

**IN THE APPELLATE DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2026] SGHC(A) 24

Appellate Division / Civil Appeal No 28 of 2026 and Summons No 16 of 2026

Between

Goh Heng Tee

... Appellant

And

Xiamen Tonghin Furniture
Industries Co Pte Ltd

... Respondent

In the matter of Originating Claim No 40 of 2025

Between

Xiamen Tonghin Furniture
Industries Co Pte Ltd

... Claimant

And

Goh Heng Tee

... Defendant

GROUNDS OF DECISION

[Civil Procedure — Appeals — Adducing fresh evidence on appeal]
[Civil Procedure — Summary judgment]
[Conflict of Laws — Foreign judgments — Recognition — Whether judgment was final and conclusive]
[Conflict of Laws — Foreign judgments — Defences — Breach of natural justice — Whether notice of proceedings was given]

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Goh Heng Tee
v
Xiamen Tonghin Furniture Industries Co Pte Ltd and another
matter

[2026] SGHC(A) 24

Appellate Division of the High Court — Civil Appeal No 28 of 2026 and
Summons No 16 of 2026
Kannan Ramesh JAD, See Kee Oon JAD
30 June, 13 August 2026

16 September 2026

See Kee Oon JAD (delivering the grounds of decision of the court):

Introduction

1 AD/CA 28/2026 (“AD 28”) concerned a challenge to the recognition and enforcement of a judgment of the courts of the People’s Republic of China (“PRC”). The appellant, a judgment debtor of the respondent, had pleaded a breach of natural justice in the conduct of the Chinese legal proceedings which led to enforcement proceedings in the Singapore courts, from which AD 28 arose. The appellant had also belatedly sought to argue that the Chinese judgment was not final and conclusive.

2 The appeal touched on the principles relating to notice of foreign proceedings, as well as the application of the Memorandum of Guidance between the Supreme People’s Court of the PRC and the Supreme Court of

Singapore on Recognition and Enforcement of Money Judgments in Commercial Cases (“MOG”). An accompanying summons in AD/SUM 16/2026 (“SUM 16”) was filed by the appellant, seeking to adduce further evidence in support of AD 28. Having considered the parties’ respective written submissions, we dismissed AD 28 and SUM 16. We now set out the full reasons for our decision.

Facts

The parties

3 The respondent is Xiamen Tonghin Furniture Industries Co Pte Ltd, a company based in Xiamen, China.

4 The appellant is Goh Heng Tee, the erstwhile legal representative of the respondent.

Background to the dispute

5 In 2019, the respondent commenced legal proceedings against the appellant before the Intermediate People’s Court of Xiamen City, Fujian Province (“Xiamen Intermediate People’s Court”), which were designated “(2019) Min 02 Min Chu No. 1135” (“First Xiamen Proceedings”). These proceedings resulted in a judgment dated 30 September 2022 in favour of the respondent (“First Xiamen Judgment”).

6 The appellant appealed to the Higher People’s Court of Fujian Province (“Fujian Higher People’s Court”). This appeal was designated “(2023) Min Min Zhong No. 593” (“Fujian Appeal Proceedings”). In his appeal, the appellant requested that the First Xiamen Judgment be revoked and the case be sent back for retrial. In its judgment dated 30 October 2023 (“Fujian Appeal Judgment”),

the Fujian Higher People’s Court allowed the appeal, revoked the First Xiamen Judgment, and remanded the case to the Xiamen Intermediate People’s Court for retrial.

7 The retrial proceedings were designated “(2024) Min 02 Min Chu No. 249” (“Second Xiamen Proceedings”). Various court documents and notices were issued by the Xiamen Intermediate People’s Court to the office of the appellant’s litigation representative in China, Mr Bai Chongcheng (“Mr Bai”), as well as to the appellant’s residential address in Singapore (“Carpmael Address”). We discuss these documents further at [51]–[55] below. The appellant did not participate in the Second Xiamen Proceedings, and the trial proceeded in his absence. This culminated in a judgment dated 27 August 2024 (“Second Xiamen Judgment”). In the Second Xiamen Judgment, the appellant was ordered, *inter alia*, to return RMB 11,801,924.58 to the respondent with interest.

Procedural History

8 On 15 January 2025, the respondent commenced HC/OC 40/2025 (“OC 40”) to enforce the Second Xiamen Judgment in Singapore against the appellant. In his pleadings, the appellant’s sole substantive defence was that the Second Xiamen Judgment was pronounced in breach of natural justice because the papers in relation to the Second Xiamen Proceedings were not served on him, and he did not have a reasonable opportunity to be heard.

9 On 28 March 2025, the respondent filed HC/SUM 853/2025 (“SUM 853”) for summary judgment against the appellant. SUM 853 was heard by an Assistant Registrar (“AR”), who issued his judgment on 5 November 2025 granting summary judgment (*Xiamen Tonghin Furniture Industries Co Pte Ltd*

v Goh Heng Tee [2025] SGHCR 36 (“AR’s Judgment”) at [94]). The AR held that there had been proper service of process pertaining to the Second Xiamen Proceedings, both as a matter of Chinese law and from the Singapore court’s view of what substantial justice requires, and thus there had been no breach of natural justice (AR’s Judgment at [93]).

10 On 17 November 2025, the appellant filed HC/RA 215/2025 (“RA 215”), appealing against the AR’s Judgment.

11 Additionally, on 2 January 2026, the appellant filed HC/SUM 23/2026 (“SUM 23”) seeking permission to adduce two legal opinions dated 28 December 2025 issued by Dr Juan Wang (“Dr Wang”), a Chinese lawyer at Guangdong Zhuo Jian Law Firm. The first opinion (“First Legal Opinion”) concerned the validity of service in the Second Xiamen Proceedings. The second opinion (“Second Legal Opinion”) concerned the possibility of setting aside the Second Xiamen Judgment on the basis that it was not final and conclusive.

Decision below

12 On 13 March 2026, a Judge of the General Division of the High Court (“Judge”) issued her judgment in *Xiamen Tonghin Furniture Industries Co Pte Ltd v Goh Heng Tee* [2026] SGHC 55 (“Judgment”).

SUM 23

13 The Judge allowed SUM 23 in part. The Judge granted permission for the First Legal Opinion to be adduced, finding that it satisfied the requirements of non-availability, relevance and credibility (Judgment at [39]–[41]).

14 The Judge denied permission for the Second Legal Opinion to be adduced. First, the Judge found that it was *not* the appellant’s pleaded case that the Second Xiamen Judgment should not be enforced because it was not final and conclusive. The Second Legal Opinion would therefore not be relevant (Judgment at [49]). Second, the requirement of non-availability was not satisfied, as the appellant had ample opportunity to challenge the finality of the Second Xiamen Judgment in response to statements by the respondent, but did not do so (Judgment at [50]–[52]). The Second Legal Opinion was also not relevant because (a) it did not make clear the nature of the relevant application to challenge the Second Xiamen Judgment, and thus would not assist in any determination of whether that judgment was final and conclusive; and (b) the opinion actually established that the appellant could not credibly apply to “set aside” the Second Xiamen Judgment (Judgment at [55]–[58]).

RA 215

15 Turning to the substantive appeal, the Judge dismissed RA 215 and upheld the AR’s grant of summary judgment, subject to a variation of the AR’s order concerning the rate of interest payable under the Second Xiamen Judgment (Judgment at [83]–[84]). The Judge found that the appellant had not established any triable issue regarding his receipt of actual notice of the Second Xiamen Proceedings in time to participate in them before the Second Xiamen Judgment was rendered, and therefore that he had not shown a fair or reasonable probability of raising a real or *bona fide* defence that the Second Xiamen Judgment was obtained in breach of natural justice (Judgment at [77] and [79]).

The parties’ cases

16 AD 28 is the appellant’s appeal against the Judgment. The appellant also brought an application in SUM 16 for permission to adduce further evidence in

support of his argument that the Second Xiamen Judgment was not final and conclusive. The appellant's case comprised three planks:

- (a) First, SUM 16 should be allowed.
- (b) Second, the Judge erred in denying permission for the Second Legal Opinion to be adduced.
- (c) Third, in any event, the appeal should be allowed, on the grounds that the Second Xiamen Judgment was obtained in breach of natural justice.

17 The respondent submitted that:

- (a) SUM 16 was not material and was an abuse of process.
- (b) The Judge was correct that natural justice was fulfilled, because the Judge's finding of actual notice is correct and dispositive, and in any event service on the appellant's lawyer was valid.

Issues to be determined

18 Accordingly, the issues that arose for our determination were as follows:

- (a) whether SUM 16 should be allowed;
- (b) whether the Judge erred in declining to allow the Second Legal Opinion to be adduced; and
- (c) whether the Judge erred in finding that the appellant had no triable defence on the grounds of natural justice.

Whether SUM 16 should be allowed

19 We first summarise the further evidence that the appellant sought to adduce in SUM 16. This comprised (a) an additional legal opinion (“Third Legal Opinion”) from Dr Wang dated 22 April 2026 regarding the retrial procedure in China, and (b) the appellant’s explanation on affidavit regarding his delay in taking out the retrial application and not amending his defence.

20 In the Third Legal Opinion, Dr Wang outlined two grounds on which the appellant had made a recent application for retrial in China (“Retrial Application”), based on Arts 211(1) and 211(4) of China’s Civil Procedure Law.

Article 211: Where a party's application meets any of the following circumstances, the People's Court shall retry the case:

(1) There is new evidence sufficient to overturn the original judgment or ruling;

...

(4) The main evidence on which the facts in the original judgment or ruling were determined was not cross-examined;

...

21 The Retrial Application was filed on 7 April 2026. The appellant claimed to have submitted the following two categories of “new evidence”, which he relied on in his Retrial Application:

(a) Evidence which existed at the time of the First Xiamen Proceedings, and which were submitted to Fujian Higher People’s Court in the Fujian Appeal Proceedings, but which the Xiamen Intermediate People’s Court did not subject to cross-examination in the Second Xiamen Proceedings and did not adopt as the basis for the Second Xiamen Judgment. This included cash books, accounting vouchers,

bank cash books and bank account transaction records for the period from December 2014 to September 2019.

(b) A Handover List of Accounting Documents (“Handover List”) dated 2 April 2025, which came into existence after the conclusion of the Second Xiamen Proceedings.

The law on adduction of fresh evidence

22 The law applicable to the adduction of fresh evidence on appeal is well-established. The appellate court has the power to receive further evidence by affidavit, but no such evidence (other than evidence relating to matters occurring after the date of the decision appealed against) may be given except on special grounds (O 18 r 8(6) of the Rules of Court 2021 (“ROC 2021”). The criterion of “special grounds” refers to the three requirements in *Ladd v Marshall* [1954] 1 WLR 1489 (“*Ladd v Marshall*”), namely:

- (a) the evidence could not have been obtained with reasonable diligence for use at the trial or hearing (the “non-availability” condition);
- (b) the evidence would probably have an important influence on the result of the case, although it need not be decisive (the “materiality” condition); and
- (c) the evidence must be apparently credible, although it need not be incontrovertible (the “credibility” condition).

23 The court should adopt a two-step analysis as follows (*Anan Group (Singapore) Pte Ltd v VTB Bank (Public Joint Stock Co)* [2019] 2 SLR 341 (“*Anan*”) at [57]–[58]):

(a) First, the court should consider the nature of the proceeding below, and evaluate the extent to which it bears the characteristics of a full trial, or whether it more closely resembles an interlocutory appeal. In the former case, the court should apply the *Ladd v Marshall* requirements with full rigour, subject to the second step. In the latter case, the court remains guided by the rule in *Ladd v Marshall* but is not obliged to apply it in an unattenuated manner. For cases falling in the middle of the spectrum, it is for the court to determine the extent to which the criterion of non-availability should be applied strictly. Relevant factors include (i) the extent to which evidence, both documentary and oral, was adduced for the purposes of the hearing; (ii) the extent to which the parties had the opportunities to revisit and refine their cases; and (iii) the finality of the proceedings in disposing of the dispute between the parties (*Anan* at [35]).

(b) Second, the court should consider if there are any reasons that the *Ladd v Marshall* requirements should be relaxed in the interests of justice. Such cases broadly fall into three categories: (i) where the new evidence reveals a fraud on the court; (ii) where the applicant was prevented from adducing the fresh evidence in circumstances amounting to a denial of natural justice; and (iii) where the subject matter of the dispute engenders interests of particular importance to the litigant or to society at large (*Anan* at [58]).

SUM 16 should be denied

24 The present case fell in the middle of the spectrum as suggested in *Anan* at [35]. It involved an appeal against summary judgment, which touched on the merits; but this was an interlocutory appeal and did not have the full

characteristics of a trial such as the taking of oral evidence. The appellant did not argue that the *Ladd v Marshall* requirements should not apply fully due to the nature of the proceedings below, and we saw no reason why they should not. In this regard, we agreed with the Judge’s reasoning in the Judgment at [35].

25 In our judgment, the further evidence the appellant sought to adduce was apparently credible. The appellant averred that Dr Wang was admitted to the Bar in the PRC and worked as a full-time lawyer in Guangdong Zhuo Jian Law Firm, and adduced Dr Wang’s *curriculum vitae* showing the same. The respondent did not challenge the credibility of Dr Wang’s or the appellant’s further evidence.

26 However, we found that the requirements of non-availability and materiality had not been satisfied.

The evidence in SUM 16 was previously available

27 The appellant submitted that the evidence in SUM 16 was not previously available because:

(a) The Third Legal Opinion dealt with events and facts postdating the Judgment issued on 13 March 2026, namely the Retrial Application filed on 7 April 2026, and the Third Legal Opinion itself which was issued on 22 April 2026. It related to post-judgment facts and therefore fell within the exception in O 18 r 8(6) of the ROC 2021, and could be admitted without needing to satisfy the strict *Ladd v Marshall* test.

(b) The Retrial Application was based on fresh categories of evidence, such as the Handover List dated 2 April 2025 and historical accounting vouchers, which postdated the conclusion of the trial

proceedings in China on 27 August 2024, when the Second Xiamen judgment was issued.

(c) The appellant’s explanation for his delay in seeking a retrial was borne out of the Judge’s findings that the requirement of non-availability was not satisfied in respect of the Second Legal Opinion, as the appellant had not applied to set aside the Second Xiamen Judgment.

28 We did not accept the appellant’s submissions. The Third Legal Opinion addressed the issue of whether the Second Xiamen Judgment was final and conclusive. However, this was not the first time this issue had arisen. As mentioned above (at [11]), the appellant had in SUM 23 applied to adduce the Second Legal Opinion, which also addressed the finality and conclusiveness of the Second Xiamen Judgment. The Judge had denied permission for the Second Legal Opinion to be adduced, finding amongst other things that the appellant had ample opportunity to challenge the finality of the Second Xiamen Judgment but had not done so (Judgment at [50]–[52]). In our view, the matters covered in the Third Legal Opinion – in particular, the grounds on which the appellant sought a retrial and the evidence on which he relied – could similarly have been canvassed below. Indeed, the appellant did not file the Retrial Application while proceedings were ongoing before the AR or the Judge, but only filed it on 7 April 2026, well after the Judgment was issued on 13 March 2026. Further, we noted that the Retrial Application purported to rely on business records from 2014 to 2019, evidence that was submitted in the initial retrial application before the Chinese courts that led to the Second Xiamen Proceedings, as well as the

Handover List dated 2 April 2025. Such evidence was in existence at the time of the hearings before the AR and the Judge.

29 The appellant's explanation for his delay in filing the Retrial Application was that he had previously acted on the basis of advice from his former Chinese solicitor and his Singapore solicitors. However, a change of solicitors *per se* is insufficient to establish that new evidence could not have been obtained with reasonable diligence (*Tan Hwee Lee v Tan Cheng Guan* [2012] 4 SLR 785 at [28]). It is not open to a party to seek a second bite of the cherry by obtaining and acting on fresh legal advice simply because the party was unsuccessful the first time. Otherwise, there would be no end to litigation; litigants could repeatedly change legal counsel or experts and attempt to run a different case. This would contradict the twin rationales of finality in litigation as well as the integrity of the litigation process and fairness between the parties that underpin the *Ladd v Marshall* rule (*Anan* at [23]–[24]).

30 We agreed with the respondent that the application was an abuse of process. This is so where a party deliberately proceeds without certain evidence, and then after losing the case seeks to adduce the evidence on appeal (*Anan* at [45]). That was precisely what the appellant did, in seeking to adduce material that he could have adduced below, but had chosen to proceed without doing so.

The evidence in SUM 16 was not material

31 Moreover, we considered that the Third Legal Opinion and the evidence it refers to were not material to the outcome of AD 28. The appellant had not pleaded that the Second Xiamen Judgment was not final and conclusive. He had also not applied to amend his pleadings to include this defence. Thus, we agreed

with the Judge that there was no pleaded issue to which the further evidence would have been relevant (Judgment at [49]).

32 In any event, the evidence would likely not have had an important influence on the outcome. A final and conclusive judgment is one that cannot be varied, re-opened or set aside by the court that delivered it, and a foreign judgment is no less final merely because it is subject to an appeal or a stay of execution (*Humpuss Sea Transport Pte Ltd v PT Humpuss Intermoda Transportasi TBK* [2016] 5 SLR 1322 (“*Humpuss*”) at [69]). Finality is to be assessed by asking whether the foreign court would itself regard the judgment as final and conclusive (*Humpuss* at [70]).

33 Dr Wang acknowledged that an application for retrial itself would not stay execution of the judgment, under Art 210 of China’s Civil Procedure Law. If and when the court should decide to start the retrial proceeding, enforcement of the judgment would be suspended, under Art 217 of China’s Civil Procedure Law. In that event, it ought to be possible to obtain a stay of enforcement of the judgment in the Singapore courts. However, the mere possibility of setting aside (by a court other than the court that delivered the judgment) or a suspension of enforcement did not necessarily render the Second Xiamen Judgment not final and conclusive, and Dr Wang did not suggest that it did.

34 In our judgment, the MOG also provided useful assistance. The MOG has no binding legal effect (Article 2). Nevertheless, it provides helpful guidance as to how a judgment issued by the courts of the PRC may be recognised and enforced in the courts of Singapore, and *vice versa* (Article 1). It has been observed that the MOG “is an important contribution to inter-State enforceability, matching other like memoranda, and gives assistance to and confidence in ability to enforce a Singapore judgment in China” (*SK Lateral*

Rubber & Plastic Technologies (Suzhou) Co Ltd v Lateral Solutions Pte Ltd [2020] 4 SLR 72 at [33]). The AR suggested that this is also true for the enforcement of Chinese judgments in Singapore (AR's Judgment at [79]). We agreed and endorsed these observations.

35 For present purposes, the relevant provision was Article 19 of the MOG, which stated that:

...

The certification issued by the court of the People's Republic of China which rendered or made the judgment to certify that the judgment has come into force shall be regarded as conclusive evidence on the finality and conclusiveness of the judgment.

36 In the present case, the certificate issued by the Xiamen Intermediate People's Court dated 12 October 2024 certified that the Second Xiamen Judgment came into effect on 30 September 2024. The appellant did not challenge the certification by the Xiamen Intermediate People's Court. This was *per* the MOG conclusive evidence of the finality and conclusiveness of the judgment. If so, the evidence the appellant now sought to adduce, concerning the pending Retrial Application, was unlikely to have an important influence in changing the outcome of the case.

37 Thus, we dismissed SUM 16 as the requirements of non-availability and materiality had not been satisfied. We now turn to consider the issues in AD 28 proper.

Whether the Judge erred in denying permission for the Second Legal Opinion to be adduced

38 The appellant submitted that the Judge erred in only allowing SUM 23 partially. The Second Legal Opinion responded to the AR's finding that the

appellant was not pursuing any recourse in the Chinese courts, which was unanticipated and which the appellant did not have an opportunity to respond to. The Second Legal Opinion was unavailable at the material time, because the appellant could not have been expected to pursue remedies in China or amend his defence when he had been advised that there were no remedies available to him under Chinese law.

The Judge correctly disallowed the Second Legal Opinion

39 As a preliminary matter, the Judge’s decision in SUM 23 concerned an interlocutory application, and thus the permission of the appellate court was required to appeal against that decision (Supreme Court of Judicature Act 1969 (2020 Rev Ed), Fifth Schedule para 3(*l*)). The appellant had not sought or obtained permission to appeal against the decision, and was not entitled to do so.

40 In any event, the Judge was in our view correct to disallow the admission of the Second Legal Opinion in SUM 23, for the same reasons we had outlined above in respect of SUM 16. The appellant had made a deliberate decision not to apply for a retrial earlier, even if this had been on the basis of legal advice. The Second Legal Opinion was therefore not unavailable (see [28]–[30] above). It was also unlikely to have an important influence on the outcome of the case, as an application for or the commencement of retrial proceedings did not necessarily render the Second Xiamen Judgment not final and conclusive. Conversely, the unchallenged certification of the Xiamen Intermediate People’s Court indicated that it was (see [33]–[36] above).

Whether the Judge erred in finding that the appellant had no triable defence on natural justice grounds

41 We turn to the appellant’s primary ground of appeal, which concerned his contention that the Second Xiamen Judgment was issued in breach of natural justice.

The law on breach of natural justice as a defence to recognition and enforcement of foreign judgments

42 An *in personam* final and conclusive foreign judgment rendered by a court of competent jurisdiction, which is also a judgment for a definite sum of money, is enforceable in Singapore unless (a) it was procured by fraud; (b) its enforcement would be contrary to public policy; or (c) the proceedings in which it was obtained were contrary to natural justice (*Poh Soon Kiat v Desert Palace Inc* [2010] 1 SLR 1129 at [14]). The foreign judgment is conclusive as to any matter thereby adjudicated upon and cannot be impeached for any error of fact or law (*Hong Pian Tee v Les Placements Germain Gauthier Inc* [2002] 1 SLR(R) 515 (“*Hong Pian Tee*”) at [12]). In accordance with the doctrine of comity, the enforcement court will not pass judgment on an issue already decided upon by a competent court of another jurisdiction; it is not an appellate tribunal *vis-à-vis* the foreign judgment (*Hong Pian Tee* at [28]).

43 The core principles of natural justice in the context of recognition and enforcement proceedings are well-established. The principles include, first, that the court has given notice to the litigant that they are about to proceed to determine the rights between him and the other litigant, and secondly, that the litigant is afforded an opportunity of substantively presenting his case before the court (*Paulus Tannos v Heince Tombak Simanjuntak* [2020] 2 SLR 1061 (“*Paulus Tannos*”) at [28]). Whether natural justice has been breached is a

question for the recognition court to determine for itself, and the views of the foreign court on what constitutes natural justice are not binding on the recognition court (*Paulus Tannos* at [58]).

44 The Court of Appeal in *Paulus Tannos* did not elaborate in detail on what constitutes sufficient notice. Nevertheless, the analysis in *Paulus Tannos* indicates that notice will be sufficient in at least two situations, namely where there is valid service, and where there is actual notice of the proceedings. Chief Justice Sundaresh Menon, speaking for the majority, held that if the summons for the foreign proceedings in that case had been properly served (in accordance with foreign law), the party that was served could not argue that they did not have the opportunity to be heard (*Paulus Tannos* at [49]). On the facts, the court unanimously agreed that the appellants in that case had not been properly served (*Paulus Tannos* at [51]–[58] and [72]). The court then considered whether the appellants had received actual notice of the proceedings. The majority held that they had not (at least initially) (*Paulus Tannos* at [70]), whereas the minority held that they had (*Paulus Tannos* at [94]).

45 The Judge below elaborated by making three sets of points (Judgment at [62]–[66]):

- (a) First, actual notice can be established in the absence of valid service (as was illustrated by the minority decision in *Paulus Tannos*, and as was implicitly accepted by the majority).
- (b) Second, the Singapore court may deem from the valid service of foreign court documents that the defendant had notice of the foreign proceedings (see *Paulus Tannos* at [49]). However, in exceptional circumstances, valid service under the applicable foreign law may not

meet the requirement of notice. Additionally, deemed notice may be rebutted by appropriate evidence of non-receipt.

(c) Third, the content and timing of what was served on the defendant are relevant to the determination of whether he had sufficient notice to enable him to participate in the foreign proceedings.

46 We agreed with the above analysis. The principles are analogous to the principles concerning notice in the context of arbitral proceedings. In that context, the Court of Appeal has elaborated in *DEM v DEL* [2025] 1 SLR 29 that:

(a) Notice may be actual or deemed (at [27]).

(b) Actual notice requires proof that the respondent in fact knew about the proceedings and was in a position to fully present its case (at [28]). Personal service is typically how actual notice is demonstrated, but is not strictly necessary (at [29]).

(c) Deemed notice may be relied upon where there is insufficient proof of actual notice. It may be effected, for instance, in accordance with a contractually agreed manner of service. Deemed notice may be rebutted by appropriate evidence of non-receipt (at [30]).

(d) Even if proper notice is not given, the challenging party must establish that the absence of notice impacted its ability to present its case. For instance, if the challenging party chose not to attend or participate in proceedings, it cannot rely on the absence of proper notice to challenge the award (at [31]).

47 We highlight the relevance of Arts 22 and 23 of the MOG to the recognition and enforcement of judgments of the courts of the PRC in the Courts of Singapore. Articles 22 and 23 state:

Article 22

A judgment of the courts of the People's Republic of China may be challenged in the courts of Singapore only on limited grounds. Those grounds include (but are not limited to):

- (a) the judgment was obtained by fraud;
- (b) the judgment is contrary to Singapore public policy;
- (c) the proceedings were conducted in a manner which the court of Singapore regards as contrary to the principles of natural justice, such as but not limited to:
 - i. the litigant had not been given notice of the judicial proceedings or had not been given a reasonable opportunity to be heard;
 - ii. The judicial body is constituted by persons with personal interests in the outcome of the case.

Article 23

The courts of Singapore will not review the merits of a judgment of the courts of the People's Republic of China.

The judgment may not be challenged on the grounds that it contains an error of fact or law.

48 These articles reflect the principles applicable to the recognition and enforcement of foreign judgments in general under Singapore law, as summarised above (at [42]–[43]). As explained earlier (at [34]), although the MOG is not legally binding, the articles therein provide useful guidance on the applicable principles when the recognition and enforcement of a Chinese judgment is sought in Singapore (and *vice versa*), thereby fostering confidence in the process for enforcing the judgments of each jurisdiction in the other. This after all was one of the stated purposes of the MOG.

The appellant had actual notice of the Second Xiamen Proceedings

49 The appellant submitted that:

(a) The Judge failed to apply the correct burden of proof in deciding whether the appellant had actual notice of the proceedings, by effectively shifting the burden of proof away from the respondent, whom the burden should be on.

(b) The Judge erred in drawing adverse inferences against the appellant.

(c) The Judge applied the wrong test for summary judgment: the respondent had failed to show a *prima facie* case of actual notice, and even if it had, the appellant had shown a fair or reasonable probability that he had a real or *bona fide* defence.

(d) The Judge had failed to give legal effect to an institutional mismatch on the face of the Confirmation Notice (as defined below at [51]), and that a retrial required separate, case-specific service of process.

(e) The Judge erred in failing to consider that the proceedings in China were conducted in breach of natural justice by, *inter alia*, diluting the standard of “notice” required.

50 We rejected the appellant’s submissions and agreed with the Judge that the appellant had actual notice of the Second Xiamen Proceedings.

51 As noted above (at [6]), the appellant himself had appealed for a retrial leading to the Second Xiamen Proceedings, and this was ordered by the court

accordingly. The Judge correctly found that having proactively sought a retrial, it was inconceivable that the appellant was unaware of the outcome in the Fujian Appeal Judgment and that there was going to be a retrial (Judgment at [69]). Further, the appellant’s litigation representative in China, Mr Bai, had completed and signed a form confirming the delivery address and delivery method for court documents relating to the Second Xiamen Proceedings (“Confirmation Notice”) (Judgment at [70]–[71]). Mail delivery records showed that court documents relating to the Second Xiamen Proceedings were sent by the Xiamen Intermediate People’s Court and received at Mr Bai’s office in June and July 2024, well in advance of the hearing on 7 August 2024 and the issuance of the judgment on 27 August 2024 (Judgment at [72] and [76]). Waybill and postal tracking records showed that the court documents were also received at the Carpmael Address in June and July 2024 (Judgment at [74]).

52 In our view, the Judge was correct to infer that Mr Bai had received the court documents that were sent to his office, and to find it suspicious that the appellant had adduced no affidavit from Mr Bai despite raising doubts about whether Mr Bai had in fact received the documents (Judgment at [72]).

53 The appellant submitted that Mr Bai was a foreign national outside the compulsory process of Singapore courts. But as the Judge rightly noted, Mr Bai had in fact provided information by email concerning his involvement in the First Xiamen Proceedings, and there was no reason to think he would have refused to explain matters in relation to the Second Xiamen Proceedings (Judgment at [72]).

54 The appellant also argued that Mr Bai was potentially negligent in failing to notify the appellant and thus had an incentive to refuse to cooperate to avoid incriminating himself. However, the Judge had also considered this

possibility, and found it more likely than not that Mr Bai, as a legal professional, would have alerted the appellant to the court documents received at his office, rather than simply ignoring the court documents (Judgment at [73]). We agreed. The appellant’s failure to adduce evidence from Mr Bai (or to state that he had tried but failed to do so) was more likely indicative that such evidence was unfavourable to the appellant, than that Mr Bai was negligent and hence keeping silent.

55 The appellant contended that the Confirmation Notice contained a “glaring institutional mismatch”, in that it bore a header referring to the Fujian Higher People’s Court, while bearing the case number of the Second Xiamen Proceedings ((2024) Min 02 Min Chu No. 249) in the header at the top of the document (see Judgment at [6]). However, this was a non-starter, since the Confirmation Notice *also* carried the case number of the Fujian Appeal Proceedings ((2023) Min Min Zhong No. 593), in the first row of the table. There was thus no mismatch to speak of.

56 Considering the above evidence, there was clearly a *prima facie* case that the appellant had received actual notice of the Second Xiamen Proceedings. The Judge was correct to infer that this was the case. In doing so, the Judge did not misapply or shift the burden of proof, but simply drew the relevant conclusions from the available evidence.

57 Conversely, the appellant had not furnished any evidence to support his claim of non-receipt aside from his bare denial on affidavit. This was insufficient, without more, to establish a fair or reasonable probability that he had a real or *bona fide* defence (*VeriFone, Inc v Firemane Pte Ltd* [2024] SGHC 264 at [28]). The appellant submitted that his immediate and active participation in the proceedings before the Singapore court suggested that

he had no prior knowledge of the Chinese proceedings until enforcement proceedings were commenced in Singapore. The appellant cited *Siddik Mohammad v Mohammad Hilal Salim bin Tarraf* [2025] EWHC 776 (KB) (“*Siddik*”), where a similar inference was drawn (*Siddik* at [23]). However, the appropriate inference to be drawn had to be considered in light of all the circumstances. In this case, unlike in *Siddik*, the appellant had requested the retrial that materialised as the Second Xiamen Proceedings, and the records showed that the court documents were delivered to the office of his litigation representative and his residential address. *Siddik* was thus of little assistance.

58 As we agreed with the Judge’s finding of actual notice, it was unnecessary for us to separately consider the issue of the validity of service.

Conclusion

59 For the foregoing reasons, we dismissed SUM 16 and AD 28, with costs of \$10,000 (all-in) and \$30,000 (all-in) respectively awarded to the respondent, and with the usual consequential orders to apply.

Kannan Ramesh
Judge of the Appellate Division

See Kee Oon
Judge of the Appellate Division

Luo Ling Ling and Joshua Ho Jin Le (Luo Ling Ling LLC) for the
appellant;
Lee Ming Hui Kelvin and Ong Xin Ying Samantha (WNLEX LLC)
for the respondent.