IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2025] SGHC 42

Originating Application No 1070 of 2024

Between

Ang Tien Sin

… *Claimant*

And

(1) Lai Kin Sin
(2) Goh Sew Khee
(3) Sterling Engineers Pte Ltd

… *Defendants*

JUDGMENT

[Companies — Directors — Director's right to inspect company's accounting and other records — Whether applicant has standing to bring application — Whether applicant is a director of company— Section 199 Companies Act 1967]
[Companies — Memorandum and articles of association — Whether director was validly removed — Interpretation of company's memorandum and articles of association — Whether *contra proferentem* rule should apply]

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v
Lai Kin Sin and others

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4 March 2025

13 March 2025 Judgment reserved.

Audrey Lim J:

1 The claimant ("Ang") filed this application (the "Application") to seek inspection of the accounting and other records of the third defendant, Sterling Engineers Pte Ltd (the "Company"), pursuant to s 199(3) read with s 199(1) of the Companies Act 1967 (2020 Rev Ed) (the "CA"). It is well established that a director has an almost-presumptive right to inspect the documents of a company to the extent that these fall within the ambit of s 199 of the CA (see *Mukherjee Amitava v DyStar Global Holdings (Singapore) Pte Ltd and others* [2018] 2 SLR 1054 at [25]). The question in this case is whether Ang is presently a director of the Company, such that he has standing to bring this Application. This turns on the interpretation of the Company's Articles of Association (the "Articles").

Background

2 The Company was incorporated on 11 November 2014 with an issued share capital of 500,000 shares. Its present shareholders are: (a) the first defendant ("Lai") with a 35% shareholding; (b) the second defendant ("Goh") with a 20% shareholding; (c) Ang with a 30% shareholding; and (d) three other shareholders owning the remaining 15% shares in the Company.[1]

3 Lai was appointed a director of the Company on 11 November 2014. Ang was appointed a director of the Company on 2 April 2018, and subsequently the Managing Director ("MD") on 2 July 2018.[2] Apart from Lai and Ang, the other directors of the Company are Goh who was appointed on 6 November 2018, and Ms Grace Tan Lee Hwang ("Tan") and Mr Clement Wong Soon Ying ("Wong") who were both appointed on 12 July 2024. Lai has also been the Chief Executive Officer of the Company since 2 July 2018.[3]

Ang's case

4 Ang claims that on or around 29 July 2024, he discovered that his access to the Company's accounts and human resource folders was blocked. Through his solicitors, Ang corresponded with the Company to have his access restored. On or about 10 September 2024, Ang's access to the folders was restored but he claims this was only done partially.[4]

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1 Ang's affidavit dated 15 October 2024 ("Ang's 1st Affidavit") at pp 32–34; Minute sheet dated 4 March 2025 ("4/3/25 Minute Sheet").

2 Ang's 1st Affidavit at pp 30–32; Lai's affidavit dated 14 November 2024 ("Lai's Affidavit") at [9]–[10].

3 Ang's 1st Affidavit at pp 30–31.

4 Ang's 1st Affidavit at [10]–[12] and [14].

5 Ang claims that he is unable to properly discharge his duties as director and MD without access to the Company's records. For instance, he requires these records to determine the Company's receivables, payables, and debts and liabilities owing to creditors on a monthly basis, so as to remain apprised of the Company's financial position. He also requires these records to determine the veracity of the accounting and financial documents submitted to a third-party investor in ongoing negotiations for a potential sale of the Company.[5]

6 Although Lai and Goh were initially joined as defendants to this Application, Ang is no longer pursuing this matter against them, as an application under s 199 of the CA is essentially directed at the company in question.[6]

The Company's case

7 Lai attests on behalf of the Company as follows.

8 Ang's access to the Company's sensitive human resource and financial documents was curtailed on or around 29 July 2024. However, Ang could still access some of those documents through other means, such as the Company's accounting software (which Ang still had access to) and monthly reports on account receivables, or by directing queries to Lai or the Company's accounts and finance directors.[7]

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5 Ang's 1st Affidavit at [23], [27], [31], [35]–[38] and [40]–[43].

6 Company's Written Submissions dated 31 January 2025 ("D3WS") at [19]–[20]; 4/3/25 Minute Sheet.

7 Lai's Affidavit at [39], [44]–[46] and [57].

9 Ang's job scope had been curtailed since 12 July 2024 due to his misconduct, and so he did not require access to the accounts and financial records to discharge his duties.[8] For instance, Lai claims that Ang had been absent from the office during office hours since May 2024, and that Ang had failed to perform his duties in relation to various construction projects of the Company. Thus, when the Company deemed that Ang's conduct as MD and director fell below the reasonable standards expected of him, it downsized his job scope to business development from 12 July 2024. On the same date, the Company's board of directors appointed additional directors (Tan and Wong), and Ang was made joint MD (together with Goh who was appointed to the role of joint MD).[9]

10 The Company alleges a series of bad conduct or misconduct by Ang (which Ang disputes), including freezing the Company's bank account without informing the Company and working for other entities without the Company's knowledge or consent.[10] Consequently, Ang's position as MD was terminated by the Company on 18 October 2024 and he was removed as director on 1 November 2024.[11] Specifically, on 18 October 2024, all the directors (except Ang) signed a resolution to terminate Ang's employment as MD, which was purportedly ratified by the majority of shareholders at an Extraordinary General Meeting on 1 November 2024 (the "1/11/24 EGM"). At the 1/11/24 EGM, the majority of shareholders also passed a resolution to purportedly remove Ang as a director of the Company.[12]

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8 Lai's Affidavit at [5]–[6].

9 Lai's Affidavit at [13]–[16] and [38]–[41].

10 Lai's Affidavit at [19]–[25].

11 Lai's Affidavit at [4].

12 Lai's Affidavit at [29]–[30] and pp 83–84.

11 As such, the Company claims that Ang has no standing to bring this Application. Additionally, the Company claims that Ang's request to inspect the Company's records is motivated by ulterior purposes, including attempting to find information for purposes of potentially bringing a claim for minority oppression.[13]

Ang's standing to bring this Application

12 Ang does not dispute that his standing to bring this Application turns on whether he is still a director of the Company. The parties agree that this in turn depends on whether he was validly removed as a director of the Company on 1 November 2024.[14]

13 For completeness, I find that Ang's status as an MD or a joint MD is not relevant to this Application. He merely needs to be a director *simpliciter* to bring an application under s 199 of the CA. Whilst Ang claims that he was wrongfully terminated as joint MD, he eventually accepted his termination via a letter dated 30 October 2024 from his solicitors to the Company's solicitors.[15] Ang has also confirmed that he is relying on his position as a director, and not as MD, for standing to bring this Application.[16] As such, I make no finding on whether his termination as MD was wrongful or not, as it is irrelevant to this Application.

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13 Lai's Affidavit at [7], [50]–[55].

14 Claimant's Written Submissions dated 31 January 2025 ("CWS") at [9]; D3WS at [23]; 4/3/25 Minute Sheet.

15 Ang's affidavit dated 27 December 2024 ("Ang's 2nd Affidavit") at [65]–[78]; CWS at [24]–[44]; Lai's Affidavit at pp 131–132.

16 CWS at [27] and [44].

Events at the 1/11/24 EGM leading to Ang's removal as director

14 It is undisputed that the following events took place at the 1/11/24 EGM:[17]

(a) The 1/11/24 EGM was a physical meeting and was attended by Ang, Lai, Goh, Tan and Wong who were five of the six shareholders of the Company. The other shareholder, Mr Chow Weng Lee, was absent.

(b) Ang called for the tabled resolutions to be put to a vote by poll pursuant to Art 54 of the Articles, which was duly done.

(c) The resolution to remove Ang as a director of the Company (the "Resolution") was passed by Lai, Goh, Tan and Wong, collectively representing 69.2% of the shareholders present and voting. Ang, unsurprisingly, voted against the Resolution.

15 It is undisputed that the Resolution was purportedly passed pursuant to Art 74 of the Articles.[18] However, Ang claims his purported removal as a director of the Company was not in compliance with Art 74, which must be interpreted consistently with Art 72(a) of the Articles, such that the removal of a director in a general meeting ("GM") requires a special resolution. As the total votes cast in favour of the Resolution was below the threshold for the passing of a special resolution, the Resolution should not have been passed.[19]

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17 Ang's 2nd Affidavit at [75]–[76] and pp 61–75; Lai's Affidavit at [57] and p 84; CWS at [58]–[60]; 4/3/25 Minute Sheet.

18 CWS at [50]; D3WS at [57].

19 Ang's 2nd Affidavit at [73]–[76]; CWS at [59]–[61].

16 The Company submits that the Resolution was validly passed as Art 74, contrasted with Art 72(a) and other provisions in the Articles that deal with written resolutions and the passing of resolutions at a GM, provides for the removal of a director in a GM by way of an ordinary resolution. The Company also claims that s 152(9) of the CA bolsters its argument.[20]

The relevant Company's Articles and statutory provisions

17 The issue of whether the Resolution had to be passed as an ordinary or a special resolution turns on the interpretation of Art 74 of the Articles. As Ang claims that Art 72(a) is also relevant, I set out both Arts 72(a) and 74 for reference:

> ***DIRECTORS: APPOINTMENT, ETC.***
>
> …
>
> 72. (a) The member or members together holding not less than three fourths (3/4) of the total voting rights of all the members having a right to vote at a General Meeting of the Company may at any time and from time to time by notice in writing signed by him or them delivered to the Office appoint any person to be a Director or remove or replace an existing Director. …
>
> …
>
> 74. The Company in a General Meeting may appoint any person to be a Director for such term as may be resolved or may remove any existing Director and may by an Ordinary Resolution appoint another person in his stead.

18 The Company's Articles are dated 11 November 2014. Before me, the parties confirmed that the relevant provisions of the Articles remain the same since the incorporation of the Company.[21]

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20 D3WS at [47]–[67].

21 4/3/25 Minute Sheet.

19 When the Company's Articles were adopted in November 2014, the relevant version of the Companies Act was the Companies Act (Cap 50, 2006 Rev Ed) ("CA 2006"). Sections 36 and 37 of the CA 2006 essentially provides that a company may: (a) adopt all or any of the regulations contained in Table A of the Fourth Schedule to the CA 2006 (the "Model Regulations") as its articles of association; and (b) amend its articles of association to adopt all or any of the Model Regulations.

20 Particularly, the Model Regulations do not contain an equivalent of Art 72(a) of the Articles. However, Art 69 of the Model Regulations provides the following:

> 69. The company may by ordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead; …

For completeness, at the time of the 1/11/24 EGM, ss 36 and 37 of the CA read with the First Schedule to the Companies (Model Constitutions) Regulations 2015 provide for a model constitution for private companies limited by shares ("Model Constitution"). Art 73(1) of the Model Constitution is similar to Art 69 of the Model Regulations.

21 Notably, Art 1 of the Company's Articles states as follows:

> 1. The regulations in Table "A" in the Fourth Schedule to the Companies Act., Cap. 50 shall not apply to the Company, except so far as the same are repeated or contained in these Articles.

22 I cite the above provisions as their relevance will become apparent below.

How Art 74 of the Articles is to be construed

23 The articles of association of a company are, in essence, "terms of an enforceable contract between the company and its members, and among the members *inter se*, upon which the ordinary canons of interpretation relating to contracts are to apply" (see *Lian Hwee Choo Phebe and another v Maxz Universal Development Group Pte Ltd and others* [2009] 2 SLR(R) 624 at [11]). The relevant principles to be applied in the construction of a contract are summarised in *CIFG Special Assets Capital I Ltd (formerly known as Diamond Kendall Ltd) v Ong Puay Koon and others and another appeal* [2018] 1 SLR 170 at [19] and [23], as follows:

(a) The starting point is to look to the text that the parties have used.

(b) At the same time, it is permissible to have regard to the relevant context if the relevant contextual points are clear, obvious and known to both parties. In this regard, the relevant context can include the entirety of the document and the way the contract as a whole was drafted.

(c) The reason the court has regard to the relevant context is that it places the court in the best possible position to ascertain the parties' objective intentions by interpreting the expressions used by them in their proper context.

(d) In general, the meaning ascribed to the terms of the contract must be one which the expressions used by the parties can reasonably bear.

24 Ang argues that because the words "Ordinary Resolution" precedes only the phrase "appoint another person in his stead" (*ie*, to appoint a replacement

director) in Art 74 of the Articles, that therefore a special resolution is required to remove an existing director at a GM.[22]

25 Reading the Articles of the Company as a whole, I disagree with Ang that the removal of a director under Art 74 requires a special resolution (*ie*, a resolution passed by a majority of not less than three-fourths of such members as, being entitled to do so, vote in person, or where proxies are allowed, by proxy present at a GM (see s 184(1) of the CA 2006)). I elaborate below.

26 It is undisputed that the Articles provide for two different methods for the removal of a director, namely, under Art 72(a) and Art 74.[23]

27 Article 72(a) provides for the removal or replacement of a director by a "notice in writing" without the need to convene a GM. Here, Art 72(a) expressly stipulates that the notice in writing must be signed by "members together holding not less than three fourths (3/4) of the total voting rights of all members having a right to vote at a General Meeting of the Company" (the "Art 72(a) 75% Requirement"). The parties agree that the Art 72(a) 75% Requirement functions similarly to a requirement for a special resolution at a GM, assuming all members having a right to vote do vote in person or by proxy at the GM.[24]

28 Article 74 stipulates that the Company in a GM may appoint a person to be a director or may remove an existing director and may by "Ordinary Resolution" appoint another person in replacement. The parties agree that for Art 74 to apply, a GM must be convened (*ie*, a physical meeting, as opposed to

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22 CWS at [51]–[52].

23 CWS at [47] and [60]; D3WS at [44]; 4/3/25 Minute Sheet.

24 4/3/25 Minute Sheet.

Art 72(a) where no meeting needs to be held). It is clear that the words "Ordinary Resolution" describe the requirement for appointment of a replacement director under Art 74. Whilst it is undisputed that Art 74 is silent as to whether an ordinary or a special resolution applies to the removal of a director,[25] I find that the former requirement was intended to apply.

29 I am of the view that by providing for two different methods of appointment, removal and replacement of directors (via Art 72(a) and Art 74), the Company and its members objectively intended for two different thresholds to apply depending on whether the appointment, removal or replacement is done via a written notice or via a GM convened physically. I support my conclusion with the following.

30 Unlike the Model Regulations (or Model Constitution) which provides only one method of removal and replacement of a director by ordinary resolution, the Company chose to disapply the Model Regulations (see [21] above) and instead prescribed two different methods for the removal and replacement of a director. The distinction suggests that the Company and its members objectively intended different thresholds to apply to the appointment, removal and replacement of a director, depending on whether a GM is convened to give effect to that decision. Under Art 72(a), where no GM is held, the safeguard of a higher threshold (*ie*, the Art 72(a) 75% Requirement) is warranted as it is relatively easy for a member of the Company to provide notice in writing to remove a director. This is to be contrasted with Art 74, where a GM has to be convened for the removal of a director, and for which there are other safeguards in place before business at the GM (such as the passing of a resolution) can be transacted. First, there is a minimum notice requirement

[25] 4/3/25 Minute Sheet.

under Art 48 of the Articles for the convening of a GM. Second, Art 50(a) of the Articles provides that no business shall be transacted at a GM unless there is a quorum of members present, and such "quorum" is defined as a member or members representing more than 50% of the total voting rights of all members having the right to vote at the GM. In view of these other safeguards, there is less of a need to impose a requirement of a special resolution to remove a director at a GM.

31 If Ang's interpretation of Art 74 of the Articles (see [15] above) is to be accepted: (a) the words "Ordinary Resolution" which precede the phrase "appoint another person in his stead" can only apply to the appointment of a *replacement* director; and (b) the removal of an existing director *and the appointment of a director in any other circumstances* (both of which are not preceded by the words "Ordinary Resolution") must thus be by way of a special resolution. Ang's interpretation would mean that a special resolution is required to remove a director, but an ordinary resolution is sufficient to appoint his replacement. It would also mean that, while an ordinary resolution is sufficient to appoint a replacement director, a special resolution is required to appoint a director in any other situation. In my view, it is not commercially sensible to interpret Art 74 in Ang's manner, which would lead to an absurd result that a different threshold would apply depending on whether a director is appointed to replace another director (which can be done by an ordinary resolution) or appointed in any other situation (which must be done by a special resolution).

32 Based on my analysis above, I thus dispose of Ang's other arguments in support of his claim that a special resolution is required to remove a director under Art 74 of the Articles.

(a) First, Ang points out that the words "ordinary resolution" pertaining to the removal of a director is expressly specified in Art 69 of the Model Regulations and Art 73 of the Model Constitution. He thus argues that its omission in Art 74 of the Articles implies that a special resolution is required to remove a director at a GM.[26] I find this argument unpersuasive in light of my reasons above (at [29]–[31]), and also because the Model Regulations were expressly disapplied by Art 1 of the Articles (see [21] above). The Model Constitution also came into force in January 2016, after the Company was incorporated and the Articles were adopted. Hence, the Model Regulations and Model Constitution do not assist Ang's argument.

(b) Second, Ang submits that it is incongruous for Art 72(a) of the Articles to impose the Art 72(a) 75% Requirement for the removal of a director via a "notice in writing", but that the removal of a director in a GM under Art 74 merely needs to fulfil a simple majority with an ordinary resolution.[27] Again, I disagree and I reiterate my analysis at [30] above. That there are two different methods provided in the Articles for the appointment, removal and replacement of a director (which is a departure from the Model Regulations and Model Constitution) suggests that the process under Art 72(a) would be different from the process under Art 74. In fact, Ang's interpretation itself creates an incongruity between Art 72(a) and Art 74. On his interpretation, the removal and replacement of a director via a "notice in writing" under Art 72(a) is consistent in that both must satisfy the Art 72(a) 75% Requirement. Yet,

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26 CWS at [53]–[55].

27 CWS at [59]–[60].

the removal and replacement of a director in a GM under Art 74 requires a special resolution and an ordinary resolution respectively.

33 In the round, I find that the positioning of the words "Ordinary Resolution" in Art 74 is a result of poor drafting rather than a deliberate decision to apply two different requirements within the same provision depending on whether a director is to be removed or is to be appointed (whether in replacement of a director or otherwise).

34 Finally, Ang argues that the *contra proferentem* rule should apply to Art 74 of the Articles to resolve the ambiguity in his favour.[28] I disagree.

35 For the *contra proferentem* rule to apply, it is a necessary condition that "there be an ambiguity in the contract which *cannot be resolved* (and *not merely* that it is *difficult* to resolve) by interpreting the term in the context of the overall contract" (*Hewlett-Packard Singapore (Sales) Ptd Ltd v Chin Shu Hwa Corinna* [2016] 2 SLR 1083 ("*Hewlett-Packard*") at [51]). The first task of the court is always to construe the document based on the well-established principles of contractual interpretation, including looking at the surrounding context as well as the purpose of the agreement (*Hewlett-Packard* at [52]). In *Mohammed Shahid Late Mahabubur Rahman v Lim Keenly Builders Pte Ltd (Tokio Marine Insurance Singapore Ltd, third party)* [2010] 3 SLR 1021 at [68] and [70], Steven Chong JC (as he then was) stated as follows: (a) the *contra proferentem* rule is an aid to the construction of ambiguous documents; (b) even where a clause is ambiguous taken alone, the *contra proferentem* rule does not apply if its meaning becomes clear in the context of the overall document; (c) if a *contra proferentem* interpretation leads to inconsistency within the contract, and /or an

[28] CWS at [62]–[67].

unreasonable result, that defeats the aim of ascertaining the true construction of the contract, which is to determine the objective intention of the parties as understood by a reasonable observer.

36 I decline to apply the *contra proferentem* rule in the present case, as the ambiguity in Art 74 of the Articles can be resolved by interpreting that provision in the overall context of the Articles. Further, applying the *contra proferentem* rule, to interpret Art 74 in the manner suggested by Ang, will not lead to a commercially sensible construction of Art 74, especially when read in light of Art 72(a). The court should not approach the construction of Art 74 in a technical way and should instead approach it in the way the commercial parties to the agreement (*ie*, the Company and its members) would probably have approached it. Indeed, a construction that leads to very unreasonable results is to be avoided unless it is required by clear words and there is no other tenable construction (see *Zurich Insurance (Singapore) Pte Ltd v B-Gold Interior Design & Construction Pte Ltd* [2008] 3 SLR(R) 1029 at [131]). In the present case, a reading of Art 74 in the overall context of the Articles leads me to construe that the appointment, removal and replacement of a director of the Company at a GM requires the mere passing of an ordinary resolution.

37 Finally, I accept the Company's argument that s 152(9) of the CA bolsters its argument that an ordinary resolution is all that is required to remove a director in a GM under Art 74 of the Articles. Section 152(9) of the CA (which came into force on 3 January 2016) provides that "[s]ubject to any provision to the contrary in the constitution, a private company may by ordinary resolution remove a director before the expiration of his or her period of office despite anything in any agreement between the private company and the director." Before me, both Ang and the Company relied on s 152(9), although that provision came into force only after the Articles were adopted by the Company.

That being the case, as there is no "provision to the contrary" in the Articles (and particularly in Art 74) which expressly requires the passing of a special resolution to remove a director where a GM is held, an ordinary resolution would suffice. Thus s 159(2) of the CA further supports my conclusion. That said, even without relying on s 152(9), I am of the view that the removal of a director under Art 74 merely requires the passing of an ordinary resolution.

Conclusion

38 It is undisputed that Art 74 of the Articles applies in the present case. Ang accepts that the 1/11/24 EGM was validly convened.[29] I have also found that the passing of an ordinary resolution was all that was required under Art 74 to remove Ang (as a director) at the 1/11/24 EGM. Thus, the votes cast in favour of the Resolution were sufficient for the Resolution to be passed as an ordinary resolution (see [14(c)] above), and this is not disputed by Ang's counsel.[30] It follows that Ang's removal as a director was valid and he does not have standing to pursue this Application. As for Ang's other allegations pertaining to the Company's unfair treatment of him, and the Company's counter-allegations of Ang's purported misconduct, I make no findings on these matters given my decision above.

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29 4/3/25 Minute Sheet.

30 4/3/25 Minute Sheet.

39 I thus dismiss Ang's Application. I will hear the parties on costs.

Audrey Lim
Judge of the High Court

Chan Kia Pheng and Dyason Isabel Mary (LVM Law Chambers LLP) for the claimant;
Lee Ming Hui Kelvin and Ong Xin Ying Samantha (WNLEX LLC) for the third defendant.