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

[2026] SGHC 3

Admiralty in Rem No 76 of 2022 (Summons No 1823 of 2025)

Between

Posh Projects Pte Ltd

… *Claimant*

And

Owner and/or Demise
Charterer of the Vessel
"YANGTZE HARMONY"

… *Defendant*

GROUNDS OF DECISION

[Admiralty and Shipping — Admiralty jurisdiction and arrest — Stay of action in favour of arbitration]
[Admiralty and Shipping — Enforcement of foreign arbitral award — Lifting stay of action – Judgment in rem]
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S Mohan J:

1 The enforcement of arbitral awards represents one of the cornerstones of international commercial arbitration. The efficacy of arbitration as a dispute resolution mechanism depends not merely on the quality of the arbitral process itself but on the ability of successful parties to obtain, as far as domestic laws will allow, swift and effective enforcement of the awards rendered in their favour. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (commonly known as the New York Convention), which Singapore has implemented through the International Arbitration Act 1994 (2020 Rev Ed) ("IAA"), is a critical component in ensuring the efficacy of the arbitral award enforcement mechanism.

2 In the specific context of maritime claims, the intersection between arbitral award enforcement and admiralty *in rem* court proceedings presents a layer of particular complexities. Ships may be, and are often, arrested by claimants seeking to obtain security for their substantive claims that are subject

to an arbitration agreement providing for disputes to be arbitrated in Singapore or elsewhere. Post-arrest, the substantive court proceedings may be stayed in favour of arbitration. If an arbitral award is eventually obtained by a claimant in its favour, how is that award, in practical terms, to be enforced against the ship that was arrested in the now stayed court proceedings, or its sale proceeds held in court in the event the ship is judicially sold? The dichotomy between proceedings *in personam* and *in rem* may become somewhat blurred when arbitral awards rendered against named defendants *in personam* are sought to be enforced in admiralty actions *in rem* commenced against ships.

3 The present application brought some of these questions into focus. By way of an application for leave to enter judgment *in rem* in this action, the claimant ("Claimant") seeks to enforce two foreign arbitral awards it obtained against the defendant ("Defendant"), in circumstances where the vessel in question was arrested in this action by the Claimant as security for its substantive claims that were subject to arbitration. Save for proceedings relating to the arrest of the vessel and its sale, the proceedings were, by an order of court, otherwise stayed in favour of arbitration. The vessel was subsequently judicially sold, with the proceeds of sale paid into court pending the outcome of the arbitration between the Claimant and Defendant. For the purposes of enforcing its awards against the Defendant, the Claimant also applied for the stay of proceedings to be lifted.

4 I heard the Claimant's application on 7 August 2025; the defendant was absent and unrepresented. After considering the Claimant's submissions, I allowed the Claimant's application. I ordered the stay of proceedings to be lifted and for judgment *in rem* to be entered in the Claimant's favour in terms of the arbitral awards.

5 During the hearing, it was brought to my attention by the Claimant's counsel that the issues I highlighted at [2] have apparently not been the subject of any reported decision here. Subsequent to the hearing, it was urged upon me by the Claimant's counsel that the issues raised in this case were of importance to the shipping Bar and given the dearth of authority, a published judgment would provide valuable guidance. I agree that a published judgment would be useful in providing guidance to shipping practitioners and accordingly, now provide the full grounds of my decision.

Background facts

The parties, the vessel, and their contractual relationship

6 The Claimant, Posh Projects Pte Ltd, is a Singapore-incorporated company engaged in the provision of marine services, including the chartering of ships and boats with crew.[1] The Defendant, Yangtze Harmony Co., Limited, was at all material times the demise or bareboat charterer of the vessel "YANGTZE HARMONY" (IMO No. 9318917) (the "Vessel").[2]

7 The dispute arose out of a towage contract dated 22 July 2022 (the "TOWCON Contract"), under which the Claimant's tug "POSH EAGLE" was chartered by the Defendant for the towage of the Vessel from Brisbane, Australia, to Singapore for repairs.[3] The Claimant's claims against the Defendant comprised remuneration, delay payments, and costs of exercising a

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1 4th Affidavit of Corey Whiting filed 1 July 2025 ("4th Affidavit of Corey Whiting") at tab 3.

2 4th Affidavit of Corey Whiting at para 8.

3 4th Affidavit of Corey Whiting at pp 158–180.

possessory lien over the Vessel.[4] The precise terms and nature of these claims are not material to the present application.

The arrest and initial proceedings

8 The Claimant commenced this admiralty action *in rem* on 19 October 2022 and caused the Vessel to be arrested on or around 25 October 2022 as security for its claims relating to the TOWCON Contract.[5] It was not in dispute that when this action was commenced and the Vessel arrested, the Defendant was the demise charterer of the Vessel.[6]

9 On 1 November 2022, the Defendant filed a Notice of Intention to Contest, thereby appearing in this action *in personam* in its capacity as demise charterer of the Vessel.[7]

The stay order and arbitration proceedings

10 As the TOWCON Contract contained an arbitration clause providing for disputes to be resolved by arbitration in London,[8] the parties obtained, by consent, an order of court *vide* HC/ORC 112/2023 dated 29 December 2022, staying all further proceedings in this action insofar as they related to the dispute between the Claimant and the Defendant, in favour of arbitration in London (the "Stay Order").[9] The Stay Order also provided liberty for the Claimant to apply

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4 4th Affidavit of Corey Whiting at para 21.

5 4th Affidavit of Corey Whiting at para 9.

6 4th Affidavit of Corey Whiting at para 9.

7 Claimant's Bundle of Documents dated 29 July 2025 ("CBOD") at pp 253–254.

8 4th Affidavit of Corey Whiting at para 24.

9 CBOD at pp 159–160; 4th Affidavit of Corey Whiting at tab 6.

for the judicial sale of the Vessel.[10] Thus, while the underlying claims of the Claimant in this action were stayed in favour of arbitration in London, the Vessel remained under arrest as pre-award security.

The judicial sale and retention of proceeds

11 Pursuant to the liberty referred to at [10], the Claimant applied for the Vessel to be sold *pendente lite*. That application came before me on 18 January 2023 and *vide* HC/ORC 343/2023, I ordered the Vessel to be sold, and imposed (pursuant to Order 33 rule 22(2) of the Rules of Court 2021 ("ROC 2021")) a 120-day moratorium on determining the priority of claims against the sale proceeds of the Vessel.[11] The moratorium period was extended twice to allow the arbitration between the Claimant and the Defendant to conclude.[12] On 1 June 2023, the Sheriff sold the Vessel (and the bunkers onboard) for the sum of SGD 5,126,280.40.[13]

12 On 3 March 2025, I granted the Claimant's application for a partial determination of priorities and payment out *vide* HC/ORC 1366/2025.[14] An aggregate sum of SGD 2,159,437.42 was paid out from the sale proceeds on account of the Sheriff's expenses, costs of the producer of the fund, and the Vessel crew's pre-arrest wages, leaving a balance of SGD 2,966,842.98 plus accrued interest.[15] These balance sale proceeds remain in court, pending the outcome of the arbitration.

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10 CBOD at pp 159–160; 4th Affidavit of Corey Whiting at tab 6.

11 CBOD at pp 162 – 163; 4th Affidavit of Corey Whiting at tab 7.

12 CBOD at pp 165 – 168; 4th Affidavit of Corey Whiting at tab 8.

13 4th Affidavit of Corey Whiting at para 13.

14 4th Affidavit of Corey Whiting at para 16 and at tab 9.

15 4th Affidavit of Corey Whiting at para 16 and tab 10.

The London arbitration

13 The Claimant commenced arbitration against the Defendant on 17 January 2023 (the "Arbitration").[16] The Defendant was initially represented by solicitors but discharged them on 7 September 2023. The Defendant was thereafter unrepresented though it remained copied in all email correspondence pertaining to the Arbitration.[17]

14 On 14 August 2024, the Tribunal delivered its First Award finding the Defendant liable to pay the Claimant a sum of USD 2,885,074.26 plus SGD 308,396.21.[18] On 15 November 2024, the Tribunal rendered its Second Award awarding the Claimant interest amounting to USD 440,420.23 and costs of SGD 1,054,543.[19] The Defendant made no application to set aside or challenge either Award (collectively, the "Awards").[20]

The in personam *enforcement proceedings*

15 Following the issuance of the Awards, on 28 February 2025, the Claimant applied in HC/OA 204/2025 ("OA 204") for permission to enforce the Awards as a judgment of the General Division of the High Court and to enter judgment against the Defendant. The application was granted on 3 March 2025 *vide* HC/ORC 1292/2025 (the "Permission Order") and on 23 April 2025, the Claimant entered judgment *in personam* against the Defendant in OA 204.[21] The

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16 4th Affidavit of Corey Whiting at para 25.

17 CBOD at p 87 at para 13; 4th Affidavit of Corey Whiting at tab 1.

18 4th Affidavit of Corey Whiting at para 35.

19 4th Affidavit of Corey Whiting at para 38.

20 4th Affidavit of Corey Whiting at para 39.

21 4th Affidavit of Corey Whiting at paras 17–18.

Defendant did not comply with the Awards or satisfy the judgment entered in OA 204.[22]

The present application

16 In the present application, namely HC/SUM 1823/2025 ("SUM 1823"), the Claimant applied for the following reliefs: (a) an order lifting the Stay Order; (b) for permission to enforce the Awards in the same manner as a judgment of the court; (c) for liberty, upon the expiry of 21 days after the order made in SUM 1823 was served on the Defendant, for the Claimant to enter judgment *in rem* against the Defendant in terms of the Awards; (d) for permission to serve on the Defendant a copy of the order made on SUM 1823 by email at certain specified email addresses; and (e) for costs of the application and any judgment which may be entered to be paid by the Defendant. While a number of other parties had either intervened in this action or filed caveats against release and payment, none of them actively participated in or resisted SUM 1823.

17 As prefaced at [4], I heard SUM 1823 on 7 August 2025 and allowed the application.

Issues

18 The following issues arose for my determination:

(a) whether the court has power under the IAA or at common law to lift a stay of admiralty *in rem* proceedings and enter judgment *in rem* to enable the enforcement of foreign arbitral awards;

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22 4th Affidavit of Corey Whiting at para 42.

(b) whether the *in rem* claim remains viable after an arbitral award has been made on the *in personam* claim, or whether the causes of action merge upon a claimant obtaining an arbitral award in its favour; and

(c) whether the court should permit alternative service of the enforcement order on the defendant by email.

19 The central issues in SUM 1823 revolved around those enumerated at [18(a)] and [18(b)] above.

The Claimant's arguments

20 I will briefly outline the Claimant's arguments here. Where necessary, I will examine them in greater detail in the course of my analysis below.

21 The Claimant's case rested on five principal submissions:

(a) The court possessed the statutory power to enter judgment *in rem* based on an arbitral award, under s 29 read with s 19 of the IAA, and with the procedural framework set out in O 48 r 6 of the ROC 2021.[23]

(b) Case law from a number of Commonwealth jurisdictions supported the view that courts were permitted to lift a stay of an *in rem* action and enter judgment *in rem* based on arbitral awards in situations where those awards had not been satisfied.[24] The Claimant cited the English decision in *The "Rena K"* [1979] QB 377 ("*The 'Rena K'*"), the Australian decision of *Hi Fert Pty Ltd v Kiukiang Maritime Carriers Inc* [1998] 155 ALR 94 ("*Hi Fert*"), and the New Zealand High Court

23 Claimant's Written Submissions dated 29 July 2025 ("CWS") at paras 9–11.

24 CWS at paras 12–18.

decision in *The "Irina Zharkikh" and "Ksenia Zharkikh"* [2001] 2 Lloyd's Rep 319 ('*The "Irina Zharkikh"*').[25] Put simply, the Claimant's case was that when *in rem* proceedings were stayed in favour of arbitration, the court retained residual jurisdiction over ancillary matters and could, in exercise of that jurisdiction, subsequently "convert" an arbitral award into an *in rem* judgment without re-trying the merits.

(c) The IAA provided a sufficiently broad framework to allow *in rem* judgments to be entered based on arbitral awards.[26] Nothing in the IAA or the related procedural rules restricted the court from using the summary enforcement procedure to enter judgment *in rem*.[27]

(d) Yangtze Harmony Co., Limited not being expressly named as the Defendant in this action (where the Defendant was described as "The Owner and/or Demise Charterer of the [Vessel]") did not prevent enforcement.[28] Courts could even enforce awards in misnomer situations and should facilitate enforcement rather than adopt rigid approaches: *National Oilwell Varco Norway AS v Keppel FELS Ltd* [2022] 2 SLR 115 ("*Keppel FELS*") at [79] and [104]–[116].[29] Since Yangtze Harmony Co., Limited had appeared in this action and consented to the Stay Order, the court should exercise judicial interpretation to identify the correct party, especially since this is an *a fortiori* case where the liable party under the Awards corresponded exactly to the Defendant in this action.[30]

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25 CWS at paras 12–18.

26 CWS at paras 19–22.

27 CWS at para 22.

28 CWSS at para 23.

29 CWS at paras 23–25.

30 CWS at paras 27–32.

(e) Alternatively, the court could enter judgment *in rem* under O 3 r 2, which granted wide-ranging powers to ensure justice where there was no express provision.[31] Denying enforcement would disadvantage arresting claimants and force them to take additional costly steps, contrary to the Ideals in the ROC 2021 and the IAA's legislative intent of facilitating easy enforcement of arbitral awards.[32]

Analysis

Provisions on stay in the IAA

22 The Stay Order was granted pursuant to section 6 of the IAA.[33] I reproduce the relevant provisions in the IAA on stay of proceedings, namely sections 6 and 7:

> **Enforcement of international arbitration agreement**
>
> **6.**—(1) Despite Article 8 of the Model Law, where any party to an arbitration agreement to which this Act applies institutes any proceedings in any court against any other party to the agreement in respect of any matter which is the subject of the agreement, any party to the agreement may, at any time after filing and serving a notice of intention to contest or not contest and before delivering any pleading (other than a pleading asserting that the court does not have jurisdiction in the proceedings) or taking any other step in the proceedings, apply to that court to stay the proceedings so far as the proceedings relate to that matter.
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> (2) The court to which an application has been made in accordance with subsection (1) is to make an order, upon such terms or conditions as the court thinks fit, staying the proceedings so far as the proceedings relate to the matter, unless it is satisfied that the arbitration agreement is null and void, inoperative or incapable of being performed.

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31 CWS at paras 33–43.

32 CWS at paras 33–43.

33 HC/ORC 112/2023 dated 9 January 2023.

> (3) Where a court makes an order under subsection (2), the court may, for the purpose of preserving the rights of parties, make any interim or supplementary order that the court thinks fit in relation to any property which is the subject of the dispute to which the order under that subsection relates.
>
> …
>
> **Court's powers on stay of proceedings**
>
> **7.**—(1) Where a court stays proceedings under section 6, the court may, if in those proceedings property has been arrested or bail or other security has been given to prevent or obtain release from arrest, order that —
>
> > (*a*) the property arrested be retained as security for the satisfaction of any award made on the arbitration; or
> >
> > (*b*) the stay be conditional on the provision of equivalent security for the satisfaction of any such award.
>
> (2) Subject to the Rules of Court and to any necessary modification, the same law and practice apply in relation to property retained pursuant to an order under this section as would apply if it were held for the purposes of proceedings in the court which made the order.

23 Section 6 sets out the mandatory stay regime, requiring the court upon application by any party to an arbitration agreement, to stay the court proceedings in favour of arbitration unless the said arbitration agreement is null and void, inoperative or incapable of being performed. Section 7 empowers the court when granting such a stay to retain arrested property as security "for the satisfaction of any award made on the arbitration" (s 7(1)(*a*)) or order equivalent security to be provided "for the satisfaction of any such award" (s 7(1)(*b*)).

24 Thus, in the context of maritime claims subject to arbitration and where a ship or other property is arrested as security, the architecture of ss 6 and 7 of the IAA is as follows. Provided a claimant meets the requirements of sections 3 and 4 of the High Court (Admiralty Jurisdiction) Act 1961 (2020 Rev Ed), that claimant is entitled to commence admiralty *in rem* proceedings in court in order to arrest a ship or other property in Singapore as security for its underlying claim

that is subject to an "international arbitration" as defined in the IAA. The arbitration, actual or putative, may be seated in or outside Singapore. Upon application by either party to the arbitration agreement (who are, usually, also the claimant and defendant in the *in rem* action) and provided the application is made before any substantive step is taken in the court proceedings, the court must order a stay of the court proceedings, in the absence of any of the exceptions in s 6(2) of the IAA applying. In ordering the stay, the court may order (under s 7(1)(*a*))] that the arrested property remains under arrest as security for the satisfaction of any award made on the arbitration. Alternatively, the court may (under s 7(1)(*b*)) order equivalent security to be furnished for the same purpose *ie*, for the satisfaction of any such award made in the arbitration. And in a case where a stay is ordered and the arrested property is retained as security, s 7(2) of the IAA plays a supporting role and provides that the same law and practice that would otherwise apply to a property arrested in *in rem* proceedings being prosecuted in court would apply to the property concerned.

25 Thus, even when a stay is ordered, s 7(1)(*a*) read with s 7(2) allows the *in rem* proceedings to continue but only in so far as it is necessary to deal with the property (or security) under arrest – this would include, for example, applications for the judicial sale of an arrested vessel and the determination of the order of priorities of claims against the sale proceeds of the vessel concerned in accordance with the admiralty rules on priority. But as far as the underlying merits of the substantive claim are concerned, the *in rem* action is and remains stayed.

26 What neither sections 6 nor 7 expressly address, however, is the precise mechanism by which a successful claimant may return to court to enforce an arbitral award obtained on the substantive claim against the security that the claimant had earlier obtained by the arrest of the *res* in question.

The "Rena K" *principle*

27 The Claimant relied primarily on the well-known English decision of *The "Rena K"*. I hence begin with an examination of the case.

28 In *The "Rena K"*, Brandon J (as he then was) addressed the question of whether courts had the power to retain arrested vessels as security when compelled to grant a mandatory stay of court proceedings in favour of foreign arbitration proceedings. The case arose under section 1(1) of the Arbitration Act 1975 (c 3) (UK) which, although mandating stays in favour of foreign arbitration, provided no express statutory power for the UK courts to order the retention of security for the benefit of arresting parties.

29 In *The "Sea Justice"* [2024] 5 SLR 660, Kristy Tan JC (as she then was) summarised in some detail the development of what came to be known as the *"Rena K"* principle (at [97]–[104]):

> 97 … I start by exploring the genesis of the "*Rena K* principle".
>
> 98 In *The Golden Trader* [1974] 3 WLR 16 ("*Golden Trader*"), Brandon J (as he then was) explained that the usual consequence when an action is stayed is that security provided in the action is released since there is no longer any expectation of a judgment in the action to be satisfied (at 26F–G):
>
> > … The starting point … is that *the court can only retain the security to satisfy a judgment or a compromise in the action itself.* It follows that, if the court stays the action, so that there will, in all probability at least, be no judgment or compromise in the action to be satisfied, it must then release the security. Putting it shortly, *if there is a stay, there must, as a necessary consequence, be a release.* …
> >
> > [High Court's emphasis in *The "Sea Justice"* in italics]
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> 99 He observed that in cases where the grant of a stay is discretionary, the court can subject the grant of the stay to a condition that alternative security be provided (*Golden Trader* at 26G–H):

> … In cases where the grant of a stay is discretionary, the court can refuse a stay unless alternative security is provided. The defendant then has to choose between having a stay subject to a term for the provision of such security and not having a stay at all. If he chooses the former, then, subject to his complying with the term, he gets both a stay and release; if he chooses the latter, he gets neither. …

100 He held, however, that in the case at hand involving the grant of a mandatory stay of the *in rem* action in favour of arbitration, to which no conditions could be attached under the applicable English arbitration legislation at the time, the order for the stay and the consequent order for the release of the arrested vessel or security must be unconditional (*Golden Trader* at 26H).

101 In the subsequent case of *Rena K*, Brandon J was again confronted by a mandatory stay of the *in rem* action in favour of arbitration and it was in this case that the "*Rena K* principle" was developed. In *Rena K*, cargo owners commenced an action *in rem* against the vessel *Rena K* and *in personam* against her owners, claiming for cargo damage during the shipment voyage. The plaintiffs subsequently arrested the *Rena K* in Liverpool. The vessel was released on the defendants' provision of security. The defendants then applied for a stay of proceedings in favour of arbitration. The dispute fell within a non-domestic arbitration agreement, and under the applicable English arbitration legislation at the time, the court had to grant a mandatory stay of court proceedings and the stay could not be made conditional on the provision of security (at 400).

102 This being prior to the enactment of s 26(1) of the [Civil Jurisdiction and Judgments Act 1982 (c 27) (UK)] (see [66] above), Brandon J observed (as he similarly had in *Golden Trader*) that, as a general principle, "without some statutory authority which does not unfortunately at present exist … the court has no jurisdiction to use the retention method, that is to say to retain security not for the purpose of satisfying a judgment or settlement in the action in which the security has been given, but to satisfy the judgment or award of another tribunal" (at 402).

103 He noted, however, that in cases where the grant of a stay was discretionary (for example, cases where the parties had agreed to submit the dispute to the jurisdiction of a foreign court), the English courts had gotten round the unavailability of the retention method by releasing the security subject to a term that the defendant provide alternative security outside the

> court to satisfy the judgment or award of the other tribunal (at 398 and 401).
>
> 104 Addressing the mandatory stay situation, he drew a distinction between (a) the attachment of a condition to the release of the vessel, which was permitted (at 404); and (b) the attachment of a condition to the order for a stay of the action, which was not permitted for mandatory stays (at 400). He further considered the principle that ***a cause of action in rem does not merge in a judgment in personam but remains available to the person who has it so long as, and to the extent that, such judgment remains unsatisfied*** (at 405). ***On that basis, if an arbitration award were made against the defendants and they were unable to satisfy it, the plaintiffs could have the stay of the action removed and proceed to a judgment in rem in the action*** (at 406). ***In a situation where it could be shown that the defendants would be unable to satisfy the award and the stay might well not be final, the court could exercise its discretion to retain the arrested vessel or to release her subject to a term for the provision of alternative security*** (at 406). This holding came to be referred to as the "*Rena K* principle"."
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> [emphasis added in bold italics]

30 The rationale for the *"Rena K"* principle becomes clear when Justice Brandon's reasoning is unpacked: the principle was formulated to protect a claimant's *right* to the security obtained by the arrest of a vessel in *in rem* proceedings, when those proceedings were stayed in favour of foreign arbitration proceedings and where there was a risk that the claimant would be unable to enforce the award.

31 In *The "Rena K"*, Brandon J assessed the shipowners' financial position and found (at 394) that:

> … if the cargo owners were to succeed in an arbitration and obtain an award in respect of the full amount of their claim, the shipowners would be incapable, out of their own resources alone, of satisfying more than a part, probably less than half, of the amount of the award. This proportion would, moreover, be much decreased if the shipowners, between now and the time when the award becomes payable, sold the ship and disposed of the proceeds in one way or other.

32 Therefore, in His Lordship's view, this was a case "where the stay may well not be final and there may well therefore still be a judgment in the action to be satisfied" (at 404). Brandon J accordingly held that the court ought to exercise its discretion by keeping the ship under arrest or releasing her only subject to alternative security being provided.

33 The *"Rena K"* principle thus encompasses two aspects:

(a) courts may, when staying *in rem* proceedings in favour of arbitration, order the security (in the form of the arrested ship) to be retained where the arresting party faces a risk of being unable to enforce a foreign arbitral award; and

(b) upon a defendant shipowner's failure to satisfy an arbitral award, a claimant/arresting party may need to seek the removal of the stay of the *in rem* proceedings and proceed to judgment *in rem* in order to enforce the award against the retained security.

34 It has been said that s 7 of the IAA "effectively does away with the *Rena K* test" by expressly empowering the court to retain arrested property for the satisfaction of arbitral awards: *per* Belinda Ang J (as she then was) in *Front Carriers Ltd v Atlantic & Orient Shipping Corp* [2006] 3 SLR(R) 854 at [28]. The Court of Appeal also recently observed in *The "Sea Justice"* [2024] 1 SLR 1118 at [18], that the *Rena K* principle "has been rendered otiose in Singapore" by s 7(1). In so far as s 7(1) expressly empowers the court to retain property arrested as security for the satisfaction of an arbitration award or to order equivalent security for a similar purpose, it is clear that the first part of the *"Rena K"* principle (see above at [33(a)] has at least been partially codified in s 7(1), with one important qualification. Under s 7(1), the arresting party need

no longer demonstrate that the defendant shipowner is unlikely to be able to satisfy the award in order for the arrested property to be retained as security – thus, that aspect of the *Rena K* principle has been statutorily rendered otiose. In *Greenmar Navigation Ltd v Owners of Ship "Bazias 3" and "Bazias 4" and Sally Line Ltd (The "Bazias 3" and "Bazias 4")* [1993] QB 673, Lord Justice Lloyd succinctly summarised the effect of s 26 of the Civil Jurisdiction and Judgments Act 1982 (c 27) (UK) ("CJJA") on the "*Rena K*" principle in the following terms (at 681) – in so far as 26 CJJA applied at the time to arbitration proceedings as well, it was substantially *in pari materia* with s 7 of the IAA:

> The decision in *The Rena K* [1979] Q.B. 377 was very welcome at the time and the principle was, as I understand it, frequently applied. But it was in a sense a compromise and, although the solution found by Brandon J was ingenious, it was over-cumbersome. In particular it had this disadvantage that much time was taken up at the early stages of every dispute, where a vessel had been arrested and where the claim was subject to arbitration, in determining on affidavit evidence whether an award was likely to be met or not. ***It was to deal with those disadvantages***, as well as to bring proceedings in arbitration in line with proceedings in foreign courts, ***that Parliament enacted section 26 of the Act of 1982.***
>
> …
>
> [emphasis added in bold and italics]

35 However, what remains unclear from the available caselaw (and which is not expressly dealt with by s 7) is whether the court retains the power to implement the *second* part of the "*Rena K*" principle as summarised above at [33(b)]. I answered that question in the affirmative for the following reasons.

Residual common law power

36 I found that the power of courts to lift a stay of proceedings and enforce arbitral awards by allowing a claimant to enter judgment *in rem* exists as a residual common law power. An order staying court proceedings is merely

suspensory. The court retains the inherent power to lift the stay and remove the suspensory effect of the stay order in appropriate circumstances. In the specific context of the *"Rena K"* principle, the second aspect of the *"Rena K"* principle represents a necessary corollary of the first. Without the power to order a lifting of the stay of proceedings for award enforcement purposes, the retention of security envisaged by s 7 of the IAA would be rendered meaningless - a hollow protection offering no practical remedy to successful claimants/award creditors.

37 The essence of the *"Rena K"* principle aims to protect a maritime claimant's ability to effectively enforce arbitral awards against a shipowner (which reference includes a demise or bareboat charterer). Section 7 of the IAA encapsulates that principle in substance. Thus, to permit security retention by way of an admiralty arrest and yet hinder subsequent enforcement when the claimant has an award in its hands would frustrate this protective purpose entirely. The two aspects are hence inextricably linked: obtaining security by the arrest of the property concerned without the actual ability to subsequently enforce against that property (or its sale proceeds) would render the security obtained entirely illusory. On the other hand, enforcement without prior security may prove futile for a claimant where the defendant shipowner lacks sufficient assets. This risk is particularly prevalent in the context of maritime claims. It is well-known in the shipping industry that shipowners commonly organise their fleet of ships under the ownership of "one-ship companies" as a means by which to limit their liability to creditors. Often, arresting the ship concerned to obtain security is the only realistic means by which a claimant can seek to ensure that any award it subsequently obtains is not a mere paper award.

38 Further, as the Claimant rightly pointed out, nothing in the IAA or the ROC 2021 excludes this residual power. Section 7(1) is a power-conferring provision (as the heading of s 7 clearly suggests), providing that the court

"may", when granting a stay in favour of arbitration, order that arrested property be retained as security or that equivalent security be furnished. Parliament's intention to supplement or expand upon the court's powers at common law, through the enactment of s 7, cannot be taken as an intention to *remove* its powers in relation to the second aspect of the *"Rena K"* principle, particularly where no express language to that effect appears in the section. To hold otherwise would, in my judgment, render the court's powers as enshrined in s 7 toothless with the result that the provision would, for all intents and purposes, be otiose – that could not have been Parliament's intention. On the contrary, there is in fact clear legislative intent expressed in the very words used in s 7. For example, s 7(1)(*a*) envisages the security by way of the arrested property being retained "*for the* ***satisfaction*** *of any award* made on the arbitration" [emphasis added in bold and italics]. In order to effectively allow the "satisfaction" of an award from the arrested property as security, Parliament must have intended for the court to be able to lift the stay of proceedings and continue the *in rem* proceedings to its logical end – this would include permitting the award creditor to enter judgment *in rem* in the *in rem* action and ultimately, to order (if so warranted) a payment out of the sale proceeds of the arrested property to the successful claimant/award creditor in accordance with the admiralty rules on priority of claims. Such an interpretation also accords with the purpose of s 7(2) which supports the court's powers under s 7(1)(*a*).

39 Adopting the approach that I have outlined above also supports one of the broader purposes of the IAA, which is to facilitate rather than hinder the enforcement of international arbitral awards. The purpose of the IAA is to provide a legal framework to encourage resolving international commercial disputes by arbitration, as is clear from the second reading of the International Arbitration Bill: Singapore Parl Debates; Vol 63, Sitting No 7; Col 624;

[31 October 1994] (Assoc. Prof. Ho Peng Kee, the Parliamentary Secretary to the Minister for Law). It could not have been Parliament's intention for section 7 to provide only partial protection to maritime claimants by preserving the right to obtain security by the arrest of property without corresponding enforcement rights against that security once a claimant has an award in its favour.

40 In this case, the Claimant found itself in precisely the situation the second part of the "*Rena K*" principle (and indeed, s 7) were designed to address. Having obtained the Awards in its favour, the Claimant seeks to enforce them against the Defendant. The Vessel's sale proceeds, as the monetary equivalent of the property arrested by the Claimant and sold by the court, represent the primary available pre-award security. The obvious (and perhaps only) avenue of recourse for the Claimant would be to seek "satisfaction" (*per* s 7(1)(*a*) of the IAA) of the Awards from those proceeds.

41 I therefore lifted the stay that had been previously ordered pursuant to the Stay Order and permitted the Claimant to proceed to enforce the Awards against the retained security represented by the Vessel's sale proceeds. In my judgment, this gives legal and practical effect, as contemplated by s 7, to (a) the protective purpose underlying the original arrest of the Vessel and (b) the security retention as ordered in the Stay Order for the purpose of "satisfaction" of the Awards.

Merging of* in personam *and* in rem *causes of action

42 I turn next to address the question of whether the *in rem* claim ceases to exist because the underlying *in personam* cause of action has now been determined in the Arbitration. This requires an examination of whether the

causes of action merged upon the Claimant obtaining the Awards. To answer this question, I considered the position across a number of common law jurisdictions.

England

43 In England, two contrasting judicial approaches have emerged:

(a) In *The "Rena K"*, Brandon J reasoned (at 405) that "a cause of action in rem, being of a different character from a cause of action in personam, does not merge in a judgment in personam, but remains available to the person who has it so long as, and to the extent that, such judgment remains unsatisfied". Accordingly, if an arbitration award was made ***in personam*** against the defendants and they were unable to satisfy it, the plaintiffs could have the stay of the action removed and proceed to a judgment ***in rem*** in the action.

(b) However, in *Republic of India v India Steamship Co Ltd (No 2)* [1998] AC 878 ("*The 'Indian Grace' (No 2)*"), the House of Lords adopted a fundamentally different approach. Lord Steyn held that an action ***in rem*** was in reality an action against the shipowner from the moment the Admiralty Court was seized with jurisdiction. His Lordship famously declared that "[t]he idea that a ship can be a defendant in legal proceedings was always a fiction" (at 913) and that this fiction should be discarded.

44 In *The "Indian Grace" (No 2)*, the plaintiffs had obtained a judgment ***in personam*** against the shipowner in India, and subsequently arrested the defendant's vessel in the UK under its admiralty jurisdiction. The central issue was whether the ***in rem*** action contravened s 34 of the CJJA, which prohibits

proceedings "on a cause of action in respect of which a judgment has been given in his favour in proceedings between the same parties" unless that judgment is not enforceable or entitled to recognition.

45 The House of Lords, in a unanimous judgment delivered by Lord Steyn, held that an action *in rem* constitutes, in substance, an action against the shipowner from the moment the Admiralty Court assumes jurisdiction through service (or deemed service) of the writ. Since the *in personam* judgment in India had been obtained between the same parties on the same cause of action, s 34 of the CJJA operated to bar the subsequent *in rem* proceedings in the UK. Lord Steyn explained (at 913):

> The role of fictions in the development of the law has been likened to the use of scaffolding in the construction of a building. The scaffolding is necessary but after the building has been erected scaffolding serves only to obscure the building … ***The idea that a ship can be a defendant in legal proceedings was always a fiction***. But before the Judicature Acts this fiction helped to defend and enlarge Admiralty jurisdiction in the form of an action in rem. With the passing of the Judicature Acts that purpose was effectively spent … ***The fiction was discarded***.
>
> [emphasis added in bold italics]

Australia

46 In *Hi Fert*, the Federal Court of Australia cited the *"Rena K"* approach with approval. The Court reasoned that upon a stay being granted of a court action and which referred parties to arbitration, the court is rendered incompetent to try the merits of the case but retains competence in relation to certain ancillary matters of the nature under consideration in *The "Rena K"*. Once a claimant had obtained an award against the shipowner, the claimant could apply for the stay of the *in rem* proceedings to be "removed to enable the plaintiff to proceed to a judgment in rem" (at 114).

47 In *Comandate Marine Corporation v Pan Australia Shipping Pty Ltd (The "Comandate")* [2008] 1 Lloyd's Rep 119, the Australian Federal Court had the opportunity again to consider whether the filing of an *in rem* action amounted to an abandonment of the right to arbitrate, and to determine if *The "Indian Grace" (No 2)* should be followed. The Federal Court declined to, distinguishing *The "Indian Grace" (No 2)* and confining Lord Steyn's judgment to section 34 of the CJJA, which was not applicable in Australia. It was accordingly held, endorsing the *"Rena K"* principle, that bringing an *in rem* action is not inconsistent with the right to arbitrate, and that an *in rem* proceeding does not merge with or become a solely *in personam* proceeding once the defendant enters an appearance.

New Zealand

48 Turning to New Zealand, in *The "Irina Zharkikh"*, the New Zealand High Court in Admiralty rejected the defendant shipowners' argument that an arbitral award would result in the underlying cause of action merging in the award. The court reaffirmed *The "Rena K"* as good law in New Zealand and held that an arbitration award determining the amount owed by the defendant shipowners does not exhaust the underlying cause of action and would not preclude the plaintiffs from continuing to pursue *in rem* proceedings. The court referred (at [82]) to the decision of the English Court of Appeal in *The "Indian Grace" (No 2)* where Staughton LJ reasoned that s 34 of the CJJA was enacted to abolish the well-established rule that a judgment *in personam* is no bar to an action *in rem* and *vice versa*; the purpose of s 34 was:

> … to prevent the same cause of action being tried twice over between those who are, in reality, the same parties. Where the owners of the vessel served in an Admiralty action *in rem* are the same persons as would be liable in an action *in personam*, that test is satisfied …

49 Young J then went on to observe (at [83]) that s 34 of the CJJA had no equivalent in New Zealand and therefore the observations above by the Court of Appeal in *The "Indian Grace" (No 2)* had no implications for the continued application of the *"Rena K"* principle in New Zealand. The learned judge eventually reaffirmed the *"Rena K"* principle as good law in New Zealand and confined the House of Lords' decision in *The "Indian Grace" (No 2)* to its particular facts and the particular legislative provision that the case was concerned with (at [95]–[96]).

Singapore

50 This issue has previously been considered by our Court of Appeal. In *Kuo Fen Ching v Dauphin Offshore Engineering & Trading Pte Ltd* [1999] 2 SLR(R) 793 ("*Kuo Fen Ching*"), the respondent had obtained judgment *in rem* against the owner of the vessel "Capricon". The shipowning company (Valour Offshore Marine Services NV) had been dissolved at the time the judgment was obtained. The appellants, having provided counter-security in return for Citibank issuing a letter of guarantee to the respondent to secure the vessel's release, intervened in the action and filed a notice of appeal. The appellants contended that the judge below had erred in holding that judgments *in rem* could be entered despite the vessel owner's dissolution, arguing that once a company is dissolved, no judgment can be entered against it.

51 The Court of Appeal had to consider the fundamental nature of an *in rem* action and what occurred to such an action after the owner of the arrested vessel entered an appearance to defend the claim. The Court examined the competing theories regarding admiralty actions *in rem*. Drawing from established authorities including *The Kusu Island* [1989] 2 SLR(R) 267 and *The Fierbinti* [1994] 3 SLR(R) 574, the Court of Appeal clarified that while the real party to

an *in rem* action is the shipowner, the action continues to proceed against the *res* even after appearance is entered by the shipowner (at [24]).

52 The Court of Appeal also distinguished *The "Indian Grace" (No 2)*, noting that (at [23]–[24]):

> 23 … The decision to strike out the proceedings in England was based on the doctrine of *res judicata* and s 34 of the Civil Jurisdiction and Judgments Act. For these reasons, *The Indian Grace* is clearly distinguishable from this appeal. …
>
> 24 … The ship or the subsequent security provided is the *res* against which the judgment can be enforced in favour of the claimants, even if the defendants to the action in the sense that an inanimate object cannot be a defendant, are the shipowners. The portions of the House of Lords judgment relied on by the appellants [dealing with the nature of Admiralty *in rem* proceedings] were theoretical expositions on the nature of *in rem* actions and did not constitute the *ratio*. Moreover, the comments were due to the specific context of the facts in the case.

53 Crucially, the Court of Appeal held that (at [32]):

> … It therefore makes no difference to the respondents' *in rem* claim that the original defendant had been dissolved. As noted earlier, after the owners of the vessel have entered an appearance to the action, ***the action continues as a parallel* in rem *and* in personam *action***. The ***in rem characteristics of the action do not become subsumed by the additional* in personam *characteristics***. Clearly, the plaintiff's fortunes in such a case cannot depend on the existence of the ship-owning company when the writ has already been issued against the vessel. Otherwise, this would defeat the whole point and the advantages of taking out an action *in rem*."
>
> [emphasis added in bold italics]

54 The Court of Appeal emphasised that to hold that judgment could not be entered because of the dissolution of the ownership of the ship would create an "astounding loophole and defeat the purpose of the admiralty *in rem* action being a means of providing a prejudgment security for a plaintiff with a claim against the ship" (at [33]).

55 While *Kuo Fen Ching* concerned the dissolution of a company as opposed to the enforcement of an arbitral award against a ship arrested and subsequently judicially sold, the Court of Appeal's reasoning (at [53] above) is, in my view, equally apposite here and directly applicable to the present case. The fundamental principle established is that *in rem* and *in personam* proceedings remain separate and parallel actions that do not merge or become subsumed into one another. Just as the dissolution of the shipowner did not extinguish the *in rem* claim in *Kuo Fen Ching*, the determination of the Claimant's underlying cause of action through the Arbitration and the resulting Awards did not disintegrate the parallel *in rem* action, which remains extant for purposes of enforcement of the Awards.

56 In my view, the Court of Appeal's concern about creating an "astounding loophole" that would defeat the *raison d'etre* for an admiralty arrest of ships (*ie*, to allow a claimant to obtain pre-judgment security) applies with equal force where a claimant seeks pre-award security by way of an admiralty arrest in admiralty *in rem* proceedings and then subsequently seeks to enforce the arbitral award against the arrested property (or its sale proceeds) in those very same *in rem* proceedings. If arbitral awards were held to extinguish even any *in rem* claims against the *res*, this would create precisely the type of "astounding loophole" which the Court of Appeal had warned against. Not only would it undermine the fundamental purpose of admiralty *in rem* actions as a means of securing maritime claims, it would defeat the very purpose of s 7 of the IAA and instead place unwarranted obstacles in the path of an award creditor wishing to realise the fruits of its victory in the arbitration.

57 Accordingly, in my judgment, the *in rem* claim does not merge with the *in personam* claim merely because the underlying cause of action has culminated in an arbitral award in the claimant's favour. Thus, in this case,

armed with the Awards in its favour, the Claimant was entitled to pursue the *in rem* proceedings and obtain *in rem* judgment for its claim as determined by the Awards.

Order 48 rule 6 of the ROC 2021

58 Before I end this section, I will briefly address a step taken by the Claimant in this case prior to the filing of SUM 1823.

59 As I mentioned above at [15], after obtaining the Awards, the Claimant filed OA 204 as a without notice originating application seeking permission to enforce the Awards as a judgment of this court and to enter judgment in terms of the Awards, pursuant to O 48 r 6 of the ROC 2021. The Permission Order was granted by an assistant registrar on 3 March 2025.

60 The effect of the Permission Order was simply to convert the *in personam* Awards into an *in personam* judgment of the court against the Defendant. Thus, my analysis above of the non-merger of an *in personam* judgment with the *in rem* action applies *mutatis mutandis*.

61 However, a broader question which arises is whether it was even necessary for OA 204 to be filed and for the Permission Order to be obtained before SUM 1823 was taken out. I am of the tentative view that it was not necessary for the Claimant to file a separate originating application and / or obtain the Permission Order as a prerequisite to taking the necessary steps to enforce the Awards against the Vessel's sale proceeds. One possible option was for the Claimant, together with the application for the stay to be lifted, to simply seek judgment *in rem* in terms of the Awards, without the need to separately apply for and obtain the Permission Order. Alternatively, the Claimant could have applied without notice, in *this* action, for permission to enforce the Awards

as a judgment of the court. Order 48 rule 6(2) of the ROC 2021, which applies to foreign awards, provides that an application for permission to enforce a foreign award may be made without notice. There is no requirement that the application must be made by way of an *originating* application and I note that O 48 r 3(2) permits the application to be made by summons "where an action is pending". Thus, in the context of this case, it may not have been necessary for the Claimant to take the additional step of commencing OA 204 to obtain the Permission Order. However, as I did not hear arguments on this point and it did not have a material bearing on SUM 1823, I shall refrain from proffering any definitive views on this procedural point and say no more on it.

Alternative service of enforcement order

62 Finally, I turn to address the Claimant's request to serve the order made in SUM 1823 on the Defendant via email at specified email addresses. I exercised the discretion conferred on the court under O 48 r 6(3) of the ROC 2021, which provides the court with flexibility to direct alternative methods of service where appropriate.

63 The email addresses which the Claimant sought to use for service of the order were those of the Defendant, obtained from its former solicitors. This was also the email address to which communications were sent to the Defendant during the Arbitration, both by the Tribunal and the Claimant's solicitors. The Defendant had also communicated with the Tribunal from one of the specified email addresses.[34] Accordingly, I allowed this alternative method to be utilised as it provided a practical and effective means of service. As an additional

[34] 4th Affidavit of Corey Whiting at para 53.

precaution, I also directed that service of the order be effected by courier at the Defendant's last known registered address.

Conclusion

64 For the reasons set out above, I was satisfied that this court had the power to lift a stay of admiralty *in rem* proceedings ordered under s 6 of the IAA and to allow a claimant to enter judgment *in rem* in those proceedings as a means for the claimant to enforce arbitral awards in its favour against the sale proceeds of a vessel that had been arrested in those proceedings as pre-award security.

65 Accordingly, I allowed the Claimant's application almost in its entirety. I required some amendments to the precise wording of the orders but in essence, the Stay Order was lifted, the Claimant was given permission to enforce the Awards as a judgment of the court and to enter judgment *in rem* against the Defendant in terms of the Awards. Finally, permission was granted to the Claimant to effect service of the order on the Defendant by email at certain specified email addresses and by courier at the Defendant's last known registered address.

66 After hearing counsel for the Claimant, I fixed costs of the application at S$8,000 (including disbursements) to be paid by the Defendant to the Claimant.

S Mohan
Judge of the High Court

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The defendant absent and unrepresented;
Gho Sze Kee (AsiaLegal LLC)
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