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DEPUTY REGISTRAR LEWIS TAN

9 October 2026

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGDC 334

District Court Originating Claim No 513 of 2026
(Summons No 1392 of 2026)

Between

Artem Ibragimov

... Claimant

And

Liu Xun

... Defendant

JUDGMENT

[Conflict of Laws] — [Choice of jurisdiction] — [Exclusive] — [Whether
dispute subject to exclusive jurisdiction clause]

[Conflict of Laws] — [Choice of jurisdiction] — [Exclusive] — [Whether
strong cause can be shown]

TABLE OF CONTENTS

INTRODUCTION.....	1
BACKGROUND	2
PARTIES TO THE DISPUTE.....	2
STAY OF SINGAPORE PROCEEDINGS COMMENCED BY THE INVESTORS.....	3
COMMENCEMENT OF THE PRESENT ACTION IN THE SINGAPORE COURTS AND THE DEFENDANT’S JURISDICTIONAL CHALLENGE	5
THE CAYMAN EJC’S SHOULD BE GIVEN EFFECT TO	6
APPLICABLE PRINCIPLES	6
THERE IS A GOOD ARGUABLE CASE THAT THE CAYMAN EJC’S GOVERN THE DISPUTE.....	7
<i>The EJC’s must be construed in a common sensical manner in light of the relevant circumstances.....</i>	7
<i>The Claimant’s own pleaded case shows the close connection between the dispute and the Agreements.....</i>	8
<i>The dispute does not fall outside the scope of the Cayman EJC’s simply because the alleged deceit preceded the Agreements.....</i>	10
<i>Framing the claim as one in deceit does not bring the dispute outside the scope of the Cayman EJC’s.....</i>	10
<i>The governing law of the Agreements reinforces the finding that the dispute is governed by the Cayman EJC’s</i>	13
THERE IS NO STRONG CAUSE TO REFUSE A STAY OF THE SUIT.....	16
<i>The Claimant cannot rely on forum non conveniens arguments.....</i>	16
<i>Enforcing the Cayman EJC’s does not amount to an abuse of process.....</i>	18
<i>Enforcement challenges do not amount to a denial of justice.....</i>	19
CONCLUSION.....	20

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Artem Ibragimov

v

Liu Xun

[2026] SGDC 334

District Court Originating Claim No 513 of 2026 (Summons No 1392 of 2026)
Deputy Registrar Lewis Tan
21 September 2026

9 October 2026

Judgment reserved.

Deputy Registrar Lewis Tan:

Introduction

1 The Claimant and the Defendant were co-founders of a cryptocurrency business which secured an investment of approximately US\$31.5m. In connection with that investment, both men entered into agreements with the investors which provided that disputes arising out of or in connection with those agreements were to be exclusively determined by the courts of the Cayman Islands. When the investors sued both men in Singapore alleging that they had conspired to siphon away the investment, the Defendant invoked the jurisdiction clauses and obtained a stay of the proceedings. The Claimant subsequently settled the investors' claims against him.

2 The parties now return to the Singapore courts, with the Claimant alleging that the Defendant fraudulently misused his signature on documents

which were used to induce the investors to make the investment. Among other relief, he seeks to recover the losses which he says arose from being drawn into the proceedings brought by the investors. The Defendant once again invokes the parties' agreement to litigate in the Cayman Islands to seek a stay. The Claimant resists the stay, alleging that the dispute is a personal one in deceit arising from an earlier arrangement between the parties, and is therefore divorced from the agreements containing the exclusive jurisdiction clauses.

3 The former co-defendants now find themselves on opposite sides of a dispute, but the underlying controversy remains rooted in the same investment. Whether their contractual choice of forum extends to the present dispute is the central question in this application.

Background

Parties to the dispute

4 The Claimant, Artem Ibragimov, and the Defendant, Liu Xun, met in or around January 2019 at a start-up generator programme organised by Antler Global Fund Master S.A.R.L. SICAV-RAIF ("**Antler**").¹ They subsequently went into business together and incorporated I of Providence Pte. Ltd. in Singapore, with both men as its directors and shareholders. Their business later expanded under XanGroup Holdings Corp ("**XanGroup**"), a company incorporated in the Cayman Islands.²

5 The Claimant pleads that, sometime between late 2019 and early 2020, the parties entered into an oral arrangement governing the Defendant's use of

¹ Statement of Claim ("**SOC**") at [1], [5]–[9]; Affidavit of Artem Ibragimov dated 17 September 2026 ("**AI**") at [8]–[9].

² SOC at [10]–[15]; Affidavit of Liu Xun dated 14 July 2026 ("**LX**") at [6].

the Claimant’s scanned signature. Under this arrangement, the Defendant could use the signature for routine matters but was required to obtain the Claimant’s consent before using it on significant documents, including those concerning share transactions and investor arrangements.³

6 In September 2022, Antler and Target Global Growth Fund II, SCSP-RAIF (collectively, the “**Investors**”) invested approximately US\$31.5m in XanGroup. In connection with that investment, XanGroup, the Investors, the Claimant and the Defendant entered into a Share Subscription Agreement and Shareholders’ Agreement dated 20 September 2022 (collectively, the “**Agreements**”).⁴ The Agreements governed the terms of the investment and the new arrangement between the Investors, the Claimant, the Defendant and other shareholders of XanGroup.

Stay of Singapore proceedings commenced by the Investors

7 On 28 October 2024, the Investors commenced HC/OC 853/2024 against the Claimant and Defendant, alleging in substance that the funds they had invested in XanGroup had been misappropriated by the two men (the “**High Court Suit**”).⁵ The Claimant filed a defence on the merits denying those allegations.⁶ The Defendant did not file a defence on the merits, and instead challenged the jurisdiction of the Singapore courts.⁷

³ SOC at [16]–[18], AI at [10].

⁴ LX at p 29, [1.1], pp 84–88 and pp 89–165.

⁵ LX at pp 167–168, p 189, [44(c)]

⁶ LX at pp 202–275.

⁷ LX at pp 277–283.

8 On 17 January 2025, the Defendant applied to set aside the High Court Suit or, in the alternative, for a stay of those proceedings.⁸ The Defendant also took out a summons to set aside the worldwide prohibitory injunctions that the Investors had obtained against him and the Claimant in HC/OA 1023/2024 (the “**High Court Application**”).⁹

9 On 21 March 2025, Chan Seng Onn SJ (“**Chan SJ**”) ordered a stay of the High Court Suit and set aside the orders obtained in the High Court Application against the Defendant. In the court’s view, the dispute was governed by exclusive jurisdiction clauses (“**EJC(s)**”) in favour of the courts of the Cayman Islands (the “**Cayman EJCs**”), and the Investors had not shown strong cause for refusing to enforce the EJCs. The orders in the High Court Application had also been obtained on an *ex parte* basis, and there was material non-disclosure of the EJCs, which were only mentioned in passing in the supporting affidavit for the application.¹⁰ In subsequent clarificatory hearings, Chan SJ confirmed that the stay concerned the Investors’ claim against the Defendant *only* as the question of whether their claims against the Claimant should also be stayed had not been adjudicated.¹¹

10 After their claim against the Defendant was stayed, the Investors commenced FSD No 85 of 2025 against the Defendant in the Grand Court of the Cayman Islands Financial Services Division. Those proceedings concern the same underlying dispute as the High Court Suit.¹²

⁸ LX at p 284.

⁹ LX at pp 287–288; AI at pp 201–212.

¹⁰ LX at pp 993–997.

¹¹ LX at pp 1233–1234.

¹² LX at LX-8.

11 The Claimant subsequently settled the Investors’ claims against him, following which the injunctions were discharged and the High Court Suit and High Court Application were discontinued insofar as they concerned the Claimant.¹³

Commencement of the present action in the Singapore courts and the Defendant’s jurisdictional challenge

12 Against that background, the Claimant commenced DC/OC 513/2026 (this “**Suit**”) against the Defendant, alleging that the Defendant had used his signature without his authority on two share repurchase agreements (“**SRA(s)**”) concerning their respectively shareholdings in XanGroup. Under the first SRA dated 15 August 2022, XanGroup purported to repurchase 3.4 million of the Defendant’s four million shares for US\$35.2m. Under the second SRA dated 20 September 2022, XanGroup purported to repurchase 400,000 of the Claimant’s 3.6 million shares for US\$5.2m (collectively, the “**Impugned SRAs**”). The Claimant alleges that these documents were used to induce the Investors to invest in XanGroup, and he seeks damages for the consequences said to have flowed from the Defendant’s deceit, including the costs and expenses he incurred in the proceedings brought by the Investors.¹⁴

13 On 14 July 2026, the Defendant filed the present application, DC/SUM 1392/2026, seeking to set aside or stay the Suit.

¹³ LX at [26], AI at [29] and pp 336–340.

¹⁴ SOC at [52] and [61]–[86]; AI at [30]–[33].

The Cayman EJC should be given effect to

Applicable principles

14 The parties are agreed on the two-stage framework that applies to this application, although they differ on its application to the facts:

(a) First, in an application for a stay of proceedings based on an EJC, the applicant (here, the Defendant) bears the burden of showing a “good arguable case” that an EJC exists and governs the dispute in question. A “good arguable case” requires the applicant to have the better of the argument; this is more than a *prima facie* case and is different from the standard of a balance of probabilities (*Vinmar Overseas (Singapore) Pte Ltd v PTT International Trading Pte Ltd* [2018] 2 SLR 1271 (“*Vinmar*”) at [41], [45] and [46]).

(b) Second, where the court is satisfied that there is an EJC governing the dispute, the court will grant a stay unless the party seeking to bring the action in breach of the EJC (here, the Claimant) can show “strong cause” to refuse a stay (*Vinmar* at [72] and [112]–[113]).

15 For the reasons that follow, I find that the Defendant has established a good arguable case that the Cayman EJC govern the present dispute, and that the Claimant has not shown strong cause for refusing to enforce them.

There is a good arguable case that the Cayman EJs govern the dispute

16 The Cayman EJs are contained in the Agreements that were signed by the Claimant and the Defendant,¹⁵ and of which they are parties.¹⁶ These clauses are identical and provide as follows:¹⁷

In event of any dispute ***arising out of or in connection with this [a]greement***, including any question regarding its existence, validity or termination (the "Dispute"), the Parties irrevocably agree that the courts of the Cayman Islands are to have exclusive jurisdiction to settle any such Dispute. [emphasis added in bold italics]

The EJs must be construed in a common sensical manner in light of the relevant circumstances

17 The Cayman EJs therefore extend beyond disputes arising strictly “out of” the Agreements to those arising “in connection with” them. In *COSCO Shipping Specialized Carriers Co, Ltd v PT OKI Pulp & Paper Mills and others and another matter* [2024] 2 SLR 516 (“*COSCO*”), the Court of Appeal explained that determining whether a dispute bears the requisite connection with a contract is a highly fact-specific inquiry requiring consideration of all the relevant circumstances. Hence, various tests that have been developed to determine whether a dispute arises “in connection with” a contract should not be applied in a formulaic manner. Fundamentally, the court must identify the substance of the dispute and construe the dispute resolution agreement with common sense and in a manner consistent with rational businessmen (*COSCO* at [2], [79] and [85]).

¹⁵ LX at pp 84 and 148.

¹⁶ LX at pp 28 and 91.

¹⁷ LX at p 39, cl 14.6.1 and p 126, cl 24.6.1.

18 Although *COSCO* concerned an arbitration agreement rather than an EJC, that distinction does not detract from the relevance of its approach to the present case. Both are agreements by which parties select the forum in which disputes falling within the scope of their bargain are to be determined. Indeed, the Court of Appeal has observed that, for most practical purposes, there is no basis for distinguishing between an arbitration agreement and an EJC in this context: *Asiana Airlines, Inc v Gate Gourmet Korea Co, Ltd and others* [2024] 2 SLR 279 (“*Gate Gourmet (CA)*”) at [79]–[83].

The Claimant’s own pleaded case shows the close connection between the dispute and the Agreements

19 The Claimant submits that the present Suit concerns a personal dispute arising from the arrangement regarding the Defendant’s use of his signature, which predates and is independent of the Agreements.¹⁸ The Defendant, on the other hand, contends that the broadly worded Cayman EJs encompass the Claimant’s claims, which have a close connection with the investment reflected in the Agreements.¹⁹ In my view, the clearest answer to these competing characterisations lies in the Claimant’s own pleaded case.

20 At paras 66 and 68 of the Statement of Claim in this Suit (“SOC”), the Claimant pleads that the Investors would not have made their investment and entered into the Share Subscription Agreement with XanGroup if they had known that the Claimant did not consent to the Impugned SRAs. His case is therefore that, by misrepresenting the authenticity of those SRAs, the Defendant deceived the Investors into making an investment which they would not

¹⁸ CWS at [26]–[32]; AI at [33].

¹⁹ Defendant’s Written Submissions dated 16 September 2026 at [41]–[70].

otherwise have made.²⁰ On the Claimant's own pleading, therefore, the Defendant's alleged deceit was instrumental in procuring the very investment embodied in the Agreements.

21 Nor does the connection end with the making of the investment. At paras 82–86 of the SOC, the Claimant pleads the consequences which he says flowed from the Defendant's alleged deceit. In particular, he says that the Defendant's deceitful conduct caused the Investors to include him as a defendant in the High Court Suit and resulted in him being subjected to the injunctions in the High Court Application. He thereby incurred substantial legal costs and expenses and was exposed to the risk of significant financial liability, which he pleads were a "direct consequence of the Defendant's deceit and fraudulent misuse of the Claimant's signature".²¹ The causal chain pleaded by the Claimant therefore runs from the alleged fraudulent use of his signature in the Impugned SRAs, through the investment embodied in the Agreements and the ensuing dispute over that investment, to the very losses for which he now seeks recovery.

22 Viewed in this light, the Agreements are not merely part of the factual background to the Claimant's claim. Rather, they form the integral link between the Defendant's alleged deceit and the loss for which the Claimant seeks recovery. The dispute in this Suit therefore bears a sufficiently close connection with those Agreements.

²⁰ SOC at [70].

²¹ SOC at [86].

The dispute does not fall outside the scope of the Cayman EJC's simply because the alleged deceit preceded the Agreements

23 The Claimant's argument that the Defendant's alleged deceit preceded the Agreements does not alter this conclusion.²² In *Bunge SA and another v Shrikant Bhasi and other appeals* [2020] 2 SLR 1223 ("**Bunge**"), the Court of Appeal considered EJC's which likewise extended to disputes "arising out of or in connection with" the contracts containing them. The alleged assurances in that case preceded the contracts and were said to have induced the parties to enter into them. Nevertheless, the Court held that the phrase "arising out of or in connection with" was not temporally specific and was "in principle broad enough to cover disputes arising from a legal relationship derived from specific pre-contractual conduct that may have led to parties entering into the contract that contains a dispute resolution clause with this wording" [emphasis in original removed]. Accordingly, any dispute concerning the assurances which culminated in the contracts fell within the scope of the EJC's (*Bunge* at [38]).

24 Similarly, the Claimant's own case is that the alleged deceit was material to the formation of the Agreements (see [19]–[22] above). There is therefore a good arguable case that the dispute arising from that alleged deceit bears the requisite connection with the Agreements, notwithstanding that the alleged deceit preceded them.

Framing the claim as one in deceit does not bring the dispute outside the scope of the Cayman EJC's

25 The Claimant further argues that the Share Subscription Agreement contains carve-outs for fraud, showing that the parties intended to exclude

²² CWS at [33]–[37].

claims in deceit from the dispute-resolution framework.²³ In this regard, cll 6.9 and 12.2 of the Share Subscription Agreement respectively provide:²⁴

6.9 Nothing in this Agreement shall have the effect of limiting or restricting any liability of [XanGroup, the Claimant or the Defendant] in respect of a Claim arising as a result of any fraud, dishonesty, ... or wilful misrepresentation...

...

12.2 So far as is permitted by law and except in the case of fraud, each Party agrees and acknowledges that its only right and remedy in relation to any representation, warranty or undertaking ... shall be for breach of the terms of this Agreement...

26 As can be seen from the above, both clauses delineate the parties’ rights and remedies in cases of fraud, but neither provision concerns the forum in which the claims are to be determined, nor do they exclude claims in deceit from the scope of the Cayman EJs.

27 Furthermore, the Claimant’s characterisation of his claim as one in deceit does not mean that the claims fall outside the scope of the Cayman EJs. In *The “Jian He”* [1999] 3 SLR(R) 432 (“**Jian He**”), the plaintiffs sought to avoid an EJC covering “[a]ll disputes arising under or in connection with” the bill of lading by characterising their claim for loss of goods as one founded in tort. The Court of Appeal rejected that distinction and held that the EJC was sufficiently wide to encompass the tortious claim (*Jian He* at [13]–[17]). Similarly, in *Chen Yun Hian Christopher v BHN Online Ltd and others* [2020] SGHC 284 (“**Christopher Chen**”), the court held that claims in deceit, misrepresentation and conspiracy arising from dealings on an online trading platform fell within a broadly worded EJC. The court examined the substance

²³ CWS at [38]–[41].

²⁴ LX at pp 35 and 37.

of the controversy rather than the formal nature of the causes of action, observing that the claims remained “undeniably connected” with the contract regardless of how they were “repackaged” (*Christopher Chen* at [57]–[60]).

28 More recently, in *Gate Gourmet Korea Co, Ltd and others v Asiana Airlines, Inc* [2024] 3 SLR 199 (“**Gate Gourmet (SICC)**”), the underlying claim was likewise framed in tort and concerned the defendants’ alleged participation in an unlawful scheme which culminated in the entry into agreements containing an arbitration clause. The court held that the tortious claim was caught by the broadly worded clause covering disputes “arising out of or in connection with” the relevant agreement, given the close relationship between the alleged wrongdoing and the formation and performance of that agreement (*Gate Gourmet (SICC)* at [174]–[176]). That conclusion was upheld on appeal, with the Court of Appeal observing that a dispute concerning tortious liability may fall within the scope of such a broadly worded clause (*Gate Gourmet (CA)* at [52]–[55]).

29 The same reasoning applies here. The Claimant may have framed his claim as a personal one in deceit arising from the alleged arrangement with the Defendant regarding the use of his signature, but that does not alter the substance of the controversy disclosed by his pleadings. On his own case, the Defendant’s alleged deceit was instrumental in procuring the investment embodied in the Agreements, while the losses now claimed arose from the ensuing dispute over that investment. In my judgment, these matters establish a good arguable case that the present dispute bears the requisite connection with those Agreements and falls within the scope of the broadly worded Cayman EJs.

The governing law of the Agreements reinforces the finding that the dispute is governed by the Cayman EJs

30 I am fortified in arriving at this conclusion by the governing law of the Agreements, which is Cayman law; both Agreements unequivocally provide that they “shall be governed by, and construed in accordance with, the laws of the Cayman Islands.”²⁵ As the Court of Appeal explained in *Jian He* at [10], “it is settled law that [a foreign jurisdiction clause] should be construed according to the governing law of the contract”. Where there is no evidence that the applicable foreign rules of construction differ from Singapore law, the Singapore court may apply its own rules of construction.

31 Here, both parties have adduced expert evidence on Cayman law. The evidence of the Claimant’s expert, Mr Richard Baird (“**Mr Baird**”), and the Defendant’s expert, Mr David John Holloway (“**Mr Holloway**”), discloses no material difference between Singapore and Cayman law which would lead to a different conclusion on the scope of the Cayman EJs. Both experts accept that the Cayman courts construe broadly worded jurisdiction clauses expansively and have adopted the “one stop shop” presumption articulated in *Fiona Trust & Holding Corporation and others v Privalov and others* [2007] UKHL 40 (“*Fiona Trust*”) at [13], namely that “parties, as rational businessmen, are likely to have intended any dispute arising out of the relationship into which they have entered ... to be decided by the same tribunal”.

32 Mr Baird considers that the Cayman courts would more likely than not hold that the present dispute falls within the Cayman EJs, although he regards the position as “very finely balanced”.²⁶ His reservation rests substantially on

²⁵ LX at p 39, cl 14.5 and p 126, cl 24.5.

²⁶ Affidavit of Richard Baird dated 18 August 2026 (“**RB**”) at [22] and [35].

his view that the Agreements regulate the Investors’ investment in XanGroup, whereas the present Suit concerns a dispute between the Claimant and Defendant *inter se*.²⁷ The difficulty with this distinction is that Mr Baird identifies no Cayman authority supporting it. Nor is any such limitation apparent from the language of the Cayman EJs themselves, which extend to “any dispute arising out of or *in connection with*” [emphasis added] the Agreements.²⁸

33 In my view, Mr Holloway’s analysis better reflects the contractual language and the principles which both experts accept apply under Cayman law. Mr Holloway examines the substance of the dispute and its connection with the investment transaction governed by those Agreements. Applying this approach, he considers the Claimant’s claims to be “plainly connected” with the disputes arising from the Investors’ investment in XanGroup, all of which concern whether the Investors were misled into making that investment by the Claimant, the Defendant, or both of them.²⁹ In his view, this conclusion is reinforced by the “one stop shop” presumption as there is no basis to suggest that the parties intended disputes relating to the Agreements to be determined by courts other than those of the Cayman Islands.³⁰

34 Nor does Mr Baird’s reliance on *Ryanair Ltd v Esso Italiana Srl* [2015] 1 All ER (Comm) 152 (“*Ryanair*”) assist the Claimant. There, Ryanair alleged that Esso had participated in a cartel with other aviation fuel suppliers, causing Ryanair to pay inflated prices for fuel purchased under its contract with Esso.

²⁷ RB at [15]–[21].

²⁸ LX at p 39, cl 14.6 and p 126, cl 24.6.

²⁹ Affidavit of David John Holloway dated 14 July 2026 (“**DJH**”) at pp 12–13, at [22]–[30].

³⁰ DJH at p 14, [35]–[36].

Although that contract contained a non-exclusive jurisdiction clause in favour of the English courts, the English Court of Appeal unanimously held that Ryanair’s claim for breach of statutory duty fell outside the scope of the jurisdiction clause. Of particular significance was that the alleged cartel involved other fuel suppliers who were strangers to the contract between Ryanair and Esso, and those third parties would have been surprised to learn that they could be compelled to litigate a dispute in England due to a jurisdiction clause found in a contract to which they were not parties (*Ryanair* at [46]). As the claim implicated other cartel members, the “one stop shop” presumption in *Fiona Trust* could not extend the jurisdiction clause to the dispute merely because Ryanair elected to sue Esso alone (*Ryanair* at [49]).

35 The position here is materially different. The Claimant and Defendant are not strangers to the Agreements. Rather, they are parties to those Agreements, and the Claimant’s own pleaded case is that the alleged deceit induced the very investment embodied in them. This distinction was also material to Chan SJ’s conclusion in the High Court proceedings brought by the Investors. When *Ryanair* was relied upon there, Chan SJ distinguished it on the basis that the decision was “concerned with the effect of the [EJCs] on third part[ies]” with whom Ryanair had no contractual relationship.³¹

36 Hence, both experts ultimately agree that the Cayman courts are more likely than not to regard the present dispute as falling within the Cayman EJCs. While they differ in the degree of confidence with which they reach that conclusion, I do not share Mr Baird’s reservation that the position is “very finely balanced”. The distinction on which that reservation rests is supported neither by the Cayman authorities he cites nor by the broad language of the Cayman

³¹ LX at p 994, lines 5–15.

EJCs. The evidence on Cayman law therefore reinforces my finding that the Defendant has established a good arguable case that the present dispute falls within the scope of the Cayman EJCs.

There is no strong cause to refuse a stay of the Suit

37 The onus is thus on the Claimant to show strong cause to resist the Defendant’s stay application. As explained in *Vinmar* at [71]–[72] and [112]–[113], in determining whether this standard is satisfied, the court may consider the factors set out in *The Eleftheria* [1969] 1 Lloyd’s Rep 237 at 242, namely (a) the location of the evidence, (b) the applicable law for the dispute, (c) the parties’ connections, (d) whether the applicant genuinely desires trial in the contractual forum, and (e) whether the claimant would suffer prejudice in the contractual forum (the “*Eleftheria* factors”). The merits of the defence are irrelevant.

The Claimant cannot rely on forum non conveniens arguments

38 First, the Claimant relies on factors (a) and (c) of the *Eleftheria* factors, submitting that the connecting factors point to Singapore as the natural forum for the dispute.³²

39 However, as the Defendant highlights, cll 14.6.2 and 24.6.2 of the Share Subscription Agreement and Shareholders’ Agreement respectively provide that “[e]ach of the Parties irrevocably waives (and irrevocably agrees not to raise) any objection which it might at any time have on the grounds of *forum*

³² CWS at [77]–[80].

non conveniens or any other ground to proceedings being taken in the courts of the Cayman Islands...”.³³

40 In *Bunge*, the parties had similarly waived objections founded on *forum non conveniens*. The Court of Appeal accordingly held that “grounds founded on convenience cannot amount to strong cause to resist enforcing the parties’ agreed-on choice of jurisdiction” and declined to consider factors of convenience in determining whether strong cause had been shown (*Bunge* at [40] and [45]). Similarly, the waiver clauses here are unequivocal and bind the Claimant and the Defendant, who are parties to the Agreements.³⁴ Accordingly, even if Singapore is the more convenient forum,³⁵ this cannot constitute strong cause.

41 In any event, “factors relating to the relative convenience of litigation in Singapore and abroad have little weight if they were foreseeable at the time of contracting” (*Vinmar* at [112]). The Claimant seeks to distinguish this principle by arguing that he could not have foreseen the Defendant’s alleged misuse of his signature.³⁶ However, the relevant inquiry is not whether the alleged wrongdoing was foreseeable, but whether the “[f]actors of convenience ... were foreseeable at the time of contracting” (*Christopher Chen* at [63]). In this regard, the Claimant himself points out that he has “resided in Singapore continuously since January 2019”, and that neither he nor the Defendant have ever had any real connection to the Cayman Islands.³⁷ These were circumstances

³³ LX at pp 39 and 126.

³⁴ LX at pp 28 and 91, definition of “Parties”.

³⁵ AI at [69]–[76].

³⁶ CWS at [81].

³⁷ AI at [69]–[74].

known to the parties when they agreed to the Cayman EJs. That Singapore might be the more convenient forum was therefore plainly foreseeable, and cannot, without more, amount to strong cause.

Enforcing the Cayman EJs does not amount to an abuse of process

42 The Claimant next submits that the Defendant does not genuinely desire a trial in the Cayman Islands and is seeking to enforce the Cayman EJs for procedural advantages.³⁸ This is an attempt to manufacture an argument under factor (d) of the *Eleftheria* factors (see [37] above). However, factor (d) was revised to only address abusive conduct by the party seeking a stay of proceedings (*Vinmar* at [123] and [129]–[130]). In this regard, “the threshold for abusive conduct is very high” and “the cases in which factor (d) [of the *Eleftheria* factors] is fulfilled will be few and far between”. Examples include a defendant who, despite not disputing liability or quantum, seeks a stay solely because he is unable to pay, or one whose conduct undermines the prospects of a fair trial in the agreed forum (*Vinmar* at [131]).

43 No such abusive conduct has been shown here. The Claimant alleges that “the Defendant does not genuinely believe the Cayman Islands is the right forum” but is insisting on that forum because he “simply finds it convenient now that he has been sued” by the Investors there.³⁹ Even if this were true, it is not improper for an applicant to seek procedural advantages in applying for a stay pursuant to an EJ (*Vinmar* at [130]). Indeed, the Defendant's purported preference for having related disputes determined in the same contractually chosen forum is consistent with the “one stop shop” presumption, which has been recognised under Cayman law (see [31] above).

³⁸ CWS at [87]–[92].

³⁹ CWS at [87].

Enforcement challenges do not amount to a denial of justice

44 Finally, the Claimant submits that he would be prejudiced by having to sue in the Cayman Islands because the Defendant allegedly has no assets there against which a judgment could be enforced.⁴⁰

45 A stay may be refused where proceedings in the contractual forum would result in a denial of justice, but the threshold is exceptionally high; circumstances such as war or the dissolution of the agreed court may suffice, whereas even notorious delay in the contractual forum would generally be insufficient (*Vinmar* at [133]–[134]). Strong cause may also be established where the claimant would be deprived of a remedy in the contractual forum (see *Trisuryo Garuda Nusa Pte Ltd v SKP Pradiksi (North) Sdn Bhd and another and another appeal* [2017] 2 SLR 814 at [91]).

46 Here, neither the Claimant nor the experts on Cayman law have suggested that he would be unable to obtain a remedy in the Cayman courts. Nor has the Claimant shown that any judgment obtained there would be unenforceable elsewhere merely because the Defendant allegedly has no assets in the Cayman Islands. In these circumstances, I am not satisfied that requiring the Claimant to litigate in the agreed forum would occasion a denial of justice sufficient to constitute strong cause for refusing a stay.

⁴⁰ CWS at [87]–[92].

Conclusion

47 Party autonomy and commercial certainty demand that parties should ordinarily be held to their agreed choice of forum (*Vinmar* at [114]–[116]). The present case is no exception. There is a good arguable case that the Cayman EJs govern the dispute in this Suit, and the Claimant has not shown strong cause to justify a refusal to enforce them. Given the parties’ agreement that the Suit should be stayed if the application succeeds, I grant the stay. This also maintains parity with Chan SJ’s stay order in the closely related High Court Suit. I will hear parties on costs of the application on a date to be fixed.

Lewis Tan
Deputy Registrar

Jolene Gwee Jia-Min and Nicolas Tang Tze Hao (Farallon Law
Corporation) for the Claimant;
Yeo Yi Ling Eileen and Monisha Devaraj (Advocatus Law LLP) for
the Defendant.
