal notice was served on Straits Law Practice LLC by agreement. Mr Singh explained that such an arrangement was permitted under O 62 r 3(2) and it sufficed for purposes of O 45 r 7. At the outset, the plaintiffs had obtained leave of court to serve the Mareva injunction outside the jurisdiction on the first five defendants and D7 in Indonesia. After an initial unsuccessful attempt at service in Indonesia, Straits Law Practice LLC on 3 February 2004 wrote to the plaintiffs' solicitors, Drew & Napier LLC, who were told of the former's instructions to accept service of process. Straits Law Practice LLC went on to say:

> As a matter of convenience, we shall take the papers which we received on a without prejudice basis from your office under cover of your letter dated 21 January 2004 as duly served on our clients. The date of service on the said Defendants shall be 4 February 2003 [*sic*].

The papers referred to include the Mareva injunction with penal notice.

25 As regards the order for cross-examination, peremptory order and permanent injunction, I dispensed with personal service retrospectively. The ruling also dispensed with the failure to incorporate the penal notice. I was of the view that it was just in the circumstances to dispense with personal service and penal notice as the majority defendants were undoubtedly aware of the terms of the orders and were also alive to the consequences of non-compliance. Through Mr Sreenivasan, their activities were in relation to the various applications to forestall compliance with the disclosure orders and cross-examination. I also found that in affirming the holding affidavits of assets, the majority

defendants would be hard-pressed to deny that they were unaware of what was required of them under the Mareva injunction and the consequences of non-compliance. The cross-examination order and peremptory order, even though not accompanied by a penal notice, were inextricably linked to the holding affidavits of assets which the majority defendants filed after they failed to obtain a suspension of the disclosure orders and an expedited appeal. The permanent injunction came about following their default on 1 September 2004. Besides, the majority defendants had not filed affidavits in the committal proceedings to explain themselves. In his affidavit filed for the committal proceedings, JS did not deny knowing of the contents of the orders and the consequence of non-compliance.

26 Having reached the conclusion that the procedural objections were unsustainable, I had to next rule on whether the court was satisfied beyond reasonable doubt that contempt was proved.

27 For the purposes of establishing contempt, it is enough that a deliberate act which was in breach of an order had been committed. Motive of disobedience is not relevant in determining if there was contempt. But motive of disobedience is relevant as it is part of the inquiry to determine if there are any mitigating circumstances for the purposes of sentencing for contempt: see *Summit Holdings Ltd v Business Software Alliance* [1999] 3 SLR 197 at [52] and [53].

28 The starting point is this. The correct and only course, short of obedience to the orders in question, was to seek, through appropriate legal process, to have the orders discharged, set aside or stayed. That was what the majority defendants did initially. But once their stay applications failed or applications for expedited appeal were refused, the majority defendants continued to ignore and disregarded their legal duty under the various orders.

29 As long as the orders stood, the plaintiffs were entitled to have them respected and obeyed. It is not for the majority defendants to disregard the orders on the basis of a belief that the Order of 5 March 2004 was basically wrong in that the action should be set aside or stayed and the Mareva injunction discharged. The legal position on this is clear. Romer LJ in *Hadkinson v Hadkinson* [1952] P 285 at 288 said:

> It is the plain and unqualified obligation of every person against, or in respect of whom, an order is made by a court of competent jurisdiction, to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or even void. "A party who knows of an order, whether null and void, regular or irregular, cannot be permitted to disobey it. … It would be most dangerous to hold that the suitors, or their solicitors, could themselves judge whether an order was null and void – whether it was regular or irregular. That they should come to the court and not take upon themselves to determine such a question: that the course of a party knowing of an order which was null and irregular and who might be affected by it was plain. He should apply to the court that it might be discharged. As long as it existed it must not be disobeyed." (*Per* Lord Cottenham L.C. in *Chuck v Cremer* [(1846) 1 Coop t Cott 205 at 338; 47 ER 820 at 884].)
>
> Such being the nature of this obligation, two consequences will, in general, follow from its breach. The first is that anyone who disobeys an order of the court … is in contempt and may be punished by committal or attachment or otherwise.

30 I was satisfied that this was a case where the majority defendants had failed to comply with clear and unambiguous orders of which they have had notice. Deliberately the contemnors affirmed holding affidavits of assets and asked to put them before the court. That conscious act clearly

constituted a breach of the Mareva injunction. Also none of the majority defendants had accounted to the plaintiffs on a weekly basis for assets disposed of and for money spent in the course of their ordinary living expenses and/or in the ordinary course of business. This was required under Exceptions (1) and (2) of the Mareva injunction. The breaches continued even after the permanent injunction was obtained.

31 To avoid cross-examination, D1 to D5 and JS absented themselves on 30 August 2004. This was the first day of cross-examination. Mr Sreenivasan explained the absence of D1 on medical grounds. The medical certificate stated that D1 needed total bed rest without stating the ailments that afflicted D1 and prevented him from turning up to be cross-examined. It was too convenient and undoubtedly contrived. The person who signed the medical certificate was not identified. There was no explanation for the absence of D2 to D5 and JS on 30 August 2004. In fact, Mr Sreenivasan informed that court that he had had no instructions from the others and that he would be making an application to discharge himself from acting on behalf of D2 to D5, D7, D11, D13 and D14, but not D15 as the company had been struck off. D7 had also conveniently revoked the power of attorney of JS to represent the company. That conduct was telling.

32 The cross-examination was adjourned to 1 September 2004 for D1 to D5 and JS to attend court for cross-examination. Again, there was no show. The contemnors' absence on both occasions was completely inexcusable and hence deliberate. It was yet again a conscious decision on the part of the majority defendants not to comply with the peremptory order. The affidavits of assets on which the contemnors refused to be cross-examined were of no weight.

33 Mr Sreenivasan argued that JS was not a defendant and was not a director of D7. There was no personal service of any of the orders on JS. Straits Law Practice LLC did not represent him at the time the orders were made and served on solicitors.

34 JS is the president director of PT Bintuni Minaraya Tbk, the parent company of D7. He is also the finance director of the Djajanti group of companies, which consists, *inter alia*, of D7. JS was appointed by D7 to file the affidavits of assets on its behalf. The fact of the matter is that he affirmed the affidavits of assets on behalf of D7. The order for cross-examination operated upon him. He could not avoid or evade the impact of the order directed at him personally. The revocation of his appointment as attorney in no way diminished his personal and separate responsibility. As attorney he had a responsibility when making the affidavit of assets to ensure that D7 complied with its disclosure obligations under the Mareva injunction. JS actively assisted D7 to commit a breach of the Mareva injunction by affirming what I had described as holding affidavits of assets. It was what JS did or did not do that put D7 in breach. The court has jurisdiction to commit for contempt this third party (JS) although not a defendant to the action, as someone who had aided and abetted in the breach: see *Seaward v Paterson* [1897] 1 Ch 545.

35 Mr Sreenivasan raised one other point against committal. The plaintiffs had taken the position that committal was a futile remedy when they pressed the court to grant a peremptory order. In obtaining the peremptory order, the plaintiffs had submitted that committal as a remedy was futile and the only efficacious order was a peremptory order. Thus the plaintiffs could not now ask for a committal order. Mr Singh in response argued that the majority defendants were told that the application for a peremptory order was without prejudice to their rights to commit the majority defendants for contempt. Besides, Mr Sreenivasan, I noted, accepted that there was nothing to bar or disqualify the plaintiffs from using one or more methods of enforcement. They could apply for relief by way of committal if that was an efficacious method of enforcement and it was, especially, in instances of continuing breaches of court orders. After all, the underlying purpose of the court's jurisdiction in contempt is to uphold the rule of law by enforcing the court's authority: see *Attorney-*

General v Times Newspapers Ltd [1974] AC 273 at 302 and 307–309.

36 The breaches of the various court orders were serious. Up to the time of the hearing of the committal proceedings, the majority defendants had not purged their contempt. It was always within the powers of the contemnors to right the situation so as to avoid the committal proceedings, imprisonment or fine. They remained uncooperative, deliberate and contumacious in breaching the terms of the orders. The conduct of the contemnors was a highly relevant factor for the court to take into account.

37 I concluded that the five heads of contempt in [13] above had been proved beyond reasonable doubt. The evidence compelled a conclusion that the contemnors had committed contempt of court by deliberately disobeying the various orders. There was no explanation or no good explanation providing a justifiable excuse for non-compliance with the various orders. The majority defendants' single-minded objective to avoid disclosing the true value of their assets could not be condoned. That was, in my judgment, clear defiance of the authority of the court. It was plain that the majority defendants and JS were wrong to take that attitude and therefore in contempt of court. Their personal views, however sincere (to be charitable), could not in themselves justify disobedience. It was necessary in the circumstances of this case, given all that had transpired, to uphold and enforce lawful orders of the court. Imprisonment, as opposed to a fine, was appropriate as there was no other effective means to ensure compliance. Each contemnor was adjudged guilty of contempt of court and was committed to imprisonment for six months. I also granted an order for the issue of a warrant of arrest of the contemnors. As in the normal course of events, I awarded the plaintiffs their costs.

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