

Sun Travels & Tours Pvt Ltd v Hilton International Manage (Maldives) Pvt Ltd  
[2019] SGHC 291

**Case Number** : Originating Summons No 762 of 2017 (Registrar's Appeal No 65 of 2019)  
**Decision Date** : 24 December 2019  
**Tribunal/Court** : High Court  
**Coram** : Aedit Abdullah J  
**Counsel Name(s)** : Toby Landau QC (Essex Court Chambers Duxton (Instructed Counsel) (Singapore Group Practice)), Tan Beng Hwee Paul, Pang Yi Ching Alessa and David Isidore Tan Huang Loong (Rajah & Tann Singapore LLP) (Instructing) for the appellant; Maniam Andre Francis SC, Tsin Jenny, Ho Wei Jie and Wang Chen Yan, Koh Jia Wen (WongPartnership LLP) for the respondent.  
**Parties** : Sun Travels & Tours Pvt Ltd — Hilton International Manage (Maldives) Pvt Ltd

*Civil Procedure – Judgments and orders*

24 December 2019

**Aedit Abdullah J:**

### **Introduction**

1 In the appeal, arising out of examination of judgment debtor (“EJD”) proceedings under O 48 r 1 of the Rules of Court (Cap 322, R 5, 2014 Rev Ed) (“ROC”), the appellant, Sun Travels & Tours Pvt Ltd, sought to have questions relating to its assets in the Maldives disallowed on the basis that the Singapore judgment was not enforceable there. I dismissed the appeal; the appellant now appeals to the Court of Appeal.

### **Background**

2 The respondent, Hilton International Manage (Maldives) Pvt Ltd, and appellant were parties to a hotel management contract (“the Management Contract”) in respect of a hotel located in the Maldives. [\[note: 1\]](#) A dispute arose between the parties on or around 30 April 2013. [\[note: 2\]](#) Arbitration proceedings were commenced in May 2013 pursuant to an arbitration clause in the Management Contract. [\[note: 3\]](#) The arbitration proceedings resulted in a partial award in favour of the respondent on 27 May 2015, [\[note: 4\]](#) followed by a final award on 17 August 2015 (collectively known as “the Awards”). [\[note: 5\]](#)

3 The respondent commenced attempts to enforce the Awards in Maldivian courts in December 2015. [\[note: 6\]](#) It appears that some delay was engendered owing to confusion over the appropriate procedure for enforcing the Awards. It was only upon the respondent’s appeal to the High Court of the Maldives that the proper procedure for such an enforcement action was determined on 20 April 2017. [\[note: 7\]](#)

4 In the midst of this, the appellant, on 17 October 2016, commenced separate proceedings in the Maldives against the respondent alleging: (a) fraudulent misrepresentation in relation to the Management Contract; and (b) breach of the terms of the Management Contract (“the Maldivian

Action"). These proceedings resulted in a judgment in favour of the appellant being handed down on 9 March 2017 holding that the Management Contract was void and unenforceable ("the Maldivian Judgment"). [\[note: 8\]](#) The result of this was that the Maldivian courts eventually declined to enforce the Awards on 22 June 2017. [\[note: 9\]](#) The respondent has since appealed against the Maldivian Judgment.

5 In July 2017, the respondent applied for and obtained leave to enforce the Awards in Singapore. [\[note: 10\]](#) A judgment was granted on 13 April 2018 ("the Singapore Judgment"), which is the basis of the EJD proceedings at issue in the present appeal before me.

6 Separately, in July 2017, the respondent made a separate application in Originating Summons No 845 of 2017 ("OS 845") for injunctive and declaratory relief. A limited anti-suit injunction was granted, preventing the appellant from relying on the Maldivian Judgment. Declarations were also granted that: (a) the Awards are final, valid and binding on the parties; and (b) the appellant's claim against the respondent in respect of disputes that have arisen out of or in connection with the Management Contract and any consequential proceedings (including appeals) would be in breach of the arbitration agreement contained in the Management Contract. The appellant appealed to the Court of Appeal, which set aside the anti-suit injunction, but upheld the declarations awarded: see *Hilton International Manage (Maldives) Pvt Ltd v Sun Travels & Tours Pvt Ltd* [2019] 1 SLR 732 ("*Sun Travels (CA)*").

7 In respect of the EJD proceedings, a number of questions in the form of a questionnaire were directed to one Mr Ahmed Siyam Mohamed ("Mr Siyam"), an officer of the appellant, in preparation of the oral examination of Mr Siyam. Objections were taken in respect of some of the questions which can be summarised into two categories: (a) questions relating to assets of corporate entities related to the appellant or Mr Siyam; and (b) questions relating to assets of the appellant located in the Maldives. At a hearing held on 19 February 2019, Assistant Registrar Jacqueline Lee ("AR Lee") decided that questions falling in category (a) would not be allowed in so far as they did not pertain to assets owned by the appellant available to satisfy the Singapore Judgment. As for category (b), AR Lee found that the respondent was entitled to ask questions concerning the assets of the appellant located in the Maldives. This was notwithstanding the fact that the Awards could not have been enforced in the Maldives at the time. The appellant appealed against this aspect of AR Lee's decision.

8 AR Lee found that there was no inconsistency with comity. The result of the EJD proceedings is only that Mr Siyam provides information which might or might not result in the actual execution of the Singapore Judgment. Whether the respondent would ultimately be able to enforce the Awards in the Maldives was a matter to be considered at a later date in light of the fact that the appeal against the Maldivian Judgment was still pending. AR Lee also relied on the Court of Appeal's decision in *PT Bakrie Investindo v Global Distressed Alpha Fund I Ltd Partnership* [2013] 4 SLR 1116 ("*PT Bakrie*") for the proposition that an EJD order can be obtained even where enforcement of the judgment has been stayed. This was analogous to the present situation as the Maldivian Judgment only indicated that the enforcement of the Awards could not be entertained "for the time being". [\[note: 11\]](#)

### **The appellant's case**

9 The appellant argued that the purpose of the EJD proceeding is to enable a judgment creditor to obtain information which would enable it to enforce the judgment against a judgment debtor. [\[note: 12\]](#) The appellant relied on the wording of O 48 r 1 of the ROC and Form 99, as well as the Court of Appeal's decision in *PT Bakrie*. [\[note: 13\]](#) According to the appellant, this requires the existence of a

nexus between the proposed questions and potential enforcement of a Singapore judgment. AR Lee had recognised this in disallowing questions pertaining to the assets of corporate entities related to the appellant or Mr Siyam. [\[note: 14\]](#)

10 There was no evidence that the Singapore judgment could be enforced in the Maldives; the property and means there are not property or means of satisfying the judgment debt. Following the case of *Indian Overseas Bank v Sarabjit Singh* [1990] 3 MLJ xxxi (“*IOB*”), the onus lay on the respondent to show that the Singapore Judgment is enforceable in the Maldives. [\[note: 15\]](#) The appellant had in fact applied to adduce expert opinion to show that the Singapore Judgment could not be enforced in the Maldives, but AR Lee had instead directed submissions on what the position would be under Singapore law where it is certain that the foreign jurisdiction will not permit enforcement of a Singapore judgment. [\[note: 16\]](#) AR Lee erred in finding that the Singapore judgment could possibly be enforceable in the Maldives as *IOB* requires that the judgment creditor satisfy the court that the Singapore judgment can be enforced in the foreign jurisdiction. [\[note: 17\]](#) AR Lee also erred in conflating the enforcement of the Awards with the enforcement of the Singapore Judgment. [\[note: 18\]](#)

11 Furthermore, AR Lee erred in finding that it would not be contrary to comity for the appellant to answer questions relating to Maldivian property or means. The Maldivian Judgment refused enforcement of the Awards and the respondent failed to seek enforcement of the Awards and pursue the questions in Singapore until the Maldivian Action was far advanced. [\[note: 19\]](#) The appellant was also expressly permitted in OS 845 to resist enforcement of the awards in the Maldives. [\[note: 20\]](#) An aspect of comity as explained by the Court of Appeal in *Sun Travels (CA)* requires the avoidance of wastage of judicial time and costs flowing from the abandonment of proceedings or preclusion of reliance on the judgment of a foreign court. The Court of Appeal in fact found that the respondent had allowed the proceedings overseas to reach an advanced stage. [\[note: 21\]](#) Allowing the questions leads to a wastage of judicial time and costs, and would not be a sensible method of conducting curial business. [\[note: 22\]](#)

### **The respondent’s case**

12 The respondent argued that O 48 r 1(1) of the ROC permits questions about assets “wheresoever situated”. It is immaterial whether the Maldivian courts would allow the execution of the Singapore Judgment against the appellant’s assets in the Maldives. [\[note: 23\]](#) O 48 r 1(1) does not contain any words requiring that questions can only relate to assets which a Singapore judgment can be enforced against. [\[note: 24\]](#) The appellant’s reliance on *IOB* was misplaced as that case interpreted a predecessor provision concerning whether the judgment debtor had any property or means “of satisfying the judgment or order”. [\[note: 25\]](#) Furthermore, such a requirement would not give effect to the underlying purpose of O 48 r 1 of the ROC, which is to aid the judgment creditor in obtaining information which may result in the actual enforcement of the judgment. [\[note: 26\]](#) That purpose was articulated in *PT Bakrie* and in *Pacific Harbor Advisors Pte Ltd and another v Tiny Tantonno (representative of the estate of Lim Susanto, deceased) and another suit* [2015] SGHCR 3 (“*Pacific Harbor*”).

13 The approach advocated for by the respondent, that the ability to enforce a Singapore judgment is irrelevant to whether questions about such assets are allowed, is sensible as assets which are presently unavailable to satisfy a Singapore judgment may eventually become available (eg, by being physically moved to a different jurisdiction, converted to other assets or generating income).

[\[note: 27\]](#) The appellant's position would allow judgment debtors to frustrate judgments through intentional non-compliance, and lead to additional proceedings whenever a judgment creditor learns about assets of the judgment debtor which might become accessible for execution. The effectiveness of EJD proceedings in Singapore would also be seriously undermined by allowing judgment debtors to hinder or drag out enforcement proceedings by asserting that foreign assets are untouchable. In this particular case, the Singapore courts would have to await the outcome of the appellate process in the Maldives to determine whether the Awards are in fact enforceable. [\[note: 28\]](#)

14 The respondent also submitted that the appellant's collateral attack on the Awards in commencing the Maldivian Action should not be a basis to frustrate the EJD proceedings in Singapore. [\[note: 29\]](#)

15 Finally, the respondent argued that allowing questions about the appellant's Maldivian assets would not be inconsistent with comity. The EJD proceedings are only a means of obtaining information which may result in the actual enforcement of the Singapore Judgment, and are not the mode by which the Singapore Judgment is enforced. [\[note: 30\]](#)

## **The Decision**

16 I was satisfied that the questions that are the subject matter of the appeal could properly be asked as part of the EJD proceedings under O 48 r 1(1) of the ROC, and therefore dismissed the appeal.

## **The Analysis**

17 The starting point of the analysis would be the interpretation of the words used in O 48 r 1(1) of the ROC. The words used would then be considered in light of the purpose of the EJD process.

### ***Interpretation of O 48 r 1 of the ROC***

#### *The statutory provisions*

18 O 48 r 1(1) of the ROC reads:

#### **Order for examination of judgment debtor (O. 48, r.1)**

**1.—(1)** Where a person has obtained a judgment or order for the payment by some other person (referred to in this Order as the judgment debtor) of money, the Court may, on an application made by ex parte summons supported by affidavit in Form 99 by the person entitled to enforce the judgment or order, order the judgment debtor, or, if the judgment debtor is a body corporate, an officer thereof, to attend before the Registrar, and be orally examined on whatever property the judgment debtor has and wheresoever situated, and the Court may also order the judgment debtor or officer to produce any books or documents in the possession of the judgment debtor relevant to the questions aforesaid at the time and place appointed for the examination.

19 Any application under O 48 r 1(1) of the ROC is to be supported by information entered into Form 99. Given that the appellant's arguments hinged on the wording of Form 99, it is set out in full below.

O. 48, r. 1

**AFFIDAVIT IN SUPPORT  
OF APPLICATION FOR  
ORDER FOR  
EXAMINATION OF  
JUDGMENT DEBTOR**

(Title as in action)

I, \_\_\_\_\_ of \_\_\_\_\_  
do make oath (or affirm) and say as follows:

1. I am a \_\_\_\_\_ in the employ  
of \_\_\_\_\_ solicitors for the plaintiff and am duly  
authorised to make this affidavit on behalf of \_\_\_\_\_.
2. On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, judgment  
was entered for the plaintiff for \$ \_\_\_\_\_ and \$ \_\_\_\_\_ costs (or as  
may be). The said judgment remains wholly unsatisfied (or  
unsatisfied as to the total sum of \$ \_\_\_\_\_, or as may be).
3. In order to enable the plaintiff to decide upon the methods to  
employ to enforce the said judgment, it is desired to examine the  
judgment debtor (or \_\_\_\_\_, an officer of the  
judgment debtor company) on the question whether any and if so  
what debts are owing to him (or the judgment debtor company)  
and/or means of satisfying the judgment debt.
4. In these circumstances, I respectfully ask for an order that the  
said judgment debtor (or \_\_\_\_\_) do attend before  
the Registrar to be examined on the said questions, and to produce  
upon such examination all books or documents in his possession  
relevant to the said questions at the time and place appointed for  
his examination.

Sworn (or affirmed) as in Form 78.

20 O 48 r 1 (1) of the ROC in summary and in so far as is relevant for the present appeal stipulates that once a judgment or order for payment is made, the court may order an oral examination be made on any property *wheresoever situated*. The clear objective is thus to allow information to be obtained, with the aim of allowing the judgment creditor to determine how to enforce the judgment or order made in his or her favour.

21 To my mind, the use of the phrases "whatever property the judgment debtor has" and "wheresoever situated" indicates that the purpose of O 48 r 1(1) of the ROC is identification of property that could potentially satisfy the judgment debt, and casts a wide net, not delineated by the type of property or its location. I did not see anything in the language used that indicated that it is meant to be restricted to enforceable judgments.

22 The appellant argued that Form 99 limits any questions asked in EJD proceedings to those pertaining to property in jurisdictions where the Singapore judgment in question is enforceable. In particular, para 3 of Form 99 states that the application is "[i]n order to enable the plaintiff to decide upon the methods to employ to enforce the said judgment", and that the examination of the judgment debtor (or its officer in the case of a company) is to determine if the judgment debtor possesses any "means of satisfying the judgment debt". [\[note: 31\]](#)

23 I did not accept the appellant's submission. As a starting point, the wording of Form 99 could not control the operation of O 48 r 1(1) of the ROC, which governs the EJD process. The prescribed form is only intended to facilitate the process and stipulate the information to be provided, and cannot widen or narrow the scope of O 48 r 1(1) of the ROC.

24 In any case, I did not find the appellant's interpretation to be supported by the plain wording of Form 99. Paragraph 3 of Form 99 refers to EJD proceedings being brought to enable the plaintiff to decide on the methods to employ in enforcing a Singapore judgment, determine if there are any debts owing to the judgment debtor and ascertain whether it has any means of satisfying the Singapore judgment. The words are only enabling: the use of the terms "enforce" and "satisfying" should be taken generally, and questions in EJD proceedings are not limited in any way to assets in jurisdictions where the Singapore judgment in question is enforceable.

25 As mentioned above at [22], the phrase in Form 99 relied upon by the appellant was that the application is "[i]n order to enable the plaintiff to decide upon the methods to employ to enforce the said judgment". I was of the view that the phrase, far from implying that ultimate enforceability is a requirement, simply relates to the objective of the EJD process: a judgment creditor is of course ultimately concerned about satisfaction of the award given by the court. What is important to note is that Form 99 makes it clear that information obtained in EJD proceedings is meant to assist in enforcement; the purpose of Form 99 is to allow the plaintiff to decide how to obtain satisfaction, and to consider how to enforce the judgment by whatever means possible.

26 It followed from the above that the EJD process under O 48 r 1 of the ROC is not constrained by the question whether the Singapore judgment sought to be enforced is in fact recognised in the overseas jurisdiction where the assets or judgment debtor are located. That is, once a Singapore judgment or order for payment is made, the court may order an oral examination be made on any property wheresoever located. The clear objective is thus to allow information to be obtained, with the aim of allowing the plaintiff to determine how to enforce the judgment or order made in her favour. Thus, nothing in O 48 r 1(1) of the ROC or Form 99 leads to the conclusion that recognition or enforceability of the judgment in a foreign jurisdiction should control or limit the extent of the examination.

#### *The purpose of the examination of judgment debtor process*

27 I was satisfied that my conclusions on the interpretation of O 48 r 1(1) of the ROC were consonant with the purpose of the EJD process and the Court of Appeal's decision in *PT Bakrie*.

28 *PT Bakrie* stands for the proposition that the EJD proceedings do not involve execution, but rather are about information gathering (*PT Bakrie* at [16]):

It is clear, in our view, that an EJD order is *not – in and of itself – a mode of execution of a judgment*. It is intended to aid the judgment creditor ... in garnering additional *information* which might – or might not – result in the implementation of actual *execution* of the judgment concerned ... In other words, an EJD order does not *effect* the judgment of the court but it may render that judgment more *effective* ...

[emphasis in original]

The Court of Appeal also referred to the Civil Procedure Rules 1998 (SI 1998 No 3132) (UK), which noted that the EJD process in the United Kingdom was to enable a judgement creditor to enforce a judgment, and that an EJD order could be obtained even where the enforcement of the judgment in question has been stayed (*PT Bakrie* at [16]). Since the EJD process is about information gathering, it follows that it may not actually lead to execution in the end (*PT Bakrie* at [16]).

29 A similar position was taken in *Pacific Harbor*, where Assistant Registrar Tan Teck Ping Karen ("AR Tan") had found that questions could be asked if these allowed the judgment creditor to obtain

information on the estate's existing property as well as property which may become available (*Pacific Advisors* at [31]).

30 As was argued by the respondent, information would be useful even if execution is not possible in the current location of the appellant's assets (*ie*, the Maldives) as the assets may be moved, converted into other assets or generate income. [\[note: 32\]](#) These could lead to other assets or funds against which execution is available.

31 On the other hand, the appellant relied on the case of *IOB* for the proposition that the ability to execute is a requirement, such that questions relating to property where execution is not possible would not be relevant and would not be permitted under O 48 r 1(1) of the ROC. [\[note: 33\]](#) Furthermore, the Court of Appeal's holding in *PT Bakrie* that an EJD order serves to aid a judgment creditor in garnering additional information which *might or might not* result in the implementation of actual execution of the judgment concerned, does not apply to the present situation where it is certain or virtually certain that the questions "will not result in the implementation of actual execution". Questions about the appellant's Maldivian assets would not produce information which "may" result in the actual enforcement of the Singapore Judgment. [\[note: 34\]](#)

32 In *IOB*, the plaintiff sought to examine the defendant judgment debtor on certain assets located in Japan, a jurisdiction where Singapore judgments were not enforceable. In disallowing the plaintiff judgment creditor from asking questions on the defendant judgment debtor's Japanese assets, the court reasoned that questions could only be asked in respect of property if that property could be used to satisfy the judgment. Where a judgment would not be enforceable in a particular jurisdiction, questions concerning such property should not be allowed, as was made clear in the following passage from *IOB*:

... all questions pertaining to assets or property in a country where Singapore has a formal reciprocal enforcement agreement or where a common law action of recognition and enforcement of foreign judgment could be instituted is permissible in an examination under [O 48 of the ROC]. In the case before me, Japan is a country in which Singapore has no reciprocal enforcement agreement with nor does Japan apply the common law. Unless learned counsel can show that the civil law applied in Japan has a corresponding development for the recognition and enforcement of a foreign judgment as in a common law country, the objection would accordingly be upheld.

*IOB* is authority in support of the appellant's position that enforceability in the jurisdiction where the assets are located would be a requirement for questioning to be allowed in EJD proceedings. However, that case, being the decision of an Assistant Registrar, was not binding on me, though it remained long standing authority referred to in *Singapore Civil Procedure 2019: Vol 1* (Chua Lee Ming gen ed) (Sweet & Maxwell, 9<sup>th</sup> Ed, 2019) at para 48/3/6.

33 The respondent argued that the predecessor version of O 48 r 1(1) of the ROC considered in *IOB* was different. The crucial phrase "[w]hether the judgment debtor has any and, if so, what other property or means of satisfying the judgment or order" has been removed and replaced with the present wording of O 48 r 1(1) of the ROC (see [18] above).

34 That was certainly one differentiating factor, which would justify a different result being reached here. But I was of the view that even if the same words were present in the current version of O 48 r 1(1) of the ROC, the questions should still be permitted. The version of O 48 r 1 of the ROC considered in *IOB* points to the satisfaction of the judgment or order. But I did not think that imposed a requirement that the judgment creditor has to prove that a Singapore judgment was enforceable in

every jurisdiction where questions were sought to be asked about a judgment debtor's assets. All that the version of O 48 r 1 considered in *IOB* would require is that the assets should have some possibility of satisfying the judgment. To my mind, that possibility would still have been made out if information gleaned from the questions sought to be asked in EJD proceedings would point the judgment creditor to any property or means of the judgment debtor, including any alternatives available. In other words, the previous iteration of O 48 r 1 of the ROC in *IOB* did not in any way modify the nature of EJD proceedings as an information gathering exercise. In so far as *IOB* decided otherwise, I did not think it was, with respect, correct. This conclusion was reinforced by the fact that *IOB* did not consider the purpose of the EJD process, and was decided before *PT Bakrie*. It did not give sufficient weight therefore to the possibility of the information obtained pointing to other means of enforcement. At the very least, it did not seem to me that *IOB* would be decided the same way today, even if the wording of O 48 r 1 of the ROC had remained unchanged.

35 As for the appellant's argument that questions about its Maldivian assets would not produce information which may result in the actual enforcement of the Singapore Judgment, this elided the information gathering process with the actual enforcement process; nothing in *PT Bakrie* supports this approach. The EJD process is only about gathering information so that the judgment creditor may determine how enforcement should be pursued. Questions irrelevant to this should certainly be excluded, but it is not irrelevant to determine where assets may be situated, even if the judgment is not enforceable in one jurisdiction. In this day and age, assets can certainly be almost anywhere in the world, and enforcement may be pursued in different *fori*. Limiting the EJD process as the appellant contended would be far too restrictive.

36 The appellant's approach would also conflate the information gathering process that is the EJD with the actual application for recognition and enforcement abroad, about which the rules here are by necessity largely silent, since the latter is a matter for the foreign court's laws and rules of procedure.

37 It may be argued that the even if the focus of the examination process is information gathering, only information that is pertinent to possible execution should be obtained. This can perhaps be built upon *Pacific Harbor* where AR Tan had declined to allow questions on the historical assets (*ie*, those which are not presently available).

38 I accepted that the information gathering process could not be so broad as to capture past assets, though there may be some possible connection to the availability of present assets. The respondent here did not make such an argument. It is necessary that the information obtained should not be too remote or divorced from eventual enforcement; the possibility of movement and identification of other assets or funds that may be available, is sufficiently closely connected. I did not think that there was anything to be gained by attempting to formulate a precise rule on the limits of questions which can be asked in EJD proceedings in relation to foreign assets: the observations of Reyes J in *Bloomsbury International Ltd v Nouvelle Foods (Hong Kong) Ltd* [2005] 1 HKC 337 at [75], and cited in *Pacific Harbor*, commend themselves:

There must be some line beyond which a creditor examining under O 48 may not tread. That line cannot be drawn with precision. It is undesirable fully to articulate its boundaries. That would needlessly constrain the flexibility inherent in O 48.

### **Comity**

39 The appellant argued that it would be against comity if the questions were required to be answered, given the existence of the Maldivian Judgment refusing enforcement of the Awards in the

Maldives. The proceedings there were far advanced owing to the respondent's failure to enforce the Awards in Singapore and pursue the questions in EJD proceedings promptly. [\[note: 35\]](#) It was also material that the High Court in OS 845 expressly permitted the appellant to resist enforcement of the Awards in the Maldives. [\[note: 36\]](#)

40 The appellant referred to the Court of Appeal's remarks in the appeal in *Sun Travels (CA)* at [76]–[78], where the Court of Appeal cited the English Court of Appeal case of *Ecobank Transnational Inc v Tanoh* [2016] 1 WLR 223 ("*Ecobank*") in considering the interplay between delay and comity. The appellant seemed to rely on the Court of Appeal's endorsement of the remarks in *Ecobank* to argue that comity was threatened as a result of the pursuit of the EJD proceedings to belatedly enforce a Singapore judgment based on the Awards, the enforcement of which had been refused by the Maldivian courts.

41 But these arguments on comity failed simply because comity was not threatened: the EJD proceedings only concerned the gathering of information, and did not by themselves constitute enforcement of the Singapore Judgment. It was hard to see how any impact could be felt in the Maldivian Action that would amount to interference or a disregard for the orders of the Maldivian court within its territory, whether or not any delay has been caused. The present proceedings and orders, did not clash at all with the Maldivian refusal to enforce the Awards.

### **Miscellaneous matters**

42 There was some argument about whether there was a possibility that the Singapore Judgment could be enforced in the Maldives. This was immaterial and irrelevant to the outcome of the appeal before me.

43 I noted that there were a number of allegations made about the conduct of the parties, especially of the appellant. It was not necessary for me to make any finding on this, and I did not think that what was before me was sufficient for any such finding to be made anyway.

44 Similarly, the fact that the appellant might have adopted different positions in different countries as to the Awards, while true, was also irrelevant.

45 Finally, the appellant complained that AR Lee had conflated enforcement of the judgement with that of the award; this again was not material.

### **Leave to Appeal**

46 Leave to appeal was not seriously resisted as such. I was satisfied that leave should be granted on the basis that there were questions of importance for which a Court of Appeal pronouncement or guidance would be useful.

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[\[note: 1\]](#) First affidavit of Markus Stefan Esly affirmed on 4 July 2017 ("*Esly's first affidavit*") at paras 8–9.

[\[note: 2\]](#) Esly's first affidavit at para 13.

[\[note: 3\]](#) Esly's first affidavit at paras 11, 35–36.

[\[note: 4\]](#) Esly's first affidavit at para 44.

[\[note: 5\]](#) Esly's first affidavit at p 183.

[\[note: 6\]](#) Esly's first affidavit at para 50.

[\[note: 7\]](#) Esly's first affidavit at para 55.

[\[note: 8\]](#) Esly's first affidavit at pp 418–423.

[\[note: 9\]](#) Esly's first affidavit at pp 396–398.

[\[note: 10\]](#) See *ex parte* originating summons in HC/OS 762/2017.

[\[note: 11\]](#) See minute sheet dated 19 February 2019 for Sum 3843/2018.

[\[note: 12\]](#) Appellant's skeletal submissions at para 10.

[\[note: 13\]](#) Appellant's skeletal submissions at paras 7–10.

[\[note: 14\]](#) Appellant's skeletal submissions at para 11.

[\[note: 15\]](#) Appellant's skeletal submissions at paras 13–14.

[\[note: 16\]](#) Appellant's skeletal submissions at para 15.

[\[note: 17\]](#) Appellant's skeletal submissions at para 22.

[\[note: 18\]](#) Appellant's skeletal submissions at para 26.

[\[note: 19\]](#) Appellant's skeletal submissions at para 30.

[\[note: 20\]](#) Appellant's skeletal submissions at paras 40–41.

[\[note: 21\]](#) Appellant's skeletal submissions at para 35.

[\[note: 22\]](#) Appellant's skeletal submissions at para 36.

[\[note: 23\]](#) Respondent's skeletal submissions at paras 40–42.

[\[note: 24\]](#) Respondent's skeletal submissions at para 45.

[\[note: 25\]](#) Respondent's skeletal submissions at paras 47–49.

[\[note: 26\]](#) Respondent's skeletal submissions at paras 50–51.

[\[note: 27\]](#) Respondent's skeletal submissions at paras 54.

[\[note: 28\]](#) Respondent's skeletal submissions at para 56.

[\[note: 29\]](#) Respondent's skeletal submissions at para 57.

[\[note: 30\]](#) Respondent's skeletal submissions at paras 58–59.

[\[note: 31\]](#) Appellant's skeletal submissions at paras 8–10.

[\[note: 32\]](#) Respondent's skeletal submissions at paras 54.

[\[note: 33\]](#) Appellant's skeletal submissions at paras 13–14.

[\[note: 34\]](#) Appellant's skeletal submissions at para 23.

[\[note: 35\]](#) Appellant's skeletal submissions at para 30.

[\[note: 36\]](#) Appellant's skeletal submissions at paras 40–41.