1. This judgment DOES NOT need redaction.
2. Redaction HAS NOT been done.

District Judge Chiah Kok Khun
30 January 2026

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGDC 46

District Court Originating Claim No 235 of 2024
Registrar's Appeal No 20 of 2025
Registrar's Appeal No 21 of 2025
Registrar's Appeal No 22 of 2025
Registrar's Appeal No 23 of 2025
Registrar's Appeal No 24 of 2025
District Court Summons No 1558 of 2025
District Court Summons No 2258 of 2025

Between

(1) Pacific Healthcare Holdings Ltd
(2) Pacific Healthcare Specialist Services Pte Ltd
(3) MD Specialist Healthcare Pte Ltd

… *Claimant(s)*

And

(1) Precious Medical Centre Pte Ltd
(2) Precious Surgery Centre Pte Ltd
(3) Precious Specialist Centre Pte Ltd

… *Defendant(s)*

JUDGMENT

[Civil Procedure — Defendants failing to comply with directions of the court to file and serve further and better particulars and to provide copies of the documents referred to in the defendants' list of documents — Breach of "unless orders" — defendants' failure to comply with "unless order" — Whether "unless order" breached — Whether breach of "unless order" was intentional and contumelious — Whether striking out of defence justified]

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PACIFIC HEALTHCARE HOLDINGS LTD & 2 Ors
v
PRECIOUS MEDICAL CENTRE PTE. LTD & 2 Ors

[2026] SGDC 46

District Court Originating Claim No 235 of 2024 (Registrar's Appeal Nos 20, 21, 22, 23 and 24 of 2025; District Court Summons Nos 1558 and 2258 of 2025)
District Judge Chiah Kok Khun
26 June, 31 October 2025, 26 January 2026

30 January 2026 Judgment reserved.

District Judge Chiah Kok Khun:

Introduction

1 The claimants and the defendants are in the business of providing dental and medical related services. The underlying dispute between the parties concerns a consultancy agreement dated 16 February 2025 and the provision of services by the claimants to entities related to the defendants.

2 The five appeals (the "RAs") and the two summonses before me are filed by the defendants. They are centred on an unless order given by the learned Deputy Registrar (the "Unless Order"). The Unless Order in turn stems from directions of the court for the defendants to file and serve further and better particulars (the "F&BP"); and to provide copies of the documents referred to in

the defendants' list of documents (the "DLOD"). Following the failure of the defendants to comply with the Unless Order, it was enforced, and judgment was entered against the defendants. As for the summonses, one was filed for the extension of time to file one of the RAs; whilst the other was to set aside the judgment that was entered pursuant to the Unless Order.

3 The defendants contend that they were not provided with an opportunity to be heard by the court, nor to adduce any evidence, prior to the issuance of the Unless Order and its enforcement. The claimants on the other hand contend that the defendants' conduct in failing to comply with the Unless Order was intentional and contumelious.

4 For the reasons below, I am allowing the summonses and the two of the RAs.

Issues to be determined

5 The issues to be decided by me are as follows:

(a) whether the Unless Order should have been imposed; and

(b) if so, whether the failure to comply with the Unless Order was intentional and contumelious.

Analysis and findings

Filing of multiple RAs is prolix and unnecessary

6 I will first deal with the nature of the five RAs and the two summonses. Whilst the defendants' dissatisfaction is with the imposition of the Unless Order and its enforcement; they deemed it fit to file a series of five RAs. It is therefore

necessary to first examine the nature of each of the five sequentially filed RAs in turn.

7 The first is Registrar's Appeal No 20 of 2025 ("RA 20"). It is filed by way of a notice of appeal dated 30 April 2025 against the directions issued by the learned Deputy Registrar (the "DR") on 21 April 2025.[1] These directions contained the decision given by the DR on 17 April 2025.[2] In turn, the decision given by the DR on 17 April 2025 is in substance the Unless Order itself.

8 The second is Registrar's Appeal No 21 of 2025 ("RA 21") filed by way of a notice of appeal dated 30 April 2025 against the decision of the DR given on 30 April 2025 by way of a registrar's notice[3] to fix a case conference on 7 May 2025 for the parties to address the court on the issue of costs relating to the judgment given pursuant to the Unless Order ("JUD 703"). Third is Registrar's Appeal No 22 of 2025 ("RA 22") filed by way of a notice of appeal dated 5 May 2025 against the decision of the DR given by way of registrar's directions on 5 May 2025.[4] These directions were for the 7 May case conference to be vacated and for the issue of costs relating to JUD 703 to be determined by the District Judge hearing the RAs.

9 Fourth is the appeal in Registrar's Appeal No 23 of 2025 ("RA 23") filed by way of a Notice of Appeal dated 5 May 2025 against the decision of the DR given on 17 April 2025. As alluded to above, this decision is in substance the

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1 Registrar's directions sent out administratively by the registry on 21 April 2025.

2 Directions given by the DR asynchronously at a general process case conference on 17 April 2025.

3 Registrar's notice sent out administratively by the registry on 30 April 2025.

4 Directions given by the DR asynchronously at a general process case conference on 5 May 2025.

Unless Order. Lastly, Registrar's Appeal No 24 of 2025 ("RA 24") filed by way of a Notice of Appeal dated 5 May 2025 is the appeal against JUD 703, the judgment that was entered in the enforcement of the Unless Order.[5]

10 As seen, to say that these RAs were convoluted and circular in nature is understating it. The concern of the defendants is with the imposition of the Unless order and its Enforcement. It is therefore unfortunate that the defendants found it necessary to file five RAs when one would suffice to exercise their right of appeal. RA 23 was also filed out of time. Therefore, fixed before me as well for consideration is the summons for extension of time. This would be District Court Summons No 1558 of 2025 ("SUM 1558"). For good measure, the defendants also filed a summons to set aside JUD 703. This would be District Court Summons No 2258 of 2025 ("SUM 2258").

11 In view of the array of RAs filed, I will first discuss how the RAs as filed by the defendants are interconnected with one another. As alluded to above, although there are five distinct appeals against the various decisions of the DR, the underlying intent of the RAs is to challenge the imposition of the Unless Order and its enforcement. The starting place is therefore the Unless Order itself. The Unless Order was contained in the directions of the DR given on 17 April 2025. The directions stated as follows:

> [The DR] has on 17 April 2025 reviewed the file. His Honour observes that the Defendants have yet to file and serve the FNBP ordered pursuant to SUM 1906 and neither have the Defendants written in to explain why. Moreover, it appears that the Court's previous costs order against the Defendants on 4 April 2025 is ineffective. … In the premises, the Court makes the following orders:
>
> (1) The Defendants are to file and serve the further and better particulars ("FNBP") ordered pursuant to DC/SUM 1906/2024

[5] Filed by the claimants on 2 May 2025.

> ("SUM 1906") by 25 April 2025.
>
> (2) The Defendants are to provide copies of the of the documents referred to in the Defendants' List of Documents dated 26 December 2024 (the "DLOD") by 25 April 2025.
>
> (3) The entirety of the Defendants' Defence dated 29 February 2024 shall be struck out on 28 April 2025 should the Defendants fail to file and serve the FNBP ordered pursuant to SUM 1906 and provide the Claimants with copies of the documents referred to in the DLOD by 25 April 2025. If so, the Claimants are at liberty to enter judgment accordingly against the Defendants on the basis of the Claimants' Statement of Claim dated 7 February 2024.
>
> Matter is adjourned to 7 May 2025 for a documents-only hearing. The Claimants are to vacate this case conference if default judgment is entered against the Defendants.

12 It is seen that the Unless Order, which was given on 17 April 2025 required the defendants to file and serve the F&BP ordered by the court at a summons hearing, District Court Summons No 1906 of 2024 ("SUM 1906");[6] and to provide copies of the documents in the DLOD, by 25 April 2025. It further provided that the entirety of the defence would be struck out on 28 April 2025 should the defendants fail to file and serve the FNBP and provide the claimants with copies of the documents by 25 April 2025. In such an event, the claimants were at liberty to enter judgment on the basis of their statement of claim.

13 As noted above, the Unless Order is the subject matter of the defendants' appeal under RA 23. The Unless Order was then communicated to the defendants by way of registrar's directions dated 21 April 2025, which also included a notification of the further case conference on 7 May 2025 pending compliance by the defendants of the Unless Order. These directions themselves became the subject matter of appeal under RA 20 filed by the defendants. In

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6 Order made on 18 November 2024.

other words, not content with appealing against the Unless Order itself, the defendants found it fit to also appeal against the court's directions communicating the Unless Order to the parties and fixing the date for a further case conference. As for RA 24, it is the appeal against the judgment, JUD 703, that was entered in the enforcement of the Unless Order.

14 If filing an appeal against the directions setting out the Unless Order (as opposed to an appeal against the Unless Order) is inexplicable, the filing of RA 21 and RA 22 is nothing short of bizarre. RA 21 and RA 22 concern the fixing of a case conference to address the question of costs relating to the Unless Order. RA 21 is the appeal against the decision of the DR to fix a case conference for 7 May 2025 for the parties to address the court on the costs relating to the Unless Order. On the other hand, RA 22 is the appeal against the DR's decision to vacate the 7 May case conference, and for the question of costs of the Unless Order to be determined by the District Judge hearing the RAs. In other words, the defendants have filed appeals against *both* the fixing and the vacating of a case conference to consider the question of costs relating to the Unless Order.

15 In my view, the filing of the multiple RAs is prolix and unnecessary. The defendants' dissatisfaction is with the ordering of the Unless Order, and its enforcement. That should be the subject matter of their appeal. There is no reason to file appeals against procedural directions peripheral to the Unless Order. Peripheral matters would fall in line with the determination of the central issue at hand.

The legal principles governing unless orders

16 With that, I turn now to the central issue before me. Caselaw has held that unless orders are a useful tool to ensure the efficient administration of

justice.[7] The Court of Appeal held in *Mitora Pte Ltd v Agritrade International (Pte) Ltd* [2013] 3 SLR 1179 ("*Mitora*") at [42] as follows:

> 42 We pause here to note that "unless orders" remain a potent tool for the efficient and prompt administration of justice. It is axiomatic that this is indispensable to the practical realisation of the rule of law. As Auld LJ observed in *Hytec* at 1674–1675:
>
> > Because it is his last chance, a failure to comply will ordinarily result in the sanction being imposed. … This sanction is *a necessary forensic weapon which the broader interests of the administration of justice require to be deployed* unless the most compelling reason is advanced to exempt his failure. … The interests of justice require that justice be shown to the injured party for the procedural inefficiencies caused by the twin scourges of delay and wasted costs. The public interest in the administration of justice to contain those two blights upon it also weighs very heavily. Any injustice to the defaulting party, though never to be ignored, comes a long way behind the other two.
>
> [emphasis in original]

17 Unless orders are therefore recognised to be indispensable to the administration of justice. The interests of justice require that the procedural inefficiencies caused by delay and wasted costs perpetuated by the defaulting party be sanctioned. The public interest outweighs the interests of such defaulting parties. Unless orders remain a necessary device required by the broader interests of the administration of justice to censure the defaulting party and to prevent injustice to the other party.

18 Turning to the question of the consequences of a breach of such unless orders, the Court of Appeal held at [35]-[36]:

> 35 It is self-evident that the breach of an "unless order" will automatically trigger its specified adverse consequences (see

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[7] I had the occasion to discuss the law relating to "unless orders" in a recent judgment: see *La France Mark Robert v Enermech Pte Ltd* [2025] SGDC 288.

> Jeffrey Pinsler SC, *Principles of Civil Procedure* (Academy Publishing, 2013) at para 01.032). The onus will then be on the defaulting party to demonstrate that the breach had not been intentional and contumelious so as to avoid those consequences. The *locus classicus* for this proposition is traceable to Sir Nicolas Browne-Wilkinson VC's decision in *In re Jokai Tea Holdings* Ltd [1992] 1 WLR 1196 ("*In re Jokai Tea Holdings*") at 1203B:
>
> > In my judgment, in cases in which the court has to decide what are the consequences of a failure to comply with an 'unless' order, the relevant question is whether such failure is intentional and contumelious. The court should not be astute to find excuses for such failure since obedience to orders of the court is the foundation on which its authority is founded. But if a party can clearly demonstrate that there was no intention to ignore or flout the order and that the failure to obey was due to extraneous circumstances, such failure to obey is not to be treated as contumelious and therefore does not disentitle the litigant to rights which he would otherwise have enjoyed.
>
> 36 The same criteria has been affirmed in the Singapore courts, notably by this court in *Syed Mohamed Abdul Muthaliff* v *Arjan Bhisham Chotrani* [1999] 1 SLR(R) 361 ("*Syed Mohd*"). However, in *Syed Mohd* the judicial discretion to grant extensions of time was also emphasised by the interpolation that the "intentional and contumelious" test was not exhaustive. The following exposition was offered at [14] of *Syed Mohd*:
>
> > Whether or not the default was 'intentional and contumelious' is not the sole criterion upon which the discretion of the court in deciding whether or not to strike out is exercised. …
> >
> > The *crux of the matter is that the party seeking to escape the consequences of his default must show that he had made positive efforts to comply but was prevented from doing so by extraneous circumstances*.
>
> [emphasis in original]

19 Therefore, the breach of an unless order will automatically bring upon the defaulting party its adverse consequences. The burden will then lie on the defaulting party to persuade the court that the breach had not been intentional and contumelious so as to avoid the adverse consequences. There is also a

notable reminder by the Court of Appeal, in referencing the passage in *In re Jokai Tea Holdings* Ltd [1992] 1 WLR 1196, that obedience to orders of the court is the foundation on which its authority is founded.

20 The usual consequence of the breach of an unless order is a striking-out order. The Court of Appeal emphasised that litigants who commit process breaches will continue to be penalised and are liable to the sanction of having their claim or defence struck out. The Court of Appeal stated as follows at [47]-[48]:

> 47 Finally, we do not think that the more calibrated use of "unless orders" would be translated into a charter for delay, as litigants who commit process breaches will continue to be penalised and remain vulnerable to the ultimate sanction of a striking-out order. It also remains the case that under O 24 r 16(1) of the Rules of Court, an action or defence can be struck out for failure to make discovery of documents even if the defaulting party rectifies his non-compliance. The court's power to strike out an action may be properly invoked in cases involving an inexcusable breach of a significant procedural obligation. It follows that the breach of an "unless order" which compels discovery will be susceptible to such an order. This was the case in *Manilal and Sons (Pte) Ltd v Bhupendra K J Shan* [1989] 2 SLR(R) 603 (at [61]–[63]) and in *Tan Kok Ing v Ang Boon Aik* [2002] SGHC 215 (at [30]), where the documents which were deliberately withheld in breach of "unless orders" pertained materially to the pleadings. In the latter case, Woo Bih Li JC (as he then was) commented at [36] that a failure to disclose need not be continuing before it is capable of attracting a remedial response from the courts, as this would create a moral hazard wherein a defaulter can "quickly offer to make disclosure once his deception has been discovered". Such concerns are both legitimate and genuine, and we would add that litigants who have demonstrably conducted themselves in this fashion are likely to conspire to sabotage a fair trial as well. For example, in *Lee Chang-Rung v Standard Chartered Bank* [2011] 1 SLR 337 (at [34]–35]), Tay Yong Kwang J upheld the striking out of the plaintiffs' action for failure to comply with an "unless order" because their conduct did not suggest that they would take their discovery obligations seriously and pursue their claim honestly and fairly.
>
> 48 It is clear beyond peradventure that the court is entitled to look at all circumstances in its assessment of whether the

> striking-out application should be granted. Indeed, in exceptional circumstances, an action may be struck out even where there might still be a reasonable prospect of a fair trial, as acknowledged in *Singapore Civil Procedure 2013* vol 1 (G P Selvam ed-in-chief) (Sweet & Maxwell Asia, 2013) at para 24/16/1:
>
> > Although the normal prerequisite for the striking out of an action under r.16 is the existence of a real or substantial or serious risk that fair trial will no longer be possible, in cases of contumacious conduct, the deliberate destruction or suppression of a document or the persistent disregard of an order of production would engage the court's jurisdiction and justify a striking out order even where a fair trial was still possible …

21 As seen, the Court of Appeal reiterated that striking out an action (or a defence) is appropriate in cases involving an inexcusable breach of a significant procedural obligation. In this regard, the court is entitled to look at all circumstances in its assessment of whether the striking-out application should be granted.

22 It should however be noted that the Court of Appeal also cautioned that the immediate purpose of an unless order is not to punish misconduct but to secure a fair trial in accordance with due process of law. Unless orders should not be given as a matter of course but as a last resort when the defaulter's conduct is inexcusable. They are also to be drafted with due care and consideration. The Court of Appeal held as follows at [45]-[46]:

> 45 It repays reminding that the immediate purpose of an "unless order" is not to punish misconduct but to secure a fair trial in accordance with due process of law (see also *Disclosure* at para 17.05). Since it is axiomatic that "unless orders" must mean what they say, it is imperative that such orders are drafted with due care and consideration. This point is well-made in *Zuckerman on Civil Procedure: Principles of Practice* (Sweet & Maxwell, 2nd Ed, 2003) at para 10.143:
>
> > If unless orders are to be effective in securing timely compliance they must, first, be used sparingly, as has just been suggested. Second, unless orders will tend to be taken seriously only if the parties believe that they

> would be enforced. The wise counsel that one should not make threats that one cannot carry out, or mean to do so, applies to court orders with even greater poignancy. Idle threats would diminish the authority of the court and undermine the normative force of rules and court orders. It follows that *a court should not stipulate consequences that would infringe the right to fair trial or would be otherwise unjust. Put differently, an unless order should only stipulate consequences that it would be proper, on the basis of the information then available, to visit on the defaulter*.

With all of the foregoing points in mind, we would suggest the following guidelines for the more scrupulous use of "unless orders":

> (a) "unless orders" stipulating the consequence of dismissal should not be given as a matter of course but as a last resort when the defaulter's conduct is inexcusable;
>
> (b) the conditions appended to 'unless orders' should as far as possible be tailored to the prejudice which would be suffered should there be non-compliance; and
>
> (c) other means of penalising contumelious or persistent breaches are available, including but not limited to
>
> > (i) awarding costs on an indemnity basis;
> >
> > (ii) ordering the payment of the plaintiff's claim or part thereof into court where the defaulting party is a defendant (see *Husband's of Marchwood Ltd v Drummond Walker Developments Ltd* [1975] 1 WLR 603 at 605);
> >
> > (iii) striking out relevant portions of the defaulting party's Statement of Claim or Defence rather than the whole;
> >
> > (iv) barring the defaulting party from adducing certain classes of evidence or calling related witnesses; and
> >
> > (v) raising adverse inferences against the defaulting party at trial.

46 In this regard, the draconian sanction of striking out a litigant's claim or defence in its entirety should not be the default consequence of an "unless order" as it would effectively deprive the litigant of its substantive rights on account of a procedural fault. The public interest in the timely delivery of justice does not necessitate all "unless orders" to carry a

> nuclear payload. Indeed, the indiscriminate issuance of such heavy-handed orders will undermine their enforceability and thereby also their core function of deterrence. There is also a serious risk that the fair administration of justice will be frustrated if "unless orders" become a quotidian feature of civil litigation. Interlocutory procedure will begin to resemble a strategic game of brinksmanship when profligate use of peremptory orders is accompanied with ever shorter time-lines for compliance. In the instant appeal we were concerned that the time given for compliance with the first and second Unless Orders – five days including the weekend – was rather short given that the Appellant did not have direct access to the subject documents. The early availability of "unless orders" allowed the Respondent to rapidly compound the weaknesses in the Appellant's position and to push home its advantage with alacrity. While the Respondent was not entirely without fault, we thought that the precipitous foreclosure of its procedural options was startling.
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> [emphasis in original]

23 Hence, the draconian sanction of striking out a litigant's claim or defence in its entirety should not be the default consequence of an unless order, as it would effectively deprive the litigant of its substantive rights on account of a procedural fault. The question to be asked is whether there is a reasonable prospect of a fair trial given all that has gone on in relation the matters surrounding the breach of the unless order. At the end of the day, the test is whether a fair trial is still possible.

24 In another Court of Appeal decision, *Syed Mohamed Abdul Muthaliff v Arian Bhisham Chotrani* [1999] 1 SLR(R) 361, it was held that the court should exercise its discretion whether to grant an extension of time for compliance with an unless order in light of all the circumstances. The facts of each case should be scrutinised, and previous cases were mere guidelines, not conditions precedent. As in *Mitora*, it was held that it should be determined whether the failure to adhere to the unless order was intentional and contumelious.

The defendants did not cross the line of intentional and contumelious disregard for the court's findings and directions

25 With the above legal principles in mind, I return to the present case.

26 The genesis of the Unless Order can be traced to the hearing of SUM 1906 on 18 November 2024. The defendants were ordered to file and serve FNBP of the Defence on the claimants within 14 days *ie*, by 2 December 2024. The deadline passed without the defendants filing and serving the FNBP of the defence ordered pursuant to SUM 1906. The Unless Order also relates to the court's directions given to the parties to file and exchange their list of documents ("LODs") by way of a Registrar's Directions dated 28 November 2024 ("28 Nov RegDir"). The court directed as follows:

(a) parties were to file and serve LODs within 4 weeks *ie*, by 26 December 2024); and

(b) parties were to exchange copies of all the documents referred to in their respective LODs within 6 weeks *ie*, by 9 January 2025.

27 In accordance with the 28 Nov RegDir, the claimants filed and served the claimants' LOD on the defendants on 11 December 2024; and provided the defendants with copies of all the documents referred to in the claimants' LOD.[8] The defendants served their LOD on 26 December 2024. However, the defendants failed to provide the claimants with copies of all the documents referred to in the DLOD filed by 9 January 2025. By way of email dated 7 February 2025 to the defendants' solicitors, the claimants' solicitors requested

[8] By way of a link contained in an email dated 9 January 2025 (timestamped: 9:25pm) from the solicitors for the claimants, NLC Law Asia LLC ("NLC Law") to the solicitors for the defendants, LVM Law Chambers LLC ("LVM Law").

for copies of the documents referred to in the DLOD.[9] On 11 February 2025 the claimants' solicitors wrote to court to request for directions to be issued to the defendants to produce the documents in the DLOD. On 17 February 2025 the defendants were directed to respond to the claimant's solicitors on their request. It was stated that if the defendant failed to comply with directions, cost consequences may be imposed.[10]

28 As the defendants did not comply with the directions given on 17 February 2025, the claimants' solicitors requested by way of letter to court dated 25 February 2025 for the court to issue further directions.[11] The following directions were issued on 27 February 2025:[12]

(a) the defendants are to pay costs of $600 to the claimants;

(b) the defendants are to file and serve the FNBP ordered pursuant to SUM 1906 by 12 March 2025;

(c) the defendants are to provide copies of the documents contained in the DLOD by 12 March 2025;

(d) if the defendants fail to file and serve the FNBP ordered pursuant to SUM 1906 and provide copies of the documents contained in the

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9 By ways of email dated 7 February 2025 (timestamped: 10:59am) from NLC Law to LVM Law, the claimants requested that the defendants provide copies of all the documents referred to in the DLOD by 7 February 2025, 4pm and failing which, the claimants would be writing to court to seek the necessary directions.

10 By way of Registrar's Directions.

11 The claimants requested for the court to issue the following directions: (1) the defendants to pay costs of S$800 to the claimants (2) the defendants to file and serve the FNBP ordered pursuant to SUM 1906 by 26 February 2025, 4pm; and (3) the defendants to provide copies of the documents contained within the DLOD by 26 February 2025, 4pm.

12 By way of Registrar's Directions.

DLOD by 12 March 2025, they are to explain their omission to do so; and

(e) if there is further non-compliance, cost consequences or further directions will be issued without the defendants' input and the claimants may be given liberty to seek the necessary unless order and/or seek permission to file an application for such orders.

29 The defendants failed to comply with the directions. On 25 March 2025 the defendants' solicitors wrote to court requesting for an extension of time until 2 April 2025 to comply with the directions. The defendants stated that their representative had to take multiple overseas trips on an urgent basis. On 27 March 2025[13] a short final extension was accordingly given till 2 April 2025 for the defendants to comply with the above directions given on 27 February 2025.

30 The defendants however failed to comply and on 8 April 2025 the following directions were given:[14]

(a) the defendants are to pay costs of $500 to each of the claimants; and

(b) the claimants are to write in to court by 17 April 2025 informing the court on what they intend to do moving forward.

31 The claimants informed the court by way of a letter from their solicitors dated 9 April 2025 of their intentions to apply for an unless order on the basis that there had been a history of non-compliance on the part of the defendants. On 17 April 2025, directions were given by the DR asynchronously at a general

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13 By way of Registrar's Directions.

14 By way of Registrar's Directions.

process case conference. As alluded to above, the Unless Order was contained in these directions of the DR given on 17 April 2025. To recap, the Unless Order required the defendants to file and serve the F&BP and to provide copies of the documents in the DLOD by 25 April 2025, failing which the defence would be struck out on 28 April 2025. In such an event, the claimants were at liberty to enter judgment on the basis of their statement of claim.

32 The defendants failed to comply with the Unless Order. As a result, the defence was struck out on 28 April 2025. The claimants proceeded to enter JUD 703 as per the Unless Order.

33 On 30 April 2025, the defendants provided copies of the documents referred to in the DLOD by way of an email from their solicitors to the claimants' solicitors, and filed and served the FNBP on the claimants.

34 In my view, in analysing the above events leading to the issuance of the Unless Order, it must be kept in mind the caution given by the Court of Appeal in *Mitora* that the immediate purpose of an unless order is not to punish misconduct but to secure a fair trial in accordance with due process of law. As discussed above, the question to be asked is whether there is a reasonable prospect of a fair trial given all that has gone on in relation the matters surrounding the breach of the Unless Order. At the end of the day, the test is whether a fair trial is still possible.

35 The burden remains of course with the defendants to show that the breach had not been intentional and contumelious so as to avoid the attendant adverse consequences. In this regard, the defendants pointed to them not being given an opportunity to address the court on whether the Unless Order should be made; to adduce evidence, whether by affidavit or otherwise in relation to

the Unless Order; and to put evidence before the court prior to the making of the Unless Order. In other words, the defendants' case is that they were not provided with an opportunity to be heard by the court, nor to adduce any evidence, prior to the issuance of the Unless Order and its enforcement. In this respect, I would only refer to the Court of Appeal's admonishment that unless orders should not be given as a matter of course but as a last resort when the defaulter's conduct is inexcusable.

36 As stated in *Mitora*, the draconian sanction of striking out a litigant's claim or defence in its entirety should not be the default consequence of an unless order, as it would effectively deprive the litigant of its substantive rights on account of a procedural fault. Again, the question to be asked is whether a fair trial is still possible.

37 It is trite that it always remains open to the court to allow an extension of time for compliance with unless orders at any point of the proceedings in relation to the unless orders. As alluded to above, I note that on 30 April 2025, nine days after the Unless Order was issued, the defendants filed their F&BP and provided copies of the documents listed in the DLOD to the claimants. In my view, the failure of the defendants to adhere to the terms of the Unless Order did not cross the line of intentional and contumelious disregard for the court's findings and directions. At the end of the day, there is a reasonable prospect of a fair trial given all that has gone on in relation the matters surrounding the breach of the Unless Order in the present case. In the premises, I grant the defendants an extension of time to comply with the terms of the Unless Order. For the avoidance of doubt, I set aside the enforcement of the Unless Order.

38 I turn now to SUM 1558, the summons for extension of time to file RA 23; and SUM 2258, the summons to set aside JUD 703. The factors to be taken

into account in deciding whether to grant an extension of time to file or serve a notice of appeal are trite. They are: a) the length of delay; b) the reasons for delay; c) the chances of the appeal succeeding; and d) the degree of prejudice: *Anwar Siraj & Anr v Ting Kang Chun John* [2010] 1 SLR 1026. In my view, it follows from the analysis of the events above that all four factors clearly point to the granting of an extension of time.

39 As regards SUM 2258, it is uncontroverted that the threshold test in an application to set aside a default judgment (where the default judgment was regularly obtained), was for the defendant to "establish a *prima facie* defence in the sense of showing that there are triable or arguable issues": *Mercurine Pte Ltd v Canberra Development Pte Ltd* [2008] 4 SLR(R) 907 at [60]. It is trite that the test in regard to triable issues is similar to that in summary judgment applications. In my view, given the discussion that has gone on above, there is no reason not to allow the application.

40 I would add that whilst I am cognisant of the usual order of dealing first with the applications for the extension of time and the setting aside of judgment, before hearing the RAs, given the manner in which the five RAs were filed, the sequence in which I have proceeded with the matters before me would be the most expedient approach.

Conclusion

41 It the premises of the above, I allow RA 23 and RA 24. I dismiss RA 20, RA 21, and RA 22. They are superfluous and they do not comprise subject matter which is appealable.

42 I turn to the question of costs. The general principle is for costs to follow the event. However, it would be seen in the discussion above that the subject

matter of the hearing before me was triggered by a series of non-compliance with timelines by the defendants. Further, the filing of multiple applications by the defendants was unnecessary. In the circumstances, the claimants should be entitled to costs. As for quantum, I take reference from the costs ranges provided in the State Courts Practice Directions 2021, App H, Pt II B2 & B10; and Pt V and fix total costs of $7,000 and disbursements of $1,400 to be paid by the defendants.

Chiah Kok Khun
District Judge

Ng Lip Chih, Rezvana Fairouse d/o Mazhardeen and Tan Jinwen, Mark (NLC Law Asia LLC) for the first, second and third claimants; Lee Sien Liang Joseph, Pak Waltan and Monisha Cheong (LVM Law Chambers LLC) for the first, second and third defendants.