IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2018] SGHC 40

HC/Suit No 706 of 2017
(HC/Registrar's Appeal No 12 of 2018)

Between

Marina Bay Sands Pte Ltd

… *Plaintiff*

And

Luo Shandong

… *Defendant*

JUDGMENT

[Civil procedure] — [Summary judgment]

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Marina Bay Sands Pte Ltd
v
Luo Shandong

[2018] SGHC 40

High Court — HC/Suit No 706 of 2017 (HC/Registrar's Appeal No 12 of 2018)
Choo Han Teck J
19 February 2018

27 February 2018 Judgment reserved.

Choo Han Teck J:

1 The defendant owes the plaintiff a debt of around $3.5m, which comprised a principal debt of $2.98m and interest. The amount is not disputed and the defendant's attempt to stave off summary judgment failed before the assistant registrar. His appeal before me is based on the same ground, namely, that he does not owe the plaintiff any debt because he had already repaid the debt to a "junket operator" in Macau named Tian Du.

2 Mr David Chan, counsel for the defendant, submitted that because of exchange control regulations, the defendant could not make payment of debts to the plaintiff and all debts due to the plaintiff were thus paid through Tian Du. Mr Chan submitted that the defendant has a history of payments to Tian Du, but has offered no evidence of that, save some documents showing that the defendant was a customer of "Starlink VIP Club", which Mr Chan submitted

was the operational name of Tian Du. These documents indicate that the defendant made deposits and withdrawals. The details of who was ultimately paid, and for what, is not known. There is also no conclusive evidence that the defendant had paid the plaintiff any debt under the agreement that the defendant had signed with the plaintiff that entitles the defendant to gamble at the plaintiff's casino in Singapore.

3 The main evidence in support of the defendant's assertions that he had paid the money through Tian Du is in the affidavit of Liu Jian, the former manager of Tian Du. In that affidavit he affirms that Tian Du collected money from the defendant on behalf of the plaintiff.

4 Mr Kelvin Tan, counsel for the plaintiff, submitted that neither the defendant nor Tian Du can assert an agency relationship between Tian Du and the plaintiff, because only the principal can create an agency. That is true, but a principal can falsely deny the agency he had created. Whether this was the case would be a matter for trial. The question remaining is whether the defendant is entitled to unconditional leave to defend.

5 Against the defendant's assertions, the only direct contractual document is the credit application signed between the plaintiff and the defendant. There is no link with Tian Du. If not for Liu Jian's affidavit, I would have dismissed this appeal, but the questions raised requires a consideration on the merits and after a full trial. The assertions of the defendant and Liu Jian cannot be dismissed summarily on the merits without more. In the circumstances, I will vary the order by imposing the payment of the amount of $3,500,000 into court within 14 days as a condition for leave to defend.

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6 Costs here and below to be costs in the cause.

- Sgd -
Choo Han Teck
Judge

David Chan Ming Onn, Lee Ping and Chng Yan (Shook Lin & Bok LLP) for appellant/defendant
Kelvin Tan Teck San and Chng Hu Ping (Drew & Napier LLC) for respondent/plaintiff

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