DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN MALAYSIA

(BAHAGIAN DAGANG)

SAMAN PEMULA NO. WA-24NCC-459-08/2019

ANTARA

1. **LOW THIAM HOE**
   (No. K/P: 570501-10-6757)

2. **TEO SUNG NGIAP**
   (No. K/P: 601017-12-5007) **... PLAINTIF-PLAINTIF**

DAN

1. **SRI SERDANG SDN.BHD**
   (No. Syarikat: 26965-D)

2. **CORPORATE BUSINESS (M) SDN BHD**
   (No. Syarikat: 120614-W)

3. **PARADIZE BAZAAR SDN BHD**
   (No. Syarikat: 369165-M)

4. **GOLDEN PLUS CONSTRUCTION SDN BHD**
   (No. Syarikat: 284826-P)

5. **GOLDEN PLUS HOLDING BERHAD**
   (No. Syarikat: 113076-T)

6. **TAN SAY HAN**
   (No. K/P: 521023-08-5443)

7. **TEH WEI LIAN**
   (No. K/P: 960531-43-5109)

8. **LIM MING TOONG**
   (No. K/P: 620916-08-5727)

9. **GOH SIN TIEN**
   (No. K/P: 500925-08-5335) **... DEFENDAN-DEFENDAN**

JUDGMENT

[1] This Originating Summons was brought by the Plaintiffs to challenge the validity of certain board meetings and extraordinary general meetings of the defendant companies, and the validity of the resolutions passed thereat.

[2] At the heart of this Originating Summons was the Plaintiffs' contention that they had been unlawfully removed as directors of the 1st, 2nd, 3rd and 4th Defendant companies.

The parties

[3] The 1st, 2nd, 3rd and 4th Defendants are wholly owned subsidiaries of the 5th Defendant company, which is a holding and investment company. For ease of reference the 1st, 2nd, 3rd and 4th Defendants shall hereinafter be referred to, collectively, as the "Subsidiaries".

[4] The 1st Plaintiff was director of the Subsidiaries before his removal as a director.

[5] The 2nd Plaintiff was a director of the 1st Defendant before his removal as a director.

[6] The 6th Defendant was a director of the 1st and 2nd Defendant.

[7] The 7th Defendant was a director of the 1st Defendant.

[8] The 8th defendant was the Company Secretary of the Subsidiaries.

[9] The 9th Defendant was, at the material time, also a director of the Subsidiaries.

Background and issues

[10] On the 16th of July 2019, the Board of Directors of the 5th Defendant passed a resolution entitled "RESTRUCTURING OF COMPOSITION OF BOARD OF DIRECTORS OF WHOLLY OWNED SUBSIDIARY COMPANIES" ("5th Defendant's resolution of 16th July 2019") to *inter alia*:-

(i) remove the Plaintiffs and the 9th Defendant as directors of the 1st Defendant,

(ii) remove the 1st Plaintiff and 9th Defendant as directors of the 2nd Defendant and that the 7th Defendant be appointed a director of the 2nd Defendant;

(iii) remove the 1st Plaintiff and 9th Defendant as directors of the 3rd Defendant and that the 7th Defendant be appointed a director of the 3rd Defendant and

(iv) remove the 1st Plaintiff and the 9th Defendant as directors of the 4th Defendant and that the 6th and 7th Defendants be appointed as directors of the 4th Defendant.

[11] It was also part of this resolution of 16th July 2019 that the 5th Defendant's corporate representatives in the Subsidiaries be and were "…authorized and empowered to do all acts and things and take all such steps as may be considered necessary to give full effect to the removal

and appointment in the abovementioned companies and in all matters relating thereto."

[12] The 6th Defendant was appointed by the 5th Defendant as its corporate representative on the 2nd of March 2015. The 6th Defendant's Certificate of Appointment of Corporate Representative of 2nd March 2015 states as follows:

> "THAT pursuant to Section 147(3) of the Companies Act 1965, Mr Tan Say Han (NRIC No. 521023-08-5443), or failing him, Encik Mohd Salleh Bin Lamsin (NRIC No. 550316-12-5093) be and is hereby appointed to act as the Corporate Representative of the Company to attend, to consent to short notice (if necessary) and vote on behalf of the Company at all general meetings of all subsidiary companies of the Company in Malaysia and at any adjournment thereof, and without prejudice to the generality of the foregoing to exercise the same powers contained in Section 147(6) of the Companies Act, 1965.
>
> THAT such appointment shall remain effective until otherwise resolved.
>
> Dated this 2 March 2015"

[13] In accordance with the 5th Defendant's resolution of 16th July 2019, on 29th July 2019, the 6th Defendant signed four requisitions, one for each of the Subsidiaries, to convene an extraordinary general meeting ("EGM") to, *inter alia*, remove the Plaintiffs and the 9th Defendant as directors in accordance with the 5th Defendant's resolution of 16th July 2019. The proposed resolutions to be passed were expressed to be special resolutions. These requisitions were each issued under the letterhead of the 5th Defendant and were each signed by the 6th Defendant as "CORPORATE RESPRESENTATIVE FOR GOLDEN PLUS HOLDINGS BERHAD".

[14] On 31st July 2019, the 8th Defendant as the Company Secretary of the Subsidiaries emailed the directors of:

(i) the 1st Defendant, informing them of the requisition made on 29th July 2019 stating that, "Pursuant to Articles 60 and 61 of the Sri Serdang Sdn Bhd the directors shall call an EGM within 21 days from whenever a requisition in writing signed by members of the Company holding in the aggregate not less than one-tenth in amount of the issued capital of the Company deposited at the registered office of the Company";

(ii) the 2nd Defendant, informing them of the requisition made on 29th July 2019 stating that, "Pursuant to Articles 58 of Corporate Business (M) Sdn Bhd the directors shall call an EGM within 21 days from whenever a requisition in writing signed by members of the Company holding in the aggregate not less than one-tenth in amount of the issued capital of the Company deposited at the registered office of the Company";

(iii) the 3rd Defendant, informing them of the requisition made on 29th July 2019 stating that, "Pursuant to Articles 59 of Paradize Bazaar Sdn Bhd the directors shall call an EGM within 21 days from whenever a requisition in writing signed by members of the Company holding in the aggregate not less than one-tenth in amount of the issued capital of the Company deposited at the registered office of the Company"; and

(iv) the 4th Defendant, informing them of the requisition made on 29th July 2019 stating that, "Pursuant to Articles 59 of Golden Plus Construction Sdn Bhd the directors shall call an EGM within 21 days from whenever a requisition in writing signed by members of the Company holding in the aggregate not less than one-tenth in amount of the issued capital of the Company deposited at the registered office of the Company";

[15] Also, on 31st July 2019, the 8th Defendant sent separate emails to the directors of the Subsidiaries informing them that a director in each of those companies had convened a board meeting of each of those companies with the agenda being to call an EGM pursuant to the relevant article in their respective Articles of Association. The respective

notices of the Board of Directors' meetings were attached. The board meetings convened for the Subsidiaries were all to be held on the 5th of August 2019 at the same venue at 11, Jalan KP1/3, Kajang Prima, 47000 Kajang, Selangor, sequentially at 9.00 a.m., 9.05 a.m., 9.10 a.m. and 9.15 a.m.

[16] At 10.23 a.m. on the 3rd of August 2019, the 1st Plaintiff emailed the 8th Defendant complaining that he was not consulted as to his availability to attend the scheduled board meetings. The 1st Plaintiff ended his email by stating, "I am not available on 5th August 2019 and will update you in due course of my availability."

[17] Just over an hour later at 11.43 a.m. on 3rd August 2019, the 8th Defendant replied the 1st Plaintiff informing him that the directors' meeting was called by a fellow director in accordance with the respective Articles of Association of the Subsidiaries. The 1st Plaintiff was also informed that under the Articles of Association of the respective Subsidiaries, "…a director may, and on the request of a director, the Secretary shall, at any time summon a meeting of the directors."

[18] On 4th August 2019 at 12.36 p.m., the 1st Plaintiff replied the 8th Defendant. In this email the 1st Plaintiff, among other things, asked who the director was who requested the board meeting and reiterated the question why he was not consulted as to his availability before the notices were issued. In his penultimate paragraph the 1st Plaintiff stated, "I reiterate that I am not available on the 5th August 2019." In neither of the 1st Plaintiff's two emails did he state when he might be available.

The Board Meetings of 5th August 2019

[19] On 5th August 2019, in respect of the 1st Defendant, two out of the four directors attended the board meeting convened. They were the 6th and the 7th Defendants. Pursuant to Article 123 of the 1st Defendant's Articles of Association, a minimum of two directors were required to form a quorum. The Board of Directors of the 1st Defendant at this board meeting resolved to hold the EGM requisitioned, on 8th August 2019. The Chairperson at this board meeting, the 7th Defendant, together with the 6th Defendant, being corporate representatives of the 5th Defendant, consented and agreed to a short notice for the EGM. The 1st Defendant being its wholly owned subsidiary, the 5th Defendant was therefore the sole shareholder of the 1st Defendant.

[20] In respect of the 2nd Defendant, the board meeting convened for 5th August 2019 could not go on as there was insufficient quorum. Only one out of three directors attended. The 6th Defendant attended, but the 1st Plaintiff and the 9th Defendant did not attend.

[21] In respect of the 3rd and 4th Defendants, their board meetings convened for 5th August 2019 also could not proceed due to a lack of quorum. These two companies had two directors, namely the 1st Plaintiff and the 9th Defendant, and neither attended this board meeting.

1st Defendant's EGM of 8th August 2019

[22] The EGM of the 1st Defendant, which its board resolved on 5th August 2019 to be convened on 8th August 2019, was held as

scheduled. A notice of the EGM was issued by the 8th Defendant dated the same day, 5th August 2019.

[23] The 1st Defendant being its wholly owned subsidiary, the 5th Defendant was the sole shareholder in attendance at this EGM. The 6th Defendant as the corporate representative of the 5th Defendant attended this EGM and the proposed resolution that the 1st and 2nd Plaintiffs be removed as directors was passed.

[24] As for the 9th Defendant, he had tendered his resignation as a director on 8th August 2019 itself, before the EGM. As such, the proposed resolution to remove him as a director was withdrawn.

Board Meetings convened by the 1st Plaintiff

[25] On the 15th of August 2019, the 1st Plaintiff sent an email to the 8th Defendant to convene a board meeting for each of the 2nd, 3rd and 4th Defendants on the 20th of August 2019, to be held at the same venue at 11, Jalan KP1/3, Kajang Prima, 47000 Kajang, Selangor, at 11 a.m., 10 a.m. and 9 a.m. respectively. The agenda given for these board meetings were to discuss the requisitions for an EGM of these companies.

[26] On the same day, 15th August 2019, the 8th Defendant informed the other board member/s of the 2nd, 3rd and 4th Defendants that a board meeting had been convened for 20th August 2019. Notices for the board meetings convened were accordingly issued by the 8th Defendant and they were dated 15th August 2019 as well.

[27] However, the board meetings convened for the 15th of August 2019 could not be held because there was no quorum. The only director who attended was the 1st Plaintiff.

EGM of the 2nd, 3rd and 4th Defendants of 26th August 2019

[28] As no EGM of the 2nd, 3rd or 4th Defendant was called within twenty one days of the requisitions dated 29th July 2019 signed by the 6th Defendant, on 22nd August 2019 the 5th Defendant as the sole member of these companies exercised its right under their respective Articles of Association to convene an EGM of these companies.

[29] EGMs for the 2nd, 3rd and 4th Defendants were convened for the 26th of August 2019 and the 8th Defendant gave notice of the same to the directors by way of an email also dated 22nd August 2019, with the formal notice of EGM attached.

[30] The EGMs of the 2nd, 3rd and 4th Defendants convened were to be held at the same venue at 11, Jalan KP1/3, Kajang Prima, 47000 Kajang, Selangor, at 10.20 a.m., 10 a.m. and 10.10 a.m. respectively.

[31] The convening of the EGMs by the 5th Defendant were pursuant to Article 58 of the Articles of Association of the 2nd Defendant and pursuant to Articles 59(2) of the Articles of Association of the 3rd and 4th Defendants and section 310 of the Companies Act 2016.

[32] Being wholly owned subsidiaries of the 5th Defendant, the 2nd, 3rd and 4th Defendant also had only one shareholder, namely the 5th Defendant. The 6th Defendant attended the EGM of these companies

convened for 26th August 2019, as the corporate representative of the 5th Defendant.

[33] On the 26th August 2019, it was resolved, *inter alia,* at the EGMs of the 2nd, 3rd and 4th Defendants that the 1st Plaintiff be removed as a director. The 9th Defendant had by then tendered his resignation as a director of these companies. There were also written statements signed by the 6th Defendant as the corporate representative of the 5th Defendant, agreeing to the short notice given for these EGMs.

The Declarations Sought

[34] Against the foregoing background, the Plaintiffs sought declarations in respect of the following:

> "(1) … that the requisition of the Extraordinary General Meeting ("EGM") by the 5th Defendant through the 6th Defendant in the 1st, 2nd, 3rd and 4th Defendants is invalid and of no legal effect;
>
> (2) … that the board meetings of the 1st, 2nd, 3rd and 4th Defendants convened on 5.8.2019 are invalid and ineffective;
>
> (3) … that the resolutions passed at the board meeting of the 1st Defendant on 5.8.2019 are invalid, ineffective and null and void;
>
> (4) … that the EGM of the 1st Defendant convened by the Board of Directors of the 1st Defendant on 5.8.2019 are invalid and ineffective;
>
> (5) … that the resolutions passed at the EGM of the 1st Defendant on 8.8.2019 are invalid, ineffective and null and void;
>
> (6) … that the EGM of the 2nd, 3rd and 4th Defendants convened by the 6th Defendant as corporate representative for the 5th Defendants on 22.8.2019 is invalid, ineffective;

(7) … that the resolutions passed at the respective EGM of the 2nd, 3rd and 4th Defendants on 26.8.2019 are invalid, ineffective, null and void;"

The requisitions an EGM of 29th July 2019

[35] The essence of the Plaintiffs' contention was that as a corporate representative, the 6th Defendant did not have the capacity to requisition an EGM.

[36] It was maintained by the Plaintiffs that the instrument of appointment of 2nd of March 2015 made it clear that the 6th Defendant's appointment was pursuant to section 147(3) of the then Companies Act 1965. This appointment was only for the 6th Defendant to, "… attend, to consent to short notice (if necessary) and vote on behalf of the Company at all general meetings of all subsidiary companies of the Company in Malaysia …, and without prejudice to the generality of the foregoing to exercise the same powers contained in Section 147(6) of the Companies Act 1965."

[37] It was maintained by the Plaintiff that as a corporate representative appointed under section 147 of the Companies Act 1965, the 6th Defendant was not empowered to convene any EGM. Referring to the decision of the the Court of Appeal in *Kwan Hung Cheong & Anor v Zung Zang Trading Sdn Bhd* [2018] 4 MLJ 773, it was contended that a corporate representative may only act within the authority that was conferred under section 147 of the Companies Act 1965.

[38] The requisitions made on 29th July 2019 were made by the 6th Defendant pursuant to the resolution of the Board of Directors of the 5th

Defendant of 16th July 2019, to effectuate the board's decision to *inter alia* remove the Plaintiffs as directors. Towards this end, this resolution expressly stated that the 5th Defendant's corporate representative was, "… authorized and empowered to do all acts and things and take all such steps as may be considered necessary to give full effect to the removal and appointment in the abovementioned companies and in all matters relating thereto."

[39] Section 147(3) of the Companies Act 1965 sets out what a company, which is a member of another company or a creditor, may do to appoint someone to represent it at meetings. Nothing in section 147(3) seeks to regulate how a company, which is a member of another, is to requisition an EGM.

[40] Equally important is that section 147 does not proscribe a corporate representative from doing any *other* act which the company may authorise him to perform. Therefore, contrary to the submissions of learned counsel for the Plaintiffs, section 147 does not preclude a corporate representative from performing any act that is not within the powers or authority prescribed by that section. In addition, the act of requisitioning an EGM on behalf of a corporate member is not an act that offends or is inconsistent or incompatible with what section 147(3) was concerned with, namely, corporate representation at meetings.

[41] In my view, when the 6th Defendant signed the requisitions for an EGM to be held by the Subsidiaries, he did so pursuant to the authority conferred by the Board of Directors of the 5th Defendant and not the powers conferred upon him, *qua* corporate representative, under section 147(3) of the Companies Act 1965.

[42] The factual circumstances of this case was unlike those in the case of *Kwan Hung Cheong & Anor v Zung Zang Trading Sdn Bhd* [2018] 4 MLJ 773. In *Kwan Hung Cheong* the requisition issued was without any authority. Paragraph 35 of the decision of the Court of Appeal in *Kwan Hung Cheong* states as follows:

> "[35] In the present case, from a perusal of the Directors' Circular Resolution dated 2 December 2010, clearly PW1 was not authorised to issue any requisition on behalf of KCHSB, to the respondent to call for an EGM. Since PW1 had issued the requisition as a corporate representative of KCHSB, it follows that the requisition for the EGM was invalid."

[43] In this case, the requisitions signed by the 6th Defendant was expressed to be as a corporate representative *for* the 5th Defendant and made under the letterhead of the 5th Defendant. Coupled with what was stated in the body of the requisitions, it was abundantly clear that the requisitions were those of the 5th Defendant, made as a member and made on its behalf by the 6th Defendant.

[44] In this regard the term used in the 5th Defendant's Board of Directors' resolution of 16th July 2019 i.e. "corporate representative", had merely the effect of identifying the 6th Defendant to effectuate its resolutions. The 6th Defendant's authority to effect the requisitions on behalf of the 5th Defendant was premised on the board's resolution of 16th July 2019 and not section 147(3) of the Companies Act 1965 or the instrument of his appointment as corporate representative dated 2nd March 2015.

[45] For completeness, it may be mentioned that section 333(1) of the current Companies Act 2016 merely provides that a corporation, which is a member of a company, may authorise a person or persons to act as its representative or representatives at the company's meetings. It also provides under section 333(5) that a certificate of authorization by the corporation shall be *prima facie* evidence of a representative's appointment or the revocation of his appointment.

[46] Having regard to the foregoing, and contrary to the Plaintiffs' contention, the requisitions were in my view in compliance with sections 310 and 311 of the Companies Act 2016, as they were requisitions of the 5th Defendant, as the sole shareholder of the Subsidiaries, made on its behalf by the 6th Defendant, having been properly authorised by its Board of Directors to do so.

[47] I am therefore of the view that the requisitions for an EGM to be held by each of the Subsidiaries made on 29th July 2019, were requisitions made by the 5th Defendant and they were valid requisitions. However, save for the 1st Defendant, the Board of Directors of the 2nd, 3rd and 4th Defendants were not able to and failed to convene the EGM requisitioned.

The Board Meetings of the Subsidiaries of 5th August 2019

[48] The 2nd and 3rd declarations sought by the Plaintiffs were in respect of the validity of the convening of the board meetings of the Subsidiaries scheduled for 5th August 2019 and the resolution passed at the 1st Defendant's board meeting of that date.

[49] It was contended by the 1st Plaintiff that his availability to attend these board meetings ought to have been ascertained before they were convened.

[50] On the facts, the board meetings were convened for 5th of August 2019 without it being first determined whether the 1st Plaintiff could attend. On 31st July 2019, the directors were informed that one among them had convened a meeting of the board scheduled for 5th August 2019.

[51] It was only three days later, on 3rd August 2019, that the 1st Plaintiff informed the 8th Defendant that he would not be able to attend on 5th August 2019 and that he would update the 8th Defendant "in due course" of his availability.

[52] On the 4th of August, the 1st Plaintiff reiterated that he was not able to attend the scheduled board meeting. However, up to the 5th of August 2019, the 1st Plaintiff never informed the 8th Defendant when he might be available.

[53] In respect of the 1st Defendant, its board meeting for the 5th of August 2019 proceeded as scheduled. In respect of the 2nd, 3rd and 4th Defendants, there was in fact no board meeting held on 5th August 2019 as there was no quorum. As such the convening of the board meetings in respect of the 2nd, 3rd and 4th Defendants is really of no moment.

[54] It was contended that as the 1st Plaintiff was not consulted as to his availability he was not afforded an opportunity to attend the board meeting of the 1st Defendant on 5th August 2019.

[55] In his affidavit of 8th October 2019, the 9th Defendant explained that upon receipt of the requisitions for EGM of 29th July 2019, he consulted the 8th Defendant. He was informed by the 8th Defendant that the boards should meet to decide if the EGM requisitioned should be held and it was agreed between them that the boards of the Subsidiaries should meet on 5th August 2019. The 9th Defendant deposed that he had then instructed the 8th Defendant to issue the notices calling for a board meeting for the Subsidiaries. However, it appeared from the minutes of the 1st Defendant's Board Meeting of 5th August 2019 that it was the 6th Defendant who called for the Board Meeting. No issue was taken on this. Suffice it to say that either way, a director of the 1st Defendant had called for the Board Meeting of 5th August 2019.

[56] The 9th Defendant was himself, at the material time, a director of the Subsidiaries. However, he himself did not attend any of the board meetings convened for 5th August 2019. Knowing that he was to be removed as a director, the 9th Defendant handed in his resignation as director of the 1st Defendant on 8th August 2019. This was followed by his resignation as a director of the 2nd, 3rd and 4th Defendants on 26th of August 2019, prior to their respective EGMs that were convened.

[57] From his email in reply to the 1st Plaintiff of 3rd August 2019, the 8th Defendant clearly had in mind the Articles of Association of the

Subsidiaries. In relation to the 1st Defendant, Article 124 of its Articles of Association states as follows:

> "124. A Director may, and on the request of a Director, the Secretary shall, at any time summon a meeting of the Directors."

A similar provision exists in the Articles 107 of the Articles of Association of the 2nd Defendant and Articles 104 of the Articles of Association of the 3rd and 4th Defendants.

[58] Although it was asserted that the convening of the board meetings were in bad faith or were predicated upon an improper purpose of preventing a proper and informed board deliberation, there was really no evidence of this. The board meetings were convened at the request of the 9th Defendant who was himself the subject of removal as a director.

[59] As for the 8th Defendant, he was acting on the instructions of a director and was required to do so pursuant to Articles of Association of the Subsidiaries.

[60] There was no evidence that either the 8th or the 9th Defendant knew, before notice of the board meeting was given, that the 1st Plaintiff would not be available, to suggest that there was an intention to deliberately convene a meeting on a date which the 1st Plaintiff was not able to attend.

[61] On the other hand, the 1st Plaintiff himself did not indicate why he was not available. Although he stated in his email of 3rd August 2019 that he would "update" the 8th Defendant of his availability in due course, he did not do so. When, in his email of 4th August 2019, he

reiterated that he was not available for the board meeting convened for 5th August 2019, he again did not state why he was not available. There was nothing to indicate that he was not available due to any important or unavoidable commitment (See *Yeo Ann Seck v Astakajaya Corp Sdn Bhd* [2011] MLJU 877 where similar considerations were taken into account in respect of the plaintiff's alleged inability to attend an EGM called to remove him as a director).

[62] In this regard, it is also relevant to note that when the 1st Plaintiff requested for a board meeting of the Subsidiaries to be convened for the 20th of August 2019, the 8th Defendant also dutifully complied. There was no element of discrimination to suggest impropriety or difference in treatment.

[63] There was no authority given to suggest that board meetings may only be convened on a date when all board directors were available. Such a requirement would result in an enormous impediment to the management of the affairs of a company. It is in this respect significant that Articles of Association of companies generally, and so too the Articles of Association of the Subsidiaries, provide for a minimum quorum necessary for a board meeting. Clearly, if that minimum quorum is met, the board will have the required numbers to make decisions and to pass such resolutions as are required that will bind the company. Equally significant in the circumstances of this case, was the fact that the 5th Defendant was the sole shareholder of the Subsidiaries.

[64] I therefore do not see that the 8th Defendant's convening of the board meeting for the Subsidiaries, and particularly that of the 1st Defendant, was invalid or a nullity.

[65] In this case the necessary quorum was met for the board meeting of the 1st Defendant convened for the 5th of August 2019. It was resolved at this meeting that an EGM of the 1st Defendant be held on 8th August 2019.

[66] Article 63 of the Articles of Association of the 1st Defendant provides that a twenty one day notice be given when a special resolution is proposed to be passed. The requisitions for an EGM of the Subsidiaries specified that the proposed resolutions at the EGM were to be special resolutions.

[67] Article 64(b) of the Articles of Association of the 1st Defendant provides that in the case of a meeting other than an annual general meeting, a shorter notice of the meeting may be agreed to:

> "(b) … by a majority in number of the members having a right to attend and vote thereat, being a majority which together holds not less than ninety-five per centum in nominal value of the shares given a right to attend and vote."

A similar, but not identical, provision exists under section 316 of the Companies Act 2016.

[68] The two directors who attended this board meeting, namely the 6th and the 7th Defendant, were also the appointed corporate representatives of the 5th Defendant. Pursuant to their authority as corporate representatives they consented and agreed, at this board meeting of the 1st Defendant, to short notice being given for the EGM of the 1st Defendant to be held on 8th August 2019.

[69] In addition, at the EGM of the 1st Defendant held on 8th August 2019, the 6th Defendant who attended as the corporate representative of the 5th Defendant again agreed to the short notice given for the EGM.

[70] In light of the foregoing, I do not find that the convening of the board meeting of the 1st Defendant or the resolution passed at the 1st Defendant's board meeting of 5th August 2019 to convene an EGM of the 1st Defendant on 8th August 2019 was invalid, ineffective or null and void.

Convening of, and resolutions passed at, the EGM of the 2nd, 3rd and 4th Defendants' of 26th August 2019 including the resolutions passed at the 1st Defendant's EGM of 8th August 2019

[71] Also challenged by the Plaintiffs were the validity of the convening of the EGMs of the 2nd, 3rd and 4th Defendants for 26ths Aug 2019 by the 5th Defendant's corporate representative, the 6th Defendant, on 22nd August 2019 and the validity of the resolutions passed thereat.

[72] It was contended by the Plaintiffs that once section 311 of the Companies Act 2016 is invoked to convene an EGM, the provisions under section 310 of that Act may not be invoked to convene an EGM. In the circumstances, sections 311 and 310 are set out in full below:

> "**Power to convene meetings of members**
>
> 310. A meeting of members may be convened by—
> (a) the Board; or
> (b) any member holding at least ten per centum of the issued share capital of a company or a lower percentage as specified in the constitution or if the company has no share

capital, by at least five per centum in the number of the members.

Power to require directors to convene meetings of members

311. (1) The members of a company may require the directors to convene a meeting of members of the company.

(2) A requisition under subsection (1)—

(a) shall be in hard copy or electronic form;

(b) shall state the general nature of the business to be dealt with at the meeting;

(c) may include the text of a resolution that may properly be moved and is intended to be moved at the meeting;

And

(d) shall be signed or authenticated by the person making the requisition.

(3) The directors shall call for a meeting of members once the company has received requisition to do so from—

(a) members representing at least ten per centum of the paid up capital of the company carrying the right of voting at meetings of members of the company, excluding any paid up capital held as treasury shares; or

(b) in the case of a company not having a share capital, members who represent at least five per centum of the total voting rights of all members having a right of voting at meetings of members.

(4) Notwithstanding subsection (3), in the case of a private company, members representing at least five per centum of the paid up capital of the company carrying the right of voting at meeting of members of the company may require a meeting of members to be convened if more than twelve months has elapsed since the end of the last meeting of members convened pursuant to a requisition under this section and the proposed resolution is not defamatory, vexatious or frivolous.

(5) A resolution may properly be moved at a meeting unless the resolution—

(a) if passed, would be ineffective whether by reason of inconsistency with any written law or the constitution;

(b) is defamatory of any person;

(c) is frivolous or vexatious; or

(d) if passed, would not be in the best interest of the company.

(6) For the purposes of subsections (3) and (4), the right of voting shall be determined at the date the requisition is deposited with the company."

[73] The Plaintiffs' contended that having regard to the dissenting judgment of Kirby P JJ. A in *L.C. O'Neil Enterprises Pty Ltd & Anor v Toxic Treatments Ltd* [1986] 4 ACLC 178 at 181, on the New South Wales equivalent of sections 310 and 311 of the Companies Act 2016, these provisions had important differences. That being so, they are independent provisions and this would somehow require that reliance on either being mutually exclusive.

[74] There was really no authority given for this contention despite the observations of Kirby P JJ.A in his dissenting judgment on the differences of the New South Wales provisions. That sections 310 and 311 are different and independent provisions do not however present any conclusion that the invocation of one, should it fail to result in an EGM, precludes the invocation of the other.

[75] There is no logical or rational reason why, should the invocation of section 311 fail to result in the EGM requisitioned, a member may not then invoke section 310 by way of self-help as it were, to secure the desired EGM. I do not see that the Plaintiffs' contention that the 5th Defendant, having invoked section 311 of the Companies Act 2916, may not subsequently invoke section 310, in the circumstances of this case.

[76] In addition it was contended that pursuant to section 206(3) of the Companies Act 2016, special notice is required of a resolution to remove

a director. For the purposes of the Companies Act 2016, where special notice is required, at least twenty eight days' notice of the intention to move the proposed resolution must be given. Section 322(1) of the Companies Act provides as follows:

> **"Resolution requiring special notice**
>
> 322. (1) Where special notice is required of a resolution under any provision of this Act, the resolution shall not be effective unless notice of the intention to move it has been given to the company at least twenty-eight days before the meeting at which it is moved."

[77] In respect of the 2nd, 3rd and 4th Defendants, notice of their EGM scheduled for 26th of August 2019 convened by the 5th Defendant as their sole shareholder to remove the Plaintiffs as directors was given on 22nd August 2019. The notices given were no more than 4 days.

[78] No special notice was given. No special notice was also given in respect of the resolutions to be passed at the 1st Defendant's EGM of 8th August 2019.

[79] Therefore, if section 206(3) of the Companies Act 2016 applies, pursuant to section 322(1) of the Companies Act 2016, the resolutions passed at the EGM of the 1st Defendant held on 8th August 2019 and at the EGM of the 2nd, 3rd and 4th Defendants held on 26th August 2016, would not be effective.

[80] Section 206 of the Companies Act 2016 provides as follows:

> "**Removal of directors**
>
> 206. (1) A director may be removed before the expiration of the director's period of office as follows:

(a) subject to the constitution, in the case of a private company, by ordinary resolution; or
(b) in the case of a public company, in accordance with this section.

(2) Notwithstanding anything in the constitution or any agreement between a public company and a director, the company may by ordinary resolution at a meeting remove the director before the expiration of the director's tenure of office.

(3) Special notice is required of a resolution to remove a director under this section or to appoint another person instead of the director at the same meeting.

(4) Notwithstanding paragraph (1)(b), if a director of a public company was appointed to represent the interests of any particular class of shareholders or debenture holders, the resolution to remove the director shall not take effect until the director's successor has been appointed.

(5) A person appointed as director in place of a person removed under this section shall be treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become a director on the day on which the person in whose place he is appointed was last appointed a director."

[81] In relation to a private company, as are the Subsidiaries, section 206(1)(a) provides that its directors may be removed before the expiry of their term of office, by ordinary resolution. However, such removal as directors is expressed to be "subject to its constitution", that is to say the constitution of the private company whose director is sought to be removed.

[82] Under the Companies Act 2016, the "constitution", in respect of companies registered under the Companies Act 1965, is given the meaning ascribed to it under section 34(c), which is its Memorandum and Articles of Association.

[83] s for the directors of a public company, section 206(1)(b) provides that they may be removed before the expiry of their period of office "in accordance with" section 206.

[84] Section 206(3) of the Companies Act 2016 provides that "special notice" is required to remove a director "under this section". The Plaintiffs contended that this means that in order to remove them as directors, special notice must be given.

[85] The question then is whether section 206(3) applies for the purposes of the resolutions passed at the EGM of Subsidiaries to remove the Plaintiffs as directors.

[86] Section 206(3) has two limbs. The first concerns a resolution "to remove a director under this section". The second, concerns a resolution to "appoint another person instead of the director at the same meeting". It is only the first limb that is of concern in this case.

[87] The first limb of section 206(3) is concerned with the removal of a director under section 206, itself. Pursuant to section 206(1)(b), the removal of a director from a public company before the expiration of his period of office is one such case where special notice has to be given.

[88] In the case of a director of a private company, such as the Subsidiaries, a director may be removed under section 206 i.e. specifically, under section 206)(1)(a), by an ordinary resolution. If the director is to be so removed, i.e. by way of an ordinary resolution under section 206(1)(a), and therefore under section 206, it appears that special notice may be required to be given (cf the views of the learned

author of the 3rd Edition of Corporate Powers Accountability at paragraph 3-125 at p 162 and see also Companies Act 2016, The New Dynamics of Company Law in Malaysia, at pp98 to 101). However, this was not the case in respect of the Subsidiaries.

[89] Section 206(1)(a) is expressly made "subject to the constitution" of the private company. Therefore, if the removal of a director in is catered for in a private company's constitution, reliance need not be placed on section 206(1)(a) to remove a director by ordinary resolution. Section 206(1)(a) gives primacy to the constitution of the private company; in which case, there would not be any removal of a director under section 206. Instead, it would be a removal of a director under the constitution of the company.

[90] The decision of the Supreme Court in *Tien Ik Sdn Bhd & Ors v Kuok Khoon Hwong Peter* [1992] 2 MLJ 689 was relied upon by learned counsel for the Plaintiffs for the proposition that special notice was required. In *Tien Ik*, there was a suggestion that special notice might be required for the removal of directors in a private company. However, *Tien Ik* was concerned with section 128(2) of the Companies Act 1965. Quite the opposite of section 206(1)(a) of the current Companies Act 2016, section 128(2) opened with the words "notwithstanding anything to the contrary in the memorandum or articles of the company, special notice shall be required of any resolution to remove a director…".

[91] Unlike section 128(2) of the Companies Act 1965, section 206(1)(a) of the Companies Act 2016 affords primacy to the constitution of a private company.

[92] Section 206(1)(a) should also be viewed from the perspective that that unlike the former Companies Act 1965, companies are not obliged to have a constitution. Section 31 of the Companies Act 2016 states as follows:

> "**Constitution of a company**
>
> 31. (1) A company, other than company limited by guarantee, may or may not have a constitution.
>
> (2) If a company has a constitution, the company, each director and each member of the company shall have the rights, powers, duties and obligations set out in this Act, except to the extent that such rights, powers, duties and obligations are permitted to be modified in accordance with this Act, and are so modified by the constitution of the company.
>
> (3) If a company has no constitution, the company, each director and each member of the company shall have the rights, powers, duties and obligations as set out in this Act."

[93] In the case of the Subsidiaries, they are private companies and their Articles of Association provided for the removal of directors. In the case of:

(i) the 1st Defendant, it was provided in Article 112 that a director may be removed by special resolution before the expiry of his period of office;
(ii) the 2nd Defendant, it was provided in Article 101 that a director may by notice be removed by ordinary resolution before the expiry of his period of office;
(iii) the 3rd Defendant, it was provided in Article 97 that a director may by notice be removed by ordinary resolution before the expiry of his period of office; and
(iv) the 4th Defendant, it was provided in Article 97 that a director may by notice be removed by ordinary resolution before the expiry of his period of office.

No requirement of special notice is to be found in these provisions in the Articles of Association of the Subsidiaries.

[94] Having regard to the foregoing, I find that section 206(3) was not applicable in the circumstances of this case and no special notice was required for the removal of the 1st Plaintiff as a director of the Subsidiaries and the 2nd Plaintiff as a director of the 1st Defendant. The removals of the Plaintiffs as directors were based on the provisions in the Articles of Association of the Subsidiaries and thus not "under" section 206. Accordingly, no special notice was required.

Improper motive

[95] The Plaintiffs also maintained that there was a factual pattern discernible that demonstrated that the powers exercised were not exercised for a *bona fide* purpose. This alleged "factual pattern" arose from:

> "(a) the abuse of power by the corporate representative, in requisitioning the meetings when he was not authorised to do so,
>
> (b) the blatant disregard and exclusion of all decision makers at the board level to jointly decide on the requisition for the general meetings;
>
> (c) the hurriedness with which the meetings were called without giving reasonable opportunity for the Plaintiffs to make the requisite representations; and
>
> (d) the disregard of the constitution and the 2016 Act requiring sufficient notice to be given and properly convening the meetings."

[96] It was contended that there was a misuse of corporate power by the 5th Defendant and also by the Subsidiaries. Reference was made to the decision in *Dato' Raja Aswane bin Raja Ariff v Dato' Man bin Mat &*

Ors [2011] 9 MLJ 467 at p475, where Mohamad Ariff J (as he then was) stated:

> "The factual pattern here demonstrates an exercise of corporate power done mala fide and for an improper purpose in law. The ultimate reason might at the end of the day be capable of justification, but the manner of arriving at that decision must be regarded as also important."

[97] *Dato' Raja Aswane bin Raja Ariff,* was a case that involved the removal of a finance director by directors pursuant to a circular resolution passed by the majority pursuant to article 90 of the company's Articles of Association. Article 90 of the Articles of Association of the company concerned provided as follows:

> "A resolution in writing signed by a majority of the directors present in Malaysia entitled to receive notice of meeting of the directors, shall be valid and effectual as if it had been resolved at the meeting of the directors duly convened and held."

[98] In *Dato' Raja Aswane bin Raja Ariff,* there were two circular resolutions passed. The first sought to have the Plaintiff resign as Finance Director and was sent to the Plaintiff enclosed in a letter dated 5th January 2010. The second, which purported to be a "corrective" resolution and in which the word "resign" was replaced with "removal" was appended to a letter dated 25th January 2010. It was claimed that this second circular resolution, which was also signed by the majority, was prepared on the very same day as the first resolution, when the "mistake" was discovered. The mistake being the word "resignation" versus the word that was intended i.e. "removal". Cross examination of the witnesses was ordered and the learned Judge, after hearing the cross examination, doubted the version relating to the second resolution proffered by the defendants. In the words of the learned Judge:

> "However, as already noted, this second resolution was only sent by the letter of 25 January 2010. No credible explanation was offered why this was so, and why in the very same letter the plaintiff was expressly informed the removal was to take effect from 1 January 2010. Thus, I find upon an assessment of the evidence, the first defendant's version of the facts to be inherently improbable."

This would mean therefore, the plaintiff's explanation was the more likely and that was, the second resolution was backdated. As the learned Judge held:

> "[16] It appears evident to me that the intention of the first resolution was to seek a unanimous decision on the resignation of the plaintiff, which of course the plaintiff refused. The second resolution was then prepared and circulated to him for approval. It was not, and could not, have been a 'corrective' resolution prepared on the same day as the first resolution. In any event, both resolutions have the intended effect of removing the plaintiff as the finance director."

[99] The learned Judge in *Dato' Raja Aswane bin Raja Ariff,* held that:

> " … A director affected by a circular resolution must be given adequate prior notice. The requirements of article 90 on the facts of this case are no different. And I must hasten to add, equitable considerations must surely require that the notice must be not only a procedurally proper notice, it must also be bona fide and an effective notice. The underlying assumption is to allow the recipient to have knowledge of any proposed action and then present his views. A fait accompli document cannot achieve these purposes.
>
> [21] To send a circular for signature as a *fait accompli*, and to attempt to achieve a unanimous decision to have a director 'retire' as a finance director in that context, cannot in my view be an act that should be allowed to pass as a valid decision. The factual pattern here demonstrates an exercise of corporate power done mala fide and for an improper purpose in law."

[100] The alleged lack of *bona fides* in the current case was predicated in the main, upon the bases given for the alleged invalidity of the convening of the board meetings of the Subsidiaries, the convening of

the EGMs and the resolutions passed thereat. As these allegations were not made out they cannot be legitimate foundation upon which to hoist the Plaintiff's contention of lack of *bona fides*.

[101] Unlike in the case of *Dato' Raja Aswane bin Raja Ariff* where it was not established that the second resolution was not back dated, nothing improper was done in the current case. The current case did not have the imprimatur of impropriety that was found in the case of *Dato' Raja Aswane bin Raja Ariff.*

[102] The board meetings of the Subsidiaries that were convened by the 8th Defendant were to enable the boards to respond to the request for an EGM. The removal of the Plaintiffs was not to be effected at these board meetings. Besides, the 1st Plaintiff's conduct was unreasonable. He gave no reason for his inability to attend the board meetings convened and offered no alternative date for consideration even though he said he would.

[103] The objections of the 5th Defendant were plain. They were to remove *inter alios* the Plaintiffs as directors. There was nothing disclosed in the evidence to suggest why their removal was somehow not permissible.

[104] In *Pender v Lushington* (1877) 6 Ch D 70 at p 75-76, Jessel MR observed:

> "There is, if I may say so, no obligation on a shareholder of a company to give his vote merely with a view to what other persons may consider the interests of the company at large. He has a right, if he thinks fit, to give his vote from motives or promptings of what he considers his own individual interest.

See also the opinion of the Privy Council in *North-West Transportation Co v Beatty* (1887) 12 App Cas 589.

[105] One facet of that right of shareholders continue to survive in section 206(1)(a) of the Companies Act 2016 in relation to the removal of directors of private companies. In *Yeung Bing Kwong Kenneth v Mount Oscar Ltd* [2019] HKCU 2413 the Hong Kong Court of Appeal considered the powers for the removal of directors provided under sections 462 and 463 of Hong Kong's Companies Ordinance, Cap 622. Although these provisions are closer to those of our Companies Act 1965 than those of section 206 of our Companies Act 2016, the common theme is the same and it relates to the shareholders' power to remove directors. Of this power, the Hong Kong Court of Appeal had this to say:

> "[22] The power given to the shareholders is unfettered and may be used for a number of aims. It allows shareholders to remove directors who are performing poorly, as well as those acting competently and within their powers but in a way that may be contrary to the wishes of the shareholders. This is an apparently "tough mandatory rule" that allows the shareholders by ordinary resolution at any time to remove any or all of the directors from office without having to assign a reason for so doing (*Companies Directors: duties, Liabilities and Remedies* (3rd ed) by Simon Mortimore QC at 7.02; *Introduction to Company Law* by Paul Davies at p 17 and 125). There is simply no requirement that the power to remove a director must be exercised for cause.
>
> [23] Closely related to the above is the elementary principle of law that the court will not interfere with the internal management of companies acting within their powers and in fact has no jurisdiction to do so (*Burland v Earle [1902] AC 83* at 93; *Kwok Ping Sheung Walter v Sun Hing Kai Properties ltd* [2009] 2 HKLRD 11 at 19 to 20). Further, the court holds fast to the rule not to interfere for the purpose of forcing companies to conduct their business according to

> the strictest rules, where the irregularity complained of can be set right at any moment (*Browne v La Trinidad (1887) 37 Ch D 1* at 17). Hence, the court had refused to grant an interlocutory injunction to restrain a company from acting on a resolution to remove a director on the ground that the resolution was a nullity due to irregularities, as the irregularities could be cured by going through the proper processes and the ultimate result would be the same (*Bentley-Stevens v Jones* [1974] 1 WLR 638)."

The Hong Kong Court of Appeal also observed that as the statutory right to remove a director was unqualified, there was no requirement that reasons be provided for a director's removal or the director to be given a right to be heard.

[106] In this current case, the Articles of Association of the Subsidiaries do not provide for reason or cause to be established for the removal of a director. Neither does section 206(1)(b) of the Companies Act 2016.

[107] Perhaps what was most apparent in the current case was the expedited process and the alacrity in which the Plaintiffs were removed as directors. However, this facet alone does not equal lack of *bona fides* that could nullify their removal. The speed in which the Plaintiffs were removed as directors were carried out in accordance with the Articles of Association of the Subsidiaries. That such speed could be achieved was in part also due to the fact that the Subsidiaries were wholly owned companies of the 5th Defendant. Thus, unlike in *Dato' Raja Aswane bin Raja Ariff,* the manner of the Plaintiffs' removal as directors were not unlawful or wrong.

Conclusion

[108] In conclusion and for the reasons given above, the declarations sought by the Plaintiffs were not made out and the Originating Summons was dismissed with costs to the Defendants.

Dated this 14th Day of January 2020

-SGD-

(DARRYL GOON SIEW CHYE)
Judge
High Court of Malaya
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CASES CITED

- *Adams and Ors v Adhesives Proprietary Ltd* [1932] 32 SR (NSW) 398
- *Agroco Plantation Sdn Bhd & Anor v Besharapan Sdn Bhd & Ors* [1999] 6 MLJ 80
- *Atkins v St Barbara Mines Ltd* [1997] 15 ACLC 800
- *Bamford and Another v Bamford and Others* [1970] 1 Ch 212
- *Bell and Another v Burton and Others* [1993 12 ACSR 325
- *Bentley-Stevens v Jones and others* [1974] 2 All ER 653
- *Billion Express Industrial Ltd v Tsang Hung Kong* [2012] 5 HKC 51
- *Browne v La Trinidad* [1887] 37 Ch 1
- *Chan Choon Ming v Low Poh Choon & 4 Ors* [1995] 1 CLJ 812
- *Colin Gwyer & Associates Ltd and another v London Wharf (Limehouse) Ltd and others, Eaton Bray Ltd and another v Palmer and others* [2003] 2 BCLC 153
- *Dato' Raja Azwane bin Raja Ariff v Dato' Man bin Mat & Ors* [2011] 9 MLJ 467
- *Diamond Peak Sdn Bhd & Anor v Tweedie* [1980] 2 MLJ 31
- *Dr Mahesan & Ors v Ponnusamy & Ors* [1994] 4 MLJU 312; [1994] 3 MLJ 312
- *Drico Ltd v Drico (Water Specialist) Sdn Bhd & 3 Ors* [2011] MLJU 439
- *Eclairs Group Ltd and another v JKX Oil and Gas plc* [2016] 3 All ER 641
- *Fong Poh Yoke & Ors v The Central Construction Company (Malaysia) Sdn Bhd* [1998] MLJU 478
- *Harben v Phillips* [1883] 23 Ch D 14
- *HLB Nominees (Tempatan) Sdn Bhd v Sja Bhd & Anor And Another Appeal* [2005] 1 CLJ 23
- *Howard Smith Ltd v Ampol Petroleium Ltd and Others* [1974] AC. 821
- *Humes Ltd v Unity APA Ltd* [1986] 11 ACLR 641
- *Indian Corrirdor SDn Bhd & Anor v Golder Plus Holdings Bhd* [2008] 3 MLJ 653
- *In re Homer District Consolidated Gold Mines* [1888] 39 CH D 546
- *In re Smith and Fawcett, Limited* [1942] Ch 304
- *In re State of Wyoming Syndicate* [1901] 2 Ch.431

- *In the matter of Richardson & Wrench Holdings Pty Limited* [2013] NSWSC 1990
- *James North (Zimbabwe) (Pvt) Ltd and Others v Mattinson* [1989] LRC (Comm) 615
- *Kabalect Sdn Bhd v Telekom Cellular Sdn Bhd* [1997] MLJU 221
- *Kwan Hung Cheong & Anor v Zung Zang Trading Sdn Bhd* [2018] 4 MLJ 773
- *L.C. O'Neil Enterprise Pty Ltd. & Anor v Toxic Treatments Ltd* [1986] 4 ACLC 178
- *Lee v Chou Wen Hsien and others* [1985] BCLC 45
- *Lim Tai Ming & Sons Credit Sdn Bhd v Lim Tuck Thien* [2001] 1 MLJ 57
- *Lloyds Autobody Ringway Ltd, Re* [2018] EWHC 2336 (Ch)
- *Malayan Banking v PK Rajamani* [1994] 1 MLJ 405
- *Meng Leong Development Pte Ltd v Jip Hong Trading Co Pte Ltd* [1985] 1 MLJ 7
- *Merck KGaA v Leno Marketing (M) Sdn Bhd (Registrar of Trade Marks, interested party)* [2018] 5 MLJ 1
- *Mills and Others v Mills and Others* [1938] 60 CLR 150
- *Ngurli Ltd v McCann* [1953] 90 CLR 425
- *Panorama Developments (Guildford) Ltd. V Fidels Furnishing Fabrics Ltd* [1971] 2 Q.B. 711
- *Pioneer Haven Sdn Bhd v Ho Hup Construction Company Bhd & ANor and Other Appeals* [2012] 5 CLJ 169
- *Pender v Lushington* (1877) 6 Ch D 70
- *Qureshi v Association of Conservative Clubs Ltd* [2019] EWHC 1165 (Ch)
- *Re Oxted Motor Co Ltd* [1921] 3 KB 32
- *See Teow Chuan & Anor v YAM Tunku Nadzaruddn Ibni Tuanku Jaafar & Ors* [2007] 2 MLJ 212
- *Tan Ban Uu & Anor v Ong Ghin Leong* [2017] MLJU 244; [2017] 1 LNS 1
- *Tan Boon Pun Dan Satu Lagi Lwn Tung Pao Sdn Bhd Dan Lain-Lain* [2002] 7 MLJ 68
- *Tan Sri Dato' Tajudin Ramli v Rego Multi-Trades Sdn Bhd* [2018] 7 CLJ 197
- *Tengku Dato' Ibrahim Petra bin Tengku Indra Petra v Petra Perdana Bhd and another appeal* [2018] 2 MLJ 177
- *Thakur Pratap Singh v Shri Krishna Gupta and Others* [1955] 2 SCR 1029
- *Tien Ik Sdn Bhd & Ors v Kuok Khoon Hwong Peter* [192] 2 MLJ 689
- *Yeo Ann Seck v Astakajaya Corp Sdn Bhd* [2011] MJU 887
- *Yeung Bing Kwong Kenneth v Mount Oscar Ltd* [2019] HKCU 2413
- *Yuen Minghwa Francois, the Administrator of the Estate of Yuen Kiu Kwan, deceased v Lo Mei Kin Stella* [2012] HKCU 1588

LEGISLATION AND LEGAL TEXT CITED

- Bowstead and Reynolds on Agency, 18th Edition, para 8-032 and 8-033
- Companies Act 2016: The New Dynamic of Company Law in Malaysia. The authors, Kenneth Foo Poh Khean and Lee Shih, First Edition, 2017, CLJ Publication at page 99
- Companies Act 2016: The New Dynamics of Company Law in Malaysia. The authors, Lee Shih and Kenneth Foo Poh Khean, page 181
- Company Director Powers, Duties and Liabilities by Peter Loose, Michaeal Griffiths and David Impey, 8th Edition at page 327, 328 and 329
- Company Directors Duties, Liabilities and Remedies by Mortimore, 2nd Edition at page 158
- Company Meetings and Resolutions by Cheah Foo Seong, Philip Koh Tong Ngee and Ooi Xin Yi, 1st Edition, published by Sweet and Maxwell at page 78 and 79, paragraph 7.010
- Corporate Powers Accountability by Loh Siew Cheang (Third Edition)
- Section 128, 144, 145 and 147 of the Companies Act, 1965
- Section 188 of Henochsberg on Companies Act, Vol. 1, p. 348-349
- Section 206, 207, 311(1), 333 of the Companies Act, 2016
- Sections 213, 310, 311, 313 and 316 of the Companies Act, 2016
- Sections 241 and 242 of Australia Companies (New South Wales) Code
- Shackleton on the Law and Practice of Meetings, p.145-146