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

[2026] SGHCR 34

Bankruptcy No 81 of 2026

Between

D & J Management Pte Ltd

… Claimant

And

Tan Hock Keng

… Defendant

And

Meritus Law LLC

… Non-party

GROUNDS OF DECISION

[Insolvency Law — Bankruptcy — Petition — Substitution of applicant creditor]

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D & J Management Pte Ltd
v
Tan Hock Keng
(Meritus Law LLC, non-party)

[2026] SGHCR 34

General Division of the High Court — Bankruptcy No 81 of 2026
AR Wee Yen Jean
30 July 2026

17 August 2026

AR Wee Yen Jean:

Introduction

1 These grounds of decision deal with a narrow point which may be of practical relevance where a debtor against whom a creditor's bankruptcy application has been filed has more than one creditor. Where the original applicant creditor no longer wishes to proceed, when can that creditor be substituted by another creditor under r 96 of the Insolvency, Restructuring and Dissolution (Personal Insolvency) Rules 2020 ("the PIR")? Specifically, when will the creditor who seeks to be substituted – whom I will refer to as the "prospective applicant creditor" – be considered to have been "in such a position in relation to the debtor at the date on which the bankruptcy application was filed as would have enabled [it] on that date to file a bankruptcy application against the debtor", as required under r 96(2)(*c*) of the PIR?

Facts

2 HC/B 81/2026 ("B 81") was a creditor's bankruptcy application filed by the claimant, D & J Management Pte Ltd ("DJM"), against Mr Tan Hock Keng ("Mr Tan") on 7 January 2026. At the first hearing of B 81 on 12 February 2026, an assistant registrar adjourned the matter for the Official Assignee to assess Mr Tan's suitability for the Debt Repayment Scheme.

3 On 16 July 2026, Meritus Law LLC ("Meritus") filed a notice of its intention to appear at the hearing of B 81 ("Notice of Intention to Appear"). The Notice of Intention to Appear stated that Meritus was a creditor of Mr Tan for the sum of $30,000 (as at the date of that notice), arising from unpaid legal fees owed by him, and that Meritus intended to support the bankruptcy application.

4 On 20 July 2026, the Official Assignee determined that Mr Tan was unsuitable for the Debt Repayment Scheme because he had failed to submit the required documents to the Official Assignee. B 81 was then fixed for a further hearing before me on 30 July 2026.

5 Shortly before the hearing on 30 July 2026, counsel for DJM informed the court and Meritus that DJM intended to withdraw B 81 as Mr Tan had, on 27 July 2026, made full payment to DJM of the debt upon which B 81 was founded. DJM therefore sought permission to withdraw B 81, together with an order for Mr Tan to pay DJM the costs of the proceedings as the parties had been unable to agree on costs.

6 At the hearing before me, in view of DJM's intention to withdraw B 81, Meritus sought to be substituted for DJM as the new applicant creditor in B 81. Counsel for Meritus relied on r 96 of the PIR and submitted that the requirements for substitution set out therein were satisfied because, at the date

on which B 81 had been filed, Mr Tan had owed Meritus unpaid legal fees amounting to approximately $97,000.

7 For completeness, at the first hearing of B 81, counsel for one Mdm Tang Kim Eng ("Mdm Tang") – another of Mr Tan's creditors – had been permitted to attend on watching brief. Counsel for Mdm Tang attended the second hearing of B 81 before me on watching brief as well. However, no Notice of Intention to Appear was filed on Mdm Tang's behalf, and Mdm Tang's counsel took no substantive position on the matters mentioned above.

8 Having heard from counsel for DJM, counsel for Meritus, and Mr Tan, I declined to order that DJM be substituted by Meritus in B 81, and I granted DJM permission to withdraw B 81. In my view, Meritus had not satisfied the requirement in r 96(2)(*c*) of the PIR. I gave my brief reasons for this decision at the hearing, and added that Meritus remained at liberty to file its own bankruptcy application against Mr Tan if it wished to do so. I also ordered Mr Tan to pay DJM the costs of the withdrawn bankruptcy proceedings fixed at $3,500 (all in). That concluded the proceedings in B 81.

9 I now explain, in more detail, why I declined to order substitution.

Substitution

The legal framework

Rule 96 of the PIR

10 I begin with r 96 of the PIR, which deals with when the court may order the substitution of an applicant creditor. Rule 96 of the PIR provides as follows:

Substitution of applicant creditor

96.—(1) This rule applies where a creditor who has made a bankruptcy application (*A*) —

(*a*) fails to appear in support of the bankruptcy application on the day fixed for the hearing of the bankruptcy application;

(*b*) appears on the day fixed for the hearing of the bankruptcy application but does not apply for an order in terms of the relief sought in the bankruptcy application; or

(*c*) does not diligently prosecute the bankruptcy application.

(2) The Court may, on such terms as it thinks just, order that *A* be substituted by any other creditor (*B*) if *B* —

(*a*) has given notice of *B*'s intention to appear and support the bankruptcy application under rule 88 and so appears;

(*b*) is desirous of prosecuting the bankruptcy application; and

(*c*) was in such a position in relation to the debtor at the date on which the bankruptcy application was filed as would have enabled *B* on that date to file a bankruptcy application against the debtor.

(3) An order of the Court under paragraph (2) is to be in Form PIR-8.

(4) Where the Court has ordered the substitution of *A* under paragraph (2), *A* is not entitled to the costs of the bankruptcy proceedings unless the Court otherwise orders.

11 Rule 97 of the PIR then sets out the procedural steps that the new applicant creditor must take after the court orders a substitution under r 96. In brief, the new applicant creditor must amend the bankruptcy application, re-file and re-serve the amended application together with its affidavit supporting the amended application, and pay the required deposit to the Official Assignee.

12 I was not referred to, nor was I able to locate, any published decisions on r 96 of the PIR or its predecessor in r 123 of the Bankruptcy Rules (2006 Rev Ed). I therefore approached this issue afresh.

13 Rule 96 of the PIR prescribes two groups of conditions that must be fulfilled before the court "may, on such terms as it thinks just", order substitution under r 96(2).

(a) First, r 96(1) sets out the three situations in which r 96 applies. These relate to the conduct of the *original* applicant creditor and explain why the replacement of *that* creditor is warranted. Under r 96(1), r 96 applies where the original applicant creditor *either* fails to appear at the hearing of its bankruptcy application (r 96(1)(*a*)), *or* appears but does not seek an order in terms of the relief sought in its bankruptcy application (r 96(1)(*b*)), *or* does not "diligently prosecute" its bankruptcy application (r 96(1)(*c*)).

(b) Second, r 96(2) sets out the three conjunctive requirements that the *prospective* applicant creditor must fulfil. These explain why the original applicant creditor should be replaced with *this* creditor. The prospective applicant creditor must have taken the procedural steps of filing a Notice of Intention to Appear and to support the bankruptcy application, and must attend the hearing (r 96(2)(*a*)); it must wish to prosecute the bankruptcy application (r 96(2)(*b*)); *and* it must have been "in such a position in relation to the debtor at the date on which the bankruptcy application was filed as would have enabled [it] on that date to file a bankruptcy application against the debtor" (r 96(2)(*c*)).

14 On a plain reading of r 96(2)(*c*) of the PIR, it requires the prospective applicant creditor to have been able to file its *own* bankruptcy application

against the debtor, on the date on which the original applicant creditor filed the bankruptcy application in which the prospective applicant creditor now seeks to be substituted ("the original bankruptcy application"). This makes it necessary to consider what requirements that creditor would have had to satisfy in order to file a bankruptcy application against that debtor on that date.

15 Those requirements, in turn, include those set out in s 311(1) of the Insolvency, Restructuring and Dissolution Act 2018 ("the IRDA"). That provision states:

> **Grounds of bankruptcy application**
>
> **311.**—(1) Subject to section 314, *no bankruptcy application may be made* to the Court *in respect of any debt* or debts unless *at the time the application is made* —
>
> > (*a*) the amount of the debt, or the aggregate amount of the debts, is not less than $15,000;
> >
> > (*b*) the debt or each of the debts is for a liquidated sum payable to the applicant creditor immediately;
> >
> > (*c*) the debtor is unable to pay the debt or each of the debts; *and*
> >
> > (*d*) where the debt or each of the debts is incurred outside Singapore, such debt is payable by the debtor to the applicant creditor by virtue of a judgment or an award which is enforceable by an enforcement order in Singapore.
>
> [emphasis added]

16 The language of s 311(1) of the IRDA makes clear that these four requirements must all be satisfied before a bankruptcy application can be *filed* by a creditor in respect of a debt owed to that creditor. They are not merely requirements to be satisfied before a bankruptcy *order* can be made. Thus, as the General Division of the High Court explained in *Java Asset Holding Ltd v Sin David* [2025] 5 SLR 130 at [18]–[19], s 311(1) "sets out the threshold requirements for when a bankruptcy application may be made" and "actively

prohibits a bankruptcy application from being filed, unless the four conditions in limbs (*a*) to (*d*) are cumulatively met *as at the point the bankruptcy application is made*" [emphasis in original]. In other words, the requirements in s 311(1) are prerequisites for the creditor's *substantive entitlement to file a bankruptcy application*.

17 Importantly for present purposes, one of the four threshold requirements for a bankruptcy application to be made, under s 311(1)(*c*) of the IRDA, is that the debtor is "unable to pay the debt" in respect of which the bankruptcy application is to be made. It is therefore not sufficient for a creditor to be owed a debt of at least $15,000 that is payable to that creditor immediately – that would only go towards satisfying ss 311(1)(*a*) and 311(1)(*b*) of the IRDA. That creditor must *also* show that the debtor is *unable to pay* that debt at the time the bankruptcy application is made. This makes sense because a bankruptcy application ultimately seeks an order that the debtor be adjudged *bankrupt*; its primary purpose is not the recovery of debts.

18 For the purposes of s 311(1)(*c*) of the IRDA, absent evidence of the debtor's inability to pay the relevant debt, an applicant creditor may rely on one of the provisions of s 312 of the IRDA to raise a rebuttable *presumption* of the debtor's inability to pay that debt. Most commonly (and perhaps most straightforwardly), the applicant creditor may rely on s 312(*a*), under which a debtor is presumed to be unable to pay a debt if "the applicant creditor to whom the debt is owed" has served a statutory demand on the debtor, and at least 21 days have elapsed since the statutory demand was served without the debtor having complied with it or applied to court to set it aside. An applicant creditor's inability to rely on any of the statutory presumptions set out in s 312 is, of course, not automatically fatal to its ability to file a bankruptcy application. But such a creditor would need to be able to show *by some other means*, without the

aid of these presumptions, that the debtor is unable to pay the relevant debt, so as to satisfy the threshold requirement for the making of a bankruptcy application in s 311(1)(*c*) of the IRDA. That task may be a practically challenging one: as the High Court observed in Re *Boey Hong Khim and another,* ex parte *Medical Equipment Credit Pte Ltd* [1998] 1 SLR(R) 956 ("*Boey Hong Khim*") at [12], while the debtor's inability to pay his debts "may be proved by reference to [his] assets and liabilities", these are "facts normally better known to the debtor than to the creditor", and that is why the statutory presumptions of inability to pay have been made available to "ease the burden of proof on the creditor".

19 Notably, in order for the debtor's inability to pay the debt to be presumed under s 312(*a*) of the IRDA, it is not sufficient for the creditor to have served its statutory demand on the debtor; it is also necessary for the prescribed *21-day period* after service to have elapsed without the debtor either complying with the statutory demand or applying to set it aside (leaving aside cases where an expedited bankruptcy application may be made under s 314 of the IRDA). Before the expiry of that 21-day period, the conditions for the presumption under s 312(*a*) to be raised would not have been met, and the statutory presumption would not arise to assist the creditor in showing that the debtor is unable to pay the debt for the purposes of s 311(1)(*c*). Accordingly, where the creditor relies on s 312(*a*) to show that the debtor is unable to pay the debt, the creditor's substantive entitlement to file a bankruptcy application can crystallise only after the prescribed 21-day period has elapsed.

20 This point is illustrated by *DBS Bank Ltd v Ong Tze Yaw Bryan* [2023] SGHCR 2 ("*Ong Tze Yaw Bryan*"). There, the claimant had filed a bankruptcy application against the defendant in reliance on a statutory demand *before* the prescribed 21-day period had elapsed, and had adduced no other

evidence of the defendant's inability to pay the relevant debt. The assistant registrar held this to be "a fatal defect" in the bankruptcy application and consequently dismissed it, explaining that, since the s 312(*a*) presumption had not arisen *when the bankruptcy application was filed*, the claimant could not rely on it to show that the threshold requirement in s 311(1)(*c*) of the IRDA was satisfied (see *Ong Tze Yaw Bryan* at [2] and [13]).

21 The requirements just discussed at [15]–[20] above are requirements that would have to be satisfied by any creditor seeking to file a bankruptcy application. On the plain reading of r 96(2)(*c*) of the PIR set out at [14] above, these requirements would apply equally to a *prospective* applicant creditor who seeks to be substituted as the applicant in a bankruptcy application that was originally filed by another creditor. Only then would that prospective applicant creditor have been "in such a position in relation to the debtor at the date on which the bankruptcy application was filed as would have enabled [it] on that date to file a bankruptcy application against the debtor". Thus, where the prospective applicant creditor would have had to rely on the presumption in s 312(*a*) of the IRDA to show that the debtor was unable to pay the debt owed to it at the date on which the original bankruptcy application was filed, that prospective applicant creditor must (other than in situations where s 314 of the IRDA applies) have served on the debtor its own statutory demand at least 21 days before the original bankruptcy application was filed, and the debtor must not have complied with that statutory demand or applied to set it aside by the time the original bankruptcy application was filed. This view is also consistent with the wording of Form PIR-8 in the First Schedule to the PIR, which prescribes the form of an order for substitution made under r 96(2), and which presupposes that "details of [the] statutory demand" would have been placed before and considered by the court before substitution is ordered.

22 In my view, this approach also achieves outcomes that are sound in principle. In order to have been entitled to file the original bankruptcy application, the original applicant creditor would have had to satisfy all the threshold requirements in s 311(1) of the IRDA at the time of making that application. Another creditor who later wishes to take the place of the original applicant creditor in that application should be required to show that it, too, would have satisfied all of those threshold requirements at the time the original bankruptcy application was filed. Otherwise, substitution would preserve the *legal consequences attaching to the earlier bankruptcy application date* even though the prospective applicant creditor had *no substantive entitlement to invoke the court's bankruptcy jurisdiction* as at that date. Those legal consequences include those set out in s 328(1) of the IRDA, which provides that where a person is adjudged bankrupt, any disposition of property made by that person "during the period beginning on *the day of the making of the bankruptcy application* and ending on the day of the making of the bankruptcy order" [emphasis added] is void except to the extent that such disposition has been made with the court's consent or subsequent ratification. Similarly, s 363(1) of the IRDA, which prescribes the "relevant time" for the purposes of transactions at an undervalue and unfair preferences, defines the "relevant time" with reference to a period "ending on *the day of the making of the bankruptcy application* on which the individual is adjudged bankrupt" [emphasis added].

23 I add that I do not think the analysis at [21] above takes an unduly narrow approach to substitution under r 96 of the PIR. In my view, one situation in which substitution may serve an important purpose is where the prospective applicant creditor ("Creditor B") has served its statutory demand on the debtor and the prescribed 21-day period has elapsed, but before Creditor B files its bankruptcy application based on that statutory demand, another creditor ("Creditor A") files a bankruptcy application against the same debtor. Creditor

B may then reasonably decide not to file its own bankruptcy application against that debtor, since it will be invited to withdraw its application if the bankruptcy order is ultimately made on Creditor A's application, which was filed earlier. If, however, Creditor A ultimately fails to take steps to obtain a bankruptcy order on its application (in one of the three ways contemplated in r 96(1)), and if more than four months have now elapsed since Creditor B served its statutory demand on the debtor, r 73(2)(*b*) of the PIR would appear to prevent Creditor B from filing its own bankruptcy application based on the debtor's non-compliance with its statutory demand. While the court may make an order extending the time for Creditor B to file its bankruptcy application based on that statutory demand (see, in this regard, *Goh Chin Cheng v Choco Up SG Pte Ltd* [2026] SGHCR 13 at [58]–[66]), the bankruptcy proceedings would then have to start afresh and the date of the making of the bankruptcy application, for the purposes of provisions like ss 328(1) and 363(1) of the IRDA, would be significantly later than the date on which Creditor A's bankruptcy application was filed. In these circumstances, ordering that Creditor A be substituted by Creditor B under r 96(2) of the PIR may help to ensure a fair and practical overall outcome, without conferring on Creditor B any substantive entitlement to file a bankruptcy application that it would not have had at the time of Creditor A's bankruptcy application. This illustrates that r 96 can continue to serve an important practical function even on the analysis adopted above.

*Section 321(*a*) of the IRDA*

24 In the case before me, only r 96 of the PIR was referred to by the parties, and Meritus's application to be substituted as the applicant creditor in B 81 was made with reference to only that provision. Nevertheless, I take the opportunity to also consider s 321(*a*) of the IRDA because it is a provision in the primary legislation under which the PIR were made, which appears to prescribe different

conditions for substitution from r 96 of the PIR. This raises the question of how s 321(*a*) of the IRDA and r 96 of the PIR may have been intended to interact.

25 Section 321 of the IRDA states that:

> **Power to change conduct of proceedings**
>
> **321.** Where any applicant for a bankruptcy order does not proceed with due diligence on the applicant's application, the Court may substitute as applicant —
>
> > (*a*) in the case of a creditor's bankruptcy application, any other creditor to whom the debtor is indebted in the amount required under section 311(1)(*a*); or
> >
> > (*b*) in any other case, the Official Assignee,
>
> and, unless the Court otherwise directs, the proceedings are to be continued as though no change had been made in the conduct of the proceedings.

26 I was similarly unable to locate any published decisions on s 321 of the IRDA, or on its predecessor in s 70 of the Bankruptcy Act (Cap 20, 2009 Rev Ed). However, the plain language of the provision allows the court to make an order substituting the original applicant creditor in a creditor's bankruptcy application with "any other creditor to whom the debtor is indebted in the amount required under section 311(1)(*a*)" of the IRDA in cases where the original applicant "does not proceed with due diligence" on its application.

27 Rule 96 of the PIR makes no reference to s 321 of the IRDA, and it is not obvious how these two provisions ought to be reconciled. On the face of both provisions, they appear to set out different but overlapping *substantive conditions* to be satisfied before the court's power to order substitution may be exercised in a creditor's bankruptcy application, and s 321(*a*) appears to be simultaneously narrower and wider than r 96 of the PIR – narrower in terms of the conditions that must be satisfied in respect of the *original* applicant creditor,

but wider in terms of the conditions that must be satisfied by the *prospective* applicant creditor.

28 Nevertheless, in my view, the two provisions can be reconciled if s 321 of the IRDA is understood not as providing an *alternative or independent* basis on which substitution may be ordered, but instead as conferring on the court the *power* to change the conduct of bankruptcy proceedings – whether filed by a creditor (s 321(*a*)) or by any other applicant (s 321(*b*)) – by substituting one applicant for another, with r 96 of the PIR prescribing the specific conditions that must be satisfied before that power will be *exercised* in a creditor's bankruptcy application. On this view, the relationship between the two provisions might be understood as follows:

(a) First, as regards the conditions that must be satisfied in respect of the *original* applicant creditor, the three limbs of r 96(1) of the PIR – summarised at [13(a)] above – particularise the three specific situations in which the original applicant creditor will be considered to have "not proceed[ed] with due diligence on [its] application" for the purposes of s 321(*a*). In other words, the original applicant creditor may be said not to have *proceeded* with due diligence not only where it does not "diligently prosecute" the bankruptcy application under r 96(1)(*c*), but also where it fails to appear at the hearing under r 96(1)(*a*), or appears but does not apply for a bankruptcy order under r 96(1)(*b*). On this reading, r 96 of the PIR would not confer on the court a broader power to order substitution than s 321(*a*) of the IRDA.

(b) Turning to the conditions that must be satisfied by the *prospective* applicant creditor, reading s 321(*a*) of the IRDA in isolation may suggest that any creditor to whom the debtor owes at least $15,000 may be substituted for the original applicant creditor. That is because s 321(*a*) expressly refers only to the requirement under s 311(1)(*a*) as to *the amount of the debt*, and not to the other requirements set out in ss 311(1)(*b*) to 311(1)(*d*). However, in my view, this does not mean that a prospective applicant creditor need not show that the debtor was unable to pay the debt owed to it at the time the original bankruptcy application was made. The power in s 321(*a*) must still be *exercised* with reference to the conditions prescribed in r 96(2), including the requirement in r 96(2)(*c*) that the prospective applicant creditor must have been "in such a position in relation to the debtor at the date on which the bankruptcy application was filed as would have enabled [it] on that date to file a bankruptcy application against the debtor". For the reasons explained at [14]–[16] above, this must require the prospective applicant creditor to have satisfied the four threshold requirements in s 311(1) of the IRDA. Reading this phrase in r 96(2)(*c*) as only incorporating the requirement under s 311(1)(*a*), and not the other requirements set out in ss 311(1)(*b*) to 311(1)(*d*), would be at odds with the language of those provisions and with the statutory scheme set out in s 311(1) itself. Furthermore, if the exercise of the power in s 321(*a*) of the IRDA was *not* read as being subject to the requirement in r 96(2)(*c*) of the PIR, the stricter conditions for substitution in r 96 of the PIR would be rendered otiose.

29 This reading would also avoid the difficulties of principle outlined in [22] above. If s 321(*a*) of the IRDA were read to mean that *any* creditor may be substituted as applicant so long as the debtor owes it a debt of at least $15,000, even where that creditor would not have been able to satisfy the other threshold requirements in s 311(1) at the time the original bankruptcy application was filed, substituting that creditor as the applicant in the original bankruptcy

application would place that creditor in a position that it would not have been substantively entitled to be in at the relevant time. It would allow that creditor to keep the bankruptcy proceedings on foot and potentially obtain an order adjudging the debtor to be *bankrupt* without first having shown – whether by presumption or by proof – that that debtor was *unable to pay* the debt that he owed that creditor at the time the application was made.

30 All that said, as I did not have the benefit of submissions on the precise relationship between s 321(*a*) of the IRDA and r 96 of the PIR, and this question did not arise for my determination in respect of B 81, I leave this open for further consideration in a future case where it is fully argued. For the purposes of B 81, the point is only that s 321(*a*) of the IRDA would not have led me to take a different or broader approach to the interpretation of r 96 of the PIR.

The present case

31 With the legal framework under r 96 of the PIR in mind, I now explain why I declined to order that DJM be substituted by Meritus on the facts of B 81.

32 Meritus submitted that the requirements of r 96(1) of the PIR in respect of the *original* applicant creditor were satisfied, relying specifically on r 96(1)(*b*), because DJM had appeared at the hearing of B 81 but – as it now wished to withdraw – did not seek an order in terms of the relief originally sought in B 81. As for the requirements of r 96(2) of the PIR in respect of the *prospective* applicant creditor, given that Meritus had filed its Notice of Intention to Appear on 16 July 2026 and had attended the hearing, and Meritus wished to prosecute B 81, the question before me was whether Meritus satisfied the requirement in r 96(2)(*c*). Meritus submitted that that requirement was met because it had been a creditor of Mr Tan for unpaid legal fees of approximately $97,000 as at 7 January 2026, the date on which B 81 was filed (see [6] above).

33 I disagreed. In my view, Meritus had not satisfied r 96(2)(*c*) of the PIR.

34 Applying the analysis at [14]–[21] above, for Meritus to have been able to file its own bankruptcy application against Mr Tan on 7 January 2026, Meritus would not only have had to be a *creditor* of Mr Tan for a liquidated sum of at least $15,000 on that date that was payable to it immediately; it would also have had to show that Mr Tan was *unable to pay* the debt that he owed to Meritus as at that date. Absent proof of Mr Tan's inability to pay those unpaid legal fees at that date, Meritus would have had to rely on one of the presumptions in s 312 of the IRDA; and as there was no suggestion that any of the presumptions in ss 312(*b*), 312(*c*) or 312(*d*) could have applied, what remained was the presumption under s 312(*a*).

35 At the hearing, counsel for Meritus acknowledged that Meritus had not yet served any statutory demand on Mr Tan in respect of the unpaid legal fees that he was said to owe. Nevertheless, counsel emphasised that this debt was not disputed and suggested that I adjourn B 81 for Meritus to serve its statutory demand on Mr Tan and allow the 21-day period to elapse, before returning to court and seeking an order for substitution then.

36 I was unable to accept that suggestion. In my view, this could not overcome the difficulty that any statutory demand served by Meritus on Mr Tan *after the hearing on 30 July 2026* could only give rise to a presumption of Mr Tan's inability to pay the debt under s 312(*a*) of the IRDA *after the prescribed 21-day period after the service of the statutory demand elapsed*. Such a statutory demand therefore could not retrospectively have put Meritus in a position to file its own bankruptcy application against Mr Tan *on 7 January 2026*, so as to satisfy r 96(2)(*c*) of the PIR. Further, even if Mr Tan did not dispute that he *owed* Meritus unpaid legal fees in the sum claimed and *had not*

paid those fees, this alone did not establish that he was *unable* to pay those fees – as the High Court noted in *Boey Hong Khim* at [19], "[a]n admission of a debt, or the mere failure or even refusal to pay it, cannot be equated with or displace proof of inability to pay the debt".

37 Consequently, I did not think Meritus had satisfied the requirements prescribed by r 96(2) of the PIR, and I declined to substitute DJM with Meritus under r 96 of the PIR. To avoid doubt, none of this had any bearing on Meritus's ability or entitlement *prospectively* to file its own bankruptcy application against Mr Tan in respect of the unpaid legal fees. What I decided was simply that Meritus should not be substituted for DJM as the applicant creditor in *B 81*.

Conclusion

38 For these reasons, I declined to order that Meritus be substituted as the applicant creditor in B 81, and I instead granted DJM permission to withdraw B 81.

Wee Yen Jean
Assistant Registrar

Parmar Karam Singh, Leong Lijie and Nayo Leong (TKQP Law LLP) for the claimant;
The defendant in person;
Lye May-Yee Jaime (Meritus Law LLC) for the non-party;
Lokkesh Thangavelu (Allen & Gledhill LLP) for Tang Kim Eng (watching brief).