SCT Technologies Pte Ltd *v* Western Copper Co Ltd
[2015] SGHC 135

Case Number : Suit No 751 of 2013

Decision Date : 21 May 2015

Tribunal/Court : High Court

Coram : Aedit Abdullah JC

Counsel Name(s) : Kelvin Lee Ming Hui (WNLEX LLC) for the plaintiff; Ng Hweelon (Veritas Law Corporation) for the defendant.

Parties : SCT Technologies Pte Ltd — Western Copper Co Ltd

Evidence – Proof of evidence – Onus of proof

[LawNet Editorial Note: The appeal to this decision in Civil Appeal No 74 of 2015 was allowed by the Court of Appeal on 5 January 2016. See [2015] SGCA 71.]

21 May 2015 Judgment reserved.

Aedit Abdullah JC:

Introduction

1 In this matter, the parties ran their respective cases, as they were entitled to do, on the basis that the onus of proof of certain facts lay on the other party. Thus, parties took the position that the consequences of any omission to produce relevant evidence fell on the other side. In the face of such a position by the parties, especially since these parties were both commercial entities and represented by counsel, the court had to determine the case on the evidence before it, and decide on the just outcome in the light of such evidence. While a fuller inquiry would have perhaps uncovered more than what was deposed and testified, the court had to bear in mind the adversarial nature of these proceedings and let the parties play their cards as they did. I found for the defendant; the plaintiff has now appealed.

Background

2 The plaintiff, SCT Technologies Pte Ltd ("the Plaintiff"), claimed from the defendant, Western Copper Co Ltd ("the Defendant"), payment of US$1,274,741.73 for goods, namely copper balls (which were apparently balls of copper or compounds containing copper, to be used ultimately in manufacturing), sold to the Defendant in 2007 and 2008. The Defendant responded that the sum had in fact been paid. The Plaintiff's claim was founded on three invoices:

(a) I 27678, dated 14 November 2007, for US$336,200.83

(b) I 27712, dated 20 November 2007, for $646,212.06

(c) I 28172, dated 30 January 2008, for US$614,671.57

After crediting for some part payments which were not in dispute, the outstanding amount the Plaintiff claimed was owing was US$1,274,741.73,

3 The Plaintiff was a subsidiary of company, Advance SCT Ltd ("Advance SCT"), in 2007 and 2008. The Plaintiff and the Defendant were also related companies, but the latter was not technically a subsidiary of Advance SCT as Advance SCT did not hold more than 50% of the Defendant's shares.

4 The invoices arose out of orders made by customers of the Defendant. For reasons that were disputed between the parties, orders to the Defendant were sent on to the Plaintiff, which then arranged for the shipment of goods, generally copper in the form of balls, to these customers. However, payment was not made directly by the customers to the Plaintiff. Instead, the customers would pay the Defendant who would then in turn pay the Plaintiff.

5 The Plaintiff contended that the payments made by the Defendant were for the benefit of Seah Metal Industries Pte Ltd ("Seah Metal"), another subsidiary of Advance SCT, specifically for copper balls sold and delivered to the Defendant's customers. The Defendant's payments thus did not go, according to the Plaintiff, towards satisfying the amounts owing to the Plaintiff. In 2009, the Plaintiff left the Advance SCT group. Subsequently, the Plaintiff through its manager, Mdm Sim Aileen ("PW2"), had difficulties getting information from Advance SCT.

6 The present action was only instituted in 2013. The issues with the changes in the structure and running of the business seems to have played some role in why the proceedings were not started earlier, though other reasons were also put forward by the parties. The Plaintiff said that it was chasing for payment and trying to resolve the matter amicably, while the Defendant contended that the Plaintiff only decided to pursue the matter because the director of the Plaintiff, Mr Tea Yeok Kian Terence ("PW1"), (who is also incidentally married to PW2) had lost a case launched by the Defendant's witness, Mr Chang Te-Lung.

7 The only real legal issue thrown up in this case concerns the burden of proof. The Plaintiff had to make out its claim. The Defendant, and there is no criticism of Defendant's counsel for this, chose to put forward, as he was entitled, a minimal case, essentially requiring the Plaintiff to prove its claim, and giving little by way of evidence from its side: it only had the one witness, its general manager.

The Plaintiff's case

8 The Plaintiff contended that the Defendant failed to call material witnesses, and no statement of account was produced by them. On the other hand, the Plaintiff had adduced what evidence it could. It was further argued that the payments made by the Defendant could not have related to the invoices in question. On the evidence, such payment would have been collected by the Defendant from the customers, with onward payment to the Plaintiff. The Defendant had on the evidence paid the Plaintiff before money was received from the customers.

9 The Plaintiff maintained that while it had the overall burden of proof, the Defendant had to show that payments were made. The case of *Ma Ong Kee v Cham Poh Meng and another suit* [2013] SGHC 144 ("*Ma Ong Kee*"), discussing *Wee Yue Chew v Su Sh-Hsyu* [2008] SLR(R) 212 ("*Wee Yue Chew*"), showed that in the present situation the Defendant bore the burden of proving discharge of payment. Even if this was incorrect, the Plaintiff had made out a *prima facie* case that payment had not been made, so the evidential burden had shifted to the Defendant, and remained undischarged.

The Defendant's case

10 The Defendant's case was that there was insufficient evidence to support the Plaintiff's allegations. The Plaintiff's witnesses did not help. PW1 did not sufficiently know the operations of the company to give useful evidence. The audited reports were based on incomplete information, as

noted in those produced by Ernst & Young LLP, which gave qualified reports. Even the subsequent auditor retained for the accounts for subsequent years, Mr Low Aik Har ("PW3"), had to qualify the accounts because of the issues with the records earlier. The Plaintiff's main evidence thus came from PW2, who relied on batch listings of the accounts owing. That, the Defendant argued, was not sufficient to establish the non-payment of the amounts owing on the invoices. No statements of accounts were produced or in evidence.

The Decision

11 I came to the conclusion that the burden was on the Plaintiff, and this was not discharged. Not all the possible evidence was brought into court. But ultimately no adverse inference could be drawn against the Defendant for any of these omissions or gaps. The Plaintiff had the burden of showing that the money received was not properly payment for the invoices in question. Part of the difficulty facing the Plaintiff was that the events took place about seven to eight years ago. There have been changes in the corporate structure of the Advance SCT group, the personnel involved in various areas, and records are not available. The respective burdens of proof thus played a significant role in the outcome.

12 The main issue at hand, of course, was the purpose of the payments made by the Defendant. In analysing this main issue, the following areas had to be examined:

(a) the burden of proof of the purpose of payment received;

(b) the transactions and the records;

(c) the auditors' reports;

(d) the inferences that parties sought to be drawn;

(e) evidence not brought into court; and

(f) the assessment of whether the burden was discharged.

Burden of proof of purpose of payment received

13 The burden of proof was argued at some length by the Plaintiff. The Plaintiff relied on cases in which it was held that the burden of proof of discharge or repayment was on the part of the defendant: *Ma Ong Kee* which cited *Wee Yue Chew*. The latter case was considered in *Cooperatieve Centrale Raiffeisen-Boerenleenbank BA (trading as Rabobank International), Singapore Branch v Motorola Electronics Pte Ltd* [2011] 2 SLR 63 ("*Cooperatieve Centrale*") where the Court of Appeal noted (at [31]):

> In civil trials, the pleadings are central in determining the occurrence of the burden of proof, because the pleadings state the material facts establishing the legal elements of a claim or a defence: Pinsler, *Evidence and the Litigation Process* (LexisNexis, 3rd Ed, 2010) at para 12.33; *Phipson on Evidence* (Hodge M Malek gen ed) (Sweet & Maxwell, 17th ed, 2009) ("*Phipson*") at para 6-06. The *legal* burden of proving a pleaded defence rests on the proponent of the defence, unless the defence is a bare denial of the claim: *Currie v Dempsey* [1967] 2 NSWR 532 at 539, followed by the Singapore High Court in *Wee Yue Chew v Su Sh-Hsyu* [2008] 3 SLR(R) 212 at [3]. This rule is consistent with the general principle underlying ss 103 and 105 of the Evidence Act, *viz*, that he who asserts must prove. As stated by Lord Maugham in *Joseph Constantine*

Steamship Line, Limited v Imperial Smelting Corporation, Limited [1942] AC 154 ("*Constantine*") at 174:

> The burden of proof in any particular case depends on the circumstances in which the claim arises. In general the rule which applies is '*Ei qui affirmat non ei qui negat incumbit probatio*'. It is an ancient rule founded on considerations of good sense and it should not be departed from without strong reasons.

We also refer to the commentary in *Phipson* on the above statement by Lord Maugham (at para 6-06):

> This rule is adopted principally because it is just that he who invokes the aid of the law should be the first to prove his case; and partly because, in the nature of things, a negative is more difficult to establish than an affirmative. The burden of proof is fixed at the beginning of a trial by the state of the pleadings, and it is settled as a question of law, remaining unchanged throughout the trial exactly where the pleadings place it, and never shifting. [emphasis in original]

The pleadings must thus be examined and considered. In doing so the court would need to look at the substance of the pleadings, to see which side bears the burden, and not the grammatical form: see *Cooperatieve Centrale* at [32].

14 In the present case, while the Plaintiff tried to bring itself within the position as stated in *Wee Yue Chew* (see *Wee Yue Chew* at [3]), there is a significant difference. The Defendant claimed to have paid money directly to the Plaintiff. The Plaintiff did not deny receipt of this money, but maintained instead that the payment was for other purposes. This, to my mind, was a positive averment by the Plaintiff, and thus the burden was with the Plaintiff.

15 In addition to the construction of the pleadings, this conclusion on the burden is justified by principle. The assignment of the legal burden should take into account who is positively asserting a particular fact, and who would likely and generally have the relevant evidence. In this case, since the Plaintiff did not deny that there had been payment of money, or more neutrally, receipt of money, but rather disputed the purpose of the payment or receipt. The Plaintiff was asserting a fact, and was in a better position to bring the required evidence to court.

16 I do note that in *Ma Ong Kee* the burden of proving discharge lay on the defendant in that action. I do not however interpret that as laying down a general principle that every time payment is claimed to have been made, that the burden of proving repayment lies on the payer. Where receipt of money is not denied, but rather the actual purpose for the payment was disputed, the burden lies on the party asserting that other purpose. In *Ma Ong Kee* in comparison, the payments were made through a margin account, and there was an issue of who funded the margin account: see *Ma Ong Kee* at [39]. Given this, it would follow that the burden fell on the party alleging payment in that case.

17 Requiring the Defendant to not only prove that it had made payment, but also have the burden of proving the allocation of such payment after it reached the hands of the Plaintiff would place on it an overly onerous burden. This is so particularly as these would largely be a matter of the internal operations for the Plaintiff. The Plaintiff should have to show that it was justified in applying payments from the Defendant towards the stated purpose (*ie*, that payments were to discharge debts owed by the Defendants to Seah Metal).

The transactions and the records

The transactions and the records

18 There was no dispute that the Plaintiff received money from the Defendant, but unfortunately there was nothing in evidence that contemporaneously recorded the purpose of each payment. I would have thought that either at the point of payment, or in the receipt given at or after payment, there would have been some statement or remark capturing at least what either the Plaintiff or Defendant thought the payment was for, in terms of the purpose of the payment, or the invoice or order to which the payment related. Unfortunately, this was not so. Much reliance was therefore placed by the Plaintiff on the testimony of the officers of the Plaintiff who were called, namely its Director, PW1, and one of its managers, PW2. I could not accept the evidence of these witnesses that debt had not been paid by the Defendant. PW1's evidence did not assist and did not support his deposed evidence that the payments made by the Defendant were really for the money owed to Seah Metal. As for PW2's evidence, since this was not supported by the records and objective evidence, it could not establish the Plaintiff's case to a sufficient degree.

PW1's evidence as to the money owed

19 As noted by the Defendant, the evidence of PW1 was not of actual assistance. It was clear from his testimony that despite what he deposed in his affidavit, he was not intimately involved in the operations of the Plaintiff, and did not have direct knowledge of the transactions. He testified as follows in cross-examination:

> Q: … are you able to point out to us details of such transactions to support what you've just said to this Court?
>
> A: I think the manager in charge then will be a better person.
>
> Q: Would you know personally, Mr Tea?
>
> A: To be frank, I don't know.

And this was reiterated subsequently:

> Court:… counsel is basically asking "Do you know … that this payment was for this particular invoice?" Do you personally know?
>
> Witness:I don't know.
>
> …
>
> Q: … Mr Tea, you confirm also for the rest of the rest of those transactions, you also wouldn't know the answer?
>
> A: Yes.

The rest of his evidence was along the same lines. He thus did not know the details of the transactions: in particular, he did not know if a particular payment was meant for or used for a specific transaction.

PW2's evidence

20 PW2's evidence was based primarily on the records which she had. PW2 testified also as to her

practice and procedure. However, again as noted by the Defendant, given the qualification of the accounts for the material years, there is doubt about the sufficiency of the records for that period. Her allegation was the payments actually received were meant and intended for monies owing to Seah Metal and not for the material invoices. The arrangements involving Seah Metal as put forward by the Plaintiff were not substantiated by any documents or objective evidence tracking payments and the flow of funds. Invoices were not helpful in terms of the payments. In view of all of this, it could not be accepted that the payments were intended for monies owing to Seah Metal.

21 PW2 had documents including the batch listings, receipts and printouts. The primary documents relied upon by PW2 were the batch listings. These listings are records prepared by the Plaintiff. These records can be relevant evidence, but the weight that can be given to them will necessarily vary with the context of each case. Where the case turns on the purpose of payments, it would not be sufficient to rely on such listings alone, without supporting contemporaneous documents showing how the payments were dealt with or which debt they were allocated towards satisfying. Contemporaneous documents indicating standard operating procedure, or practices, may then supplement these listings, establishing a greater likelihood that firstly, the payments were treated the way the Plaintiff said they were, and secondly, that the way they were treated was proper in the context of the dealings between the parties. Shorn of such support, the batch listings would not have much weight in the present case. Furthermore, such listings do not explain the overall position between the parties, nor how payments are necessarily related to debts incurred. There needs to be further evidence given about how each listing was or was not paid off. These listings were thus at best simply entries in the Plaintiff's own books. It would be hard to find for the Plaintiff on this on the balance of probabilities. There were no actual contemporaneous documents listing out debits and credits as between the Plaintiff and Defendant. The Plaintiff was dependent on PW2's evidence on this, but she could not supply all the necessary connections on the balance of probabilities. Certainly, the passage of time and the absence of records acted against the Plaintiff. What evidence as there was could only be regarded as falling short of the balance of probabilities.

22 The absence of documentary evidence significantly impacted the Plaintiff's case. It may be that, as explained by PW2, that the difficulties were significant, particularly as the Plaintiff left the Advance SCT group in October 2009, and had no access to its records after. While this may be understandable, it does not aid the Plaintiff's case. Neither could any lack of cooperation by Advance SCT be laid at the feet of the Defendant. A similar conclusion arises in respect of difficulties the Plaintiff may have had in getting materials from Seah Metal.

23 There were emails sent to the Defendants asking for payments, seemingly over almost three years. There was one email from the Defendant exhibited, but that was not a reply to the requests for payment, but raised another matter altogether. The silence of the Defendant however to such emails, could not be taken as acknowledgement of the money owing. As noted in the course of these grounds, silence is often equivocal. In some situations, silence in the face of a proven document, such as a statement of account sent to the other party in the course of business, could perhaps support a claim for unpaid money. But these emails were not of that nature. These documents thus did not assist the Plaintiff's case at all.

DW1's evidence

24 The Defendant's only witness, Mr Chang Te-Lung ("DW1"), maintained his position that the payments were made for the invoices set out at [2] above. He denied that were any dealings with Seah Metal. DW1 was not shaken in his testimony and I could see nothing that would point to the rejection of his evidence.

25 The Plaintiff also contended that given the structure of the transactions, the Defendant could not have made the payments for the invoices, as the payments were made before money was received from the customers. It was said that the payment would be made first by the Plaintiff for the various goods, with reimbursement by the Defendant. From this it was argued that it could not have made sense for the payments to be made to the Plaintiff on the dates relied upon by the Defendant as it had not yet received payment from the customers. Thus, as summarised in the submissions of the Plaintiff, for invoice I 27678, there were three payments that the Defendant made on 26 December 2007, 1 and 12 February 2008. Money was received from customers on 14 and 26 February and 12 March 2008. For invoice I 27712, the payments were made by the Defendant on 11 January and 12 February 2008, while the payment from the customers was received on 26 February 2008. Finally for invoice I 2872, the payments to the Plaintiff by the Defendant were on 7 March, 3 April and 8 May 2008, while the Defendant was paid on 7 and 27 May 2008. Despite this, I could not find that the transactions were indeed structured as the Plaintiff alleged. There was no documentary evidence of such a structure, and the Defendant denied this arrangement.

26 There was some disagreement about why the Plaintiff was involved at all in these dealings. The Plaintiff referred to the Defendant's cash-flow difficulties as a reason for this structure. DW1 accepted that the structure was partly to allow the Plaintiff to have some business, and at the same time enable the Defendant to receive more orders. I understood the Defendant's version to mean that the Plaintiff's involvement in the dealings was not necessitated by cash flow problems, though it did allow the Defendant to have an increased volume of business. On this basis then, it would not have been out of place for payments to be made by the Defendant to the Plaintiff before the Defendant was paid by the customers: the Defendant did not need the funds from the customers to pay the Plaintiff. There was nothing else on the Plaintiff's evidence to show that the Defendant was constrained to pay only after the customers did. I therefore could not accept the Plaintiff's line of argument.

27 Furthermore, whatever shortcomings there were with the Defendant's evidence in this area, these could not overcome the difficulties with the Plaintiff's case as a whole.

Partial payments

28 What was also against the Plaintiff to my mind was that it accepted that some part payments were indeed for the invoices in question. How it could come to the conclusion that some payments were for the invoices and some were not was not sufficiently made out either in affidavit or in testimony. What was placed in evidence were allocation of payments in PW2's affidavit, and a reference to the Plaintiff's erstwhile "statement of accounts", without a real explanation of how the sums were allocated. In the absence of supporting evidence in this area, the only conclusion I could come to in this respect was that there was actually no basis for the allocation or non-allocation of payment to the invoices.

The auditors' reports

29 The Plaintiff called their present auditor, PW3, to give evidence in respect of their accounts and auditors' reports. PW3 was however not the auditor for the material years in question, 2008 and 2009: he has only been engaged since 2012.

30 There were issues about the accounting position within the Plaintiff for 2008 and 2009. The Defendant argued that this showed that there were documents missing, and that the accounting position was unclear and inaccurate. The Plaintiff tried to argue around this on the basis that there had been a failure to pay $3m by another customer. The accountants who prepared the relevant

qualified reports were not however called as witnesses, nor was there anything produced to support this assertion. The Plaintiff's witness, PW2, pointed to difficulties in obtaining such evidence. For instance, she testified that she had tried to obtain an audit confirmation from the previous auditors, but was unable to do so. The absence of evidence has to affect the Plaintiff's case. In any event, even if the Plaintiff's explanation was accepted, it would not improve on the overall weaknesses in the Plaintiff's case.

31 Additionally, the fact that the accounts were qualified on the basis of incomplete records does call into question the Plaintiff's version of events, the strength of its records, and the weight to be given to its evidence. PW3's evidence did not alter this at all – his affidavit was brief, and he had to accept that his reports were also qualified in respect of the material time periods.

32 The Plaintiff tried to show in comparison that the Defendant's accounts were suspect. It was argued that an analysis of the Defendant's audited accounts showed that a sum of NT$3,010,619 should have been reflected in those accounts as owing to the Plaintiff. However, this was not in the accounts, and instead that same figure was reflected as owing to a company, Singapore Copper Technologies. DW1 was not able to explain the debt to Singapore Copper Technologies. That company has now been liquidated. The Plaintiff contended that this was all suspicious.

33 It may be that in general terms, some explanation was desirable for these issues in the Defendant's accounts. However, none of these went to show that money was paid to the Plaintiff for purposes other than the discharge of the invoices in question. The Plaintiff was not able draw these issues into a single thread with other evidence, to lead to the inference, on the balance of probabilities, that the payments were not for those invoices. Thus, the Plaintiff may have pointed to weaknesses in the Defendant's evidence, but these weaknesses such as were not sufficient to discharge the Plaintiff's burden.

Inferences sought to be drawn

34 There were also arguments on the circumstances surrounding the transactions, including the supposed actions of others. The Plaintiff argued that Advance SCT would not have allowed improper or invalid claims to remain on the Plaintiff's books, especially if it would adversely affect the Defendant, a related company. However, there are many plausible reasons, including neglect or ignorance that could explain this. There were also arguments made by both sides on reputational impact. The Defendant relied on the fact that its accounts were audited by BDO Taiwan Union & Co, an international accounting firm. This could not however take them far. Reputation alone would not be sufficient.

35 Issue was also taken by the Defendant about the conduct of the action, with no legal proceedings taken until late in the day. PW1 testified that the Plaintiff had sought payment, and in 2011, instructions were given to the Plaintiff's then solicitors to sue the Defendant. This claim was not however followed up until 2013. The reason for the relatively late suit could not to my mind have an impact on the merits of the Plaintiff's claim. Many reasons could have justified the late suit, including either an inclination to write off the loss, neglect or even forgetfulness. None of these should be held against the Plaintiff.

Evidence not brought into court

36 The Plaintiff argued that evidence was not adduced by persons in the Defendant who were most familiar with the accounts or the transactions, included a 'Brian Lu'. The Defendant also failed, the Plaintiff said, to adduce documents showing the remittances and the relationship with the

invoices. While the Plaintiff referred to illustration (*g*) of s 116 of the Evidence Act (Cap 97, 1997 Rev Ed) in its submissions, which allows the court to presume that evidence which could be but was not produced is unfavourable to the party withholding such evidence, the Plaintiff did not submit that an adverse inference should be drawn in a specific instance in the present case.

37 As noted above, each side did not call some possible witnesses or did not seek the production of some evidence. However, I did not find that the circumstances were such that an adverse inference should be drawn against either party for such omission. What I did find was that there were omissions in the evidence that affected the ability of each side to establish its position on the balance of probabilities. Given that the burden lay with the Plaintiff, this ultimately meant that it was the Plaintiff's position that was affected.

38 The state of evidence in this case was also affected by the passage of time, as well as the circumstances of the Plaintiff, which changed hands in 2009. A number of witnesses from either side, or from possibly neutral parties, who could have enlightened the court on the matter, were not available or not called.

39 In particular, there was nothing at all from Seah Metal, the entity in whose favour the Plaintiff said the Defendant's payments should be accounted to. There could have been records, and persons who could testify about the transactions that took place between the various companies. This could have supported the Plaintiff's case. It must be emphasised that the absence of such evidence from Seah Metal did not raise any presumption or adverse inference against the Plaintiff. Nonetheless, such absence meant that the Plaintiff's position was unsupported, and murky areas were not cleared up.

Whether the burden of proof has been discharged

40 At the end of a case, the court needs to look at the evidence as a whole and consider whether a case is established by the party on whom the legal burden rests to the requisite standard, which in civil cases, is on the balance of probabilities.

41 While there were weaknesses in the evidence for the Defendant, such as the timing of the payments made, I could not say at the end of the day that it was more probable than not that the payments made were for purposes other than to repay the debts that are the subject-matter of the Plaintiff's claim. The evidence of PW2 and the evidence in respect of the audited accounts of the companies, taken against the other evidence in the case, were not, in the end, to my mind, convincing enough to swing the matter in favour of the Plaintiff.

42 Whatever the actual facts may have been, the court had to deal with this matter on the case as pleaded and the facts brought into court. The Plaintiff, as the claimant, had to establish its claim on the balance of probabilities, or in other words, make out its case as being more probable than not. This it did not do.

Miscellaneous

43 The motivation of the Plaintiff in pursuing the present action was questioned by the Defendant. It was suggested that the Plaintiff had done so because PW1 sought payback for the loss he suffered in earlier proceedings involving DW1. I was of the view that there was little before me to substantiate this, and I did not factor this allegation in my decision.

44 There were also doubts asserted about the veracity of various documents. For instance, DW1 raised issues in his affidavit about purchase orders given in discovery by the Plaintiff. I did not think

these issues affected the outcome of the case and in any event were not the basis of main points parties made in their closing arguments.

Costs

45 I initially awarded costs of $80,000 plus disbursements to the Defendant, taking into account the three-day trial, the issues in play and the amount involved. On further argument subsequently, during which the Plaintiff referred to other cases, as well as the interlocutory cost orders already made, I was persuaded to award $75,000 plus disbursements instead.

Stay of Execution

46 The Plaintiff subsequently sought a stay of execution in relation to $20,000 remaining out of the costs order, after deduction of payment through release of security for costs. I declined this application as I could not see any material prejudice given that if the appeal succeeds, the Plaintiff would be awarded a sum of more than a million dollars. I awarded $1,000 to the Defendant in respect of this application.

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