Union Concept Manufacturers Pte Ltd and another *v* Rhythme Technology Pte Ltd [2015] SGHC 121

Case Number : Suit No 924 of 2012

Decision Date : 04 May 2015

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : M Ramasamy, N K Rajarh and Shelley Lim Lei-Yee (M Rama Law Corporation) for the plaintiffs; Renganathan Nandakumar, Oon Pei Gan and Simren Kaur (RHTLaw Taylor Wessing LLP) for the defendant.

Parties : Union Concept Manufacturers Pte Ltd and another — Rhythme Technology Pte Ltd

Tort – Negligence – Causation

Tort – Negligence – Duty of care

4 May 2015 Judgment reserved.

Choo Han Teck J:

1 A lit cigarette fell from the upper floors of Block 2019 at Bukit Batok Street 23 on 26 January 2010. It landed on pallets of polystyrene foam packing material. These materials were stacked outside a warehouse. Perhaps they should not have been left there. The cigarette ignited the flammable materials and started a fire. That was about 10am. The fire raged for hours before it was put out.

2 A worker from the warehouse noticed the fire and raised the alarm. He and various others tried to put out the fire. The fire, fed by the stacks of polystyrene material and strong winds, very quickly spread into #01-260 ("the plaintiffs' premises") occupied by Union Concept Manufacturers Pte Ltd ("the first plaintiff"), damaging the property therein. The premises were shared by P & K Services Pte Ltd ("the second plaintiff").

3 The defendant, Rhythme Technology Pte Ltd, is a company engaged by the Housing Development Board ("HDB") to service and maintain the fire protection and mechanical ventilation systems at the said block. Maintaining the fire hose reel system at the plaintiffs' premises was part of that job.

4 The plaintiffs are now claiming damages amounting to $1,383,673.05 of alleged losses caused or contributed by the defendant's negligence to service and maintain the fire hose reel system. The thrust of their claim is that the defendant breached their duty of care to the plaintiffs by failing to ensure that there was any water, or sufficient water, in the fire hose reel nearest to the plaintiffs' premises. In addition, this breach prevented them from using the fire hose to stop the fire and salvage their property on the premises.

5 The defendant argues that their contract is with HDB, and they do not owe a duty of care to the plaintiffs. I am of the view that the defendant does owe a duty of care to the plaintiffs as users of the fire hose reel which they service and maintain. But the question is, what is the extent of this duty of care? As set out in the defendant's contract with HDB, the duties of the defendant include

conducting regular maintenance and servicing of the fire hose reels in the said block to ensure that the fire hose reel is in good condition and that all couplings are watertight. They are also to report their findings to HDB, which would include possible findings of a lack of water pressure or damaged components present in the fire protection system.

6 On the evidence, I am satisfied that the defendant's employees carried out a physical test on the fire hose reel nearest to the plaintiffs' premises on 17 September 2009. They recorded their findings on a check list which indicated that the various components which made up the fire protection system were not damaged – neither faulty nor jammed, and that the water pressure was not low. The only damage they recorded was that of the cabinet containing the fire hose reel.

7 The plaintiffs argue that the defendant had breached his duty of care as there was no water in the fire hose, and further, that the non-return valve was installed in the reverse, which the defendant had failed to notice and which would affect the flow of water in the fire hose. But the plaintiffs' key witnesses who were present on the day of the incident and had attempted to use the fire hose did not appear in court to give evidence. Without their evidence, it is extremely difficult for the plaintiff to prove that at the time the fire hose was used, there was practically no water in the hose reel, and that this was a result of the defendant's breach of duty. All we can rely on are their contemporaneous statements taken by Crawford & Company International Pte Ltd and JT Megan & Partners Pte Ltd in their course of investigating the cause of the fire, but which have not been subject to cross-examination. In fact, the picture that emerges upon perusing the fire investigation reports is that the fire hose reel was pulled out by the workers, but was subsequently discarded because the direction of the wind was blowing towards those attempting to put out the fire with the fire hose. As such, the workers had to run to the adjacent unit to retrieve another fire hose.

8 The evidence given by Mr Kua, the managing director of the plaintiff under cross-examination shows that he reached the scene less than a minute after he was notified of the fire, but by then the fire had spread so rapidly that he decided not to use the fire extinguisher that he was carrying. He claims that he picked up the fire hose nearest to the unit, but there was no water in the fire hose. However, on the balance of probabilities, I am unable to accept his evidence. Mr Kua arrived on the scene sometime after the other employees of the warehouse had attempted to fight the fire with the fire hose. If it had been too hot for the other employees to stand in the same position and fight the fire, which was spreading rapidly, it seems highly improbable that Mr Kua was able to do so at a time when the fire was even more uncontrollable. It is striking that his observation of the fire hose being faulty was not included in his contemporaneous statement taken immediately after the incident. The failure to mention such a crucial fact, coupled with the improbability of his assertions, has caused me to be sceptical about the plaintiff's claims.

9 Further, I note that the plaintiffs' expert did not have an opportunity to examine the non-return check valve at the location in this case. The defendant's contract with HDB to service the hose reels located outside of the plaintiffs' premises also does not involve servicing the check valve. In any event, even if the non-return check valve was inserted wrongly, it did not definitively mean that no water could flow through. On the expert evidence given, we can conclude that if the circular disc in the non-return valve was disengaged, the water can flow in both directions, and would result in water flow even if the non-return valve was inserted in the opposite direction. Even if we were to accept Mr Kua's allegation – that there was no water in the fire hose, there are also other reasons why the water may not come out immediately from the fire hose, and/or may not be of sufficient pressure. For example, if either the hose reel was not properly disentangled, or the tap was not turned on properly, the water would take a longer time to come out, and/or the water pressure may be affected. These are all factors that fall outside of the defendant's duty of care. I thus find that the defendant has not breached his duty of care to the plaintiffs.

10 In any event, even if the defendant had breached his duty of care, the plaintiffs' claim against the defendants would also fail on the issue of causation. The incontrovertible fact is that the plaintiffs had stacked large amounts of highly combustible packing material outside their warehouse which posed a high fire risk. On that day, a lit cigarette ignited the fire and strong winds and the combustible material led to the rapid spread of the fire. The spread of the fire was so rapid that it soon became clear to those present on the day, like the employees of the warehouse, passers-by and even employees of neighbouring units who were spraying water onto the flames, that human efforts were futile and were unable to quench the raging fire. The winds were also blowing towards the plaintiffs' premises, which caused the fire to spread laterally into the said unit. It seems clear to me that the mere usage of one or two fire hose reels, even if fully functioning, would have been insufficient to contain the spread of the fire that was already out of control when the said hoses were drawn to range. This is supported by eyewitness accounts which state that by the time the employees pulled the hose reel out to the front of the unit, they were faced with a large fire as the fire had spread to the nearby pallets of packing material. As winds blew smoke, heat and the flames towards their direction, the workers discarded the hose reel and rushed to retrieve another from a neighbouring unit. I am thus not satisfied that the water in the hose reels would have made a difference to the spread of the fire. Even the firemen subsequently took three hours to bring the fire under control, and five hours to completely extinguish the fire. I thus find that even if the defendant had breached his duty, that breach did not cause or contribute to the plaintiffs' loss and damage.

11 For the reasons above, the plaintiff's claim is dismissed. I will hear parties on costs at a later date.

Copyright © Government of Singapore.