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8. CIVIL PROCEDURE

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I. The High Court's subject-matter jurisdiction and *forum conveniens* requirement in Mareva injunctions

8.1 In *Allenger, Shiona v Pelletier, Olga*,[1] the plaintiff commenced bankruptcy avoidance proceedings against the defendants in the Cayman courts and obtained a worldwide Mareva injunction against the defendants.[2] The plaintiff then commenced proceedings in Singapore and applied, *inter alia*, for leave to serve cause papers on the defendants out of jurisdiction and sought a Mareva injunction in Singapore. Both applications were granted *ex parte*.[3] The defendants applied to set aside the orders on the basis that the Singapore court lacked subject-matter jurisdiction and/or *in personam* jurisdiction over the defendants, and in the alternative, that the requirements for granting a Mareva injunction in Singapore were not satisfied.[4]

8.2 The defendants contended that the High Court did not have subject-matter jurisdiction as the Supreme Court of Judicature Act[5] ("SCJA") did not confer jurisdiction over foreign legislation and the foreign legislation in question, *viz*, the Cayman Bankruptcy Law,[6] does not confer jurisdiction on the Singapore courts.[7] The High Court took the opportunity to clarify the ambit of its subject-matter jurisdiction, the relationship between its subject matter and *in personam* jurisdiction, and the jurisdictional requirements to be satisfied before a Mareva injunction may be granted.[8]

1 [2020] SGHC 279.
2 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [13].
3 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [14]–[15].
4 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [19].
5 Cap 322, 2007 Rev Ed.
6 1997 Revision.
7 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [21].
8 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [1].

8.3 The High Court held that pursuant to ss 16 and 17 of the SCJA, the High Court has unlimited subject-matter jurisdiction, unless or until prohibited either by legislation or case law.[9] In particular, the High Court clarified that s 16(1) of the SCJA does not limit the High Court's subject-matter jurisdiction .[10] Further, the High Court's specific subject-matter jurisdiction is in no way circumscribed by s 17(1) of the SCJA.[11] Rather, ss 16 and 17 are interrelated in so far as the High Court's subject-matter jurisdiction is only material and relevant in so far as *in personam* jurisdiction exists.[12] In summary, the Singapore court does not require enabling legislation to have jurisdiction in any particular subject matter as such subject-matter jurisdiction exists by virtue of s 16(1) of the SCJA.[13]

8.4 To that end, the High Court held that it had subject-matter jurisdiction, and the mere fact that the cause of action arose from foreign legislation, *viz*, the Cayman Bankruptcy Law, does not bar the cause of action from being adjudicated in Singapore.[14] The High Court then applied the well-established test in *Zoom Communications Ltd v Broadcast Solutions Pte Ltd*[15] to determine if the defendants had submitted to the court's *in personam* jurisdiction. Given the defendants' failure to promptly file a jurisdictional challenge, coupled with the active steps taken by them in the proceedings, the High Court found that the defendants submitted to its jurisdiction.[16]

8.5 As the High Court found that it had *in personam* jurisdiction over the defendants, the next issue was whether Singapore was the proper forum for the dispute,[17] such that the order granting leave to serve the cause papers out of jurisdiction ought to be set aside. On this issue, both parties agreed that Singapore was *forum non conveniens* in respect of the plaintiff's claim under the Cayman Bankruptcy Law.[18] The issue was whether, as contended by the plaintiff, the *forum conveniens* requirement under O 11 r 2(2) of the Rules of Court[19] ("ROC") may be dispensed with where the court's jurisdiction is invoked to obtain a Mareva injunction in aid of foreign proceedings.[20]

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9 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [45], [51] and [55]–[56].
10 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [45]–[45].
11 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [59].
12 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [45].
13 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [77].
14 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [69] and [84].
15 [2014] 4 SLR 500.
16 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [96].
17 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [114].
18 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [117].
19 Cap 322, R 5, 2014 Rev Ed.
20 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [120], [121] and [134].

8.6 While the High Court held that it was bound by the Court of Appeal's decision in *Bi Xiaoqiong v China Medical Technologies Inc*,[21] where the Court of Appeal re-affirmed the need for Singapore to be *forum conveniens* before a Mareva injunction may be granted,[22] the court was persuaded by the plaintiff's arguments for dispensation of this requirement and noted that it would have been inclined to adopt the plaintiff's position if not for the fact that it was bound by the Court of Appeal's decision.[23]

8.7 In this regard, the plaintiff raised four arguments in support of its position. First, the orthodox view that Singapore must be *forum conveniens* is not found in the language of O 11 r 2(2).[24] Rather, this requirement derives its provenance from judicial pronouncement.[25] Second, the requirement that the case must be a "proper one" for service out of jurisdiction under O 11 r 2(2) has never been explicitly considered where the court's jurisdiction is invoked to obtain a Mareva injunction in support of foreign proceedings.[26] Third, the consideration that underlies the court's circumspect approach towards service out of jurisdiction, *viz*, the notion that a foreigner should not be unduly inconvenienced, is less relevant where the Mareva relief is sought to restrict the defendants from dispensing their assets across various jurisdictions.[27] Fourth, where the court's jurisdiction is invoked in aid of foreign proceedings, international comity would demand a more permissive approach to allow the court to deal with international fraud.[28]

8.8 The High Court agreed with the plaintiff's arguments. It also agreed that the current state of the law posed practical problems, as it makes it impossible for a plaintiff who commences foreign court proceedings to obtain a Mareva injunction in support of foreign court proceedings, given that Singapore would be *forum non conveniens* in such a situation.[29] Further, the High Court highlighted the concern that the current state of the law would allow more instances of cross-border fraud and easy dissipation of assets.[30] Additionally, the High Court observed that the dispensation of the *forum conveniens* requirement in such a situation would bring the court's approach in line with s 12A

21 [2019] 2 SLR 595.
22 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [146].
23 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [142].
24 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [137].
25 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [137].
26 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [138].
27 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [139] and [140].
28 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [141].
29 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [133] and [150].
30 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [142] and [151].

of the International Arbitration Act,[31] where judicial remedies may be sought in aid of foreign arbitration.[32] Nonetheless, the court observed that any change to the jurisdictional requirements for granting a Mareva injunction can only come by legislative amendments, or by the Court of Appeal.[33]

8.9 On the facts, the High Court declined to exercise its jurisdiction in relation to the claim grounded in Cayman Bankruptcy Law, given that Singapore was *forum non conveniens*, and no arguments were raised as to why substantial injustice would result if the court declined to exercise jurisdiction.[34] As to the Mareva injunction in Singapore, the High Court found that as the plaintiff had a substantive claim under s 73B of the Conveyancing and Law of Property Act,[35] Singapore was *forum conveniens* and the injunction was therefore properly granted.[36]

II. Effect of striking out a defence on a plaintiff's statement of claim

8.10 In *Toh Wee Ping Benjamin v Grande Corp Pte Ltd*,[37] the respondent commenced proceedings at the High Court, alleging that the appellants had breached their fiduciary duties and were in breach of the joint venture agreement.[38] Subsequently, the appellants' defence was struck out for failure to comply with discovery obligations and court orders.[39] During the assessment of damages, the trial judge held that the respondent's statement of claim ("SOC"), including the sums claimed as pleaded, was admitted in its entirety as a result of the appellants' defence being struck out.[40] On appeal, the appellants contended that the trial judge erred in finding that they were deemed to have admitted to the quantum of damages claimed by the respondent in the SOC.[41]

8.11 According to the Court of Appeal, the issue turned on whether the effect of striking out the appellants' defence meant that the appellants were deemed to accede to the entirety of the SOC, including the quantum

31 Cap 143, 2002 Rev Ed.
32 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [153].
33 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [154].
34 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [159].
35 Cap 61, 1994 Rev Ed.
36 *Allenger, Shiona v Pelletier, Olga* [2020] SGHC 279 at [174].
37 [2020] 2 SLR 308.
38 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [10].
39 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [14].
40 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [23].
41 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [26] and [29].

claimed.[42] The Court of Appeal began by analysing O 24 r 16(1) of the ROC, the provision that allows the court to strike out a defence for breach of discovery obligations and make an order for "judgment [to] be entered accordingly".[43] The Court of Appeal held that the words "judgment be entered accordingly" imported all of the rules in O 19 of the ROC dealing with default of defence, in particular, rr 2 to 8.[44] The specific rule that applies depends on the claim in the SOC. For example, if a claim is for a liquidation sum, then O 19 r 2 applies and the plaintiff would be entitled to apply for a judgment under this rule.[45]

8.12 The Court of Appeal then turned to examine O 18 r 13(3) and O 19 r 7 and laid down the applicable principles where a defence has been struck out:[46]

> (a) Only allegations of fact made in the SOC are deemed admitted. The corollary to this is that averments of law and points of law are not deemed admitted, and for good reason, as conclusions of law fall within the court's remit.
>
> (b) Where averments engage both issues of fact and law, the facts in the SOC must be sufficient to sustain the pleaded cause of action or claim. For example, where there is a claim for damages, the SOC should contain facts to show that damage has been suffered.
>
> (c) Where the claim is for an unliquidated amount, the failure to file a defence only means that there is an admission to the facts pleaded to substantiate damage, but the quantum of damages claimed still needs to be assessed.
>
> (d) Where the claim is instead for a liquidated amount, non-filing of the defence implies admission to the amount claimed, and this entitles the plaintiff to enter final judgment for the amount.

8.13 Applying these principles, the Court of Appeal held that the appellants were therefore entitled to contest whether the facts pleaded showed that the respondent had suffered damage, as well as the quantum of damages claimed in the respondent's SOC.[47] On the facts, the Court of Appeal upheld the trial judge's decision in part. The Court of Appeal agreed with the trial judge's decision to award the first head of claim in

42 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [29].
43 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [32].
44 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [35].
45 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [35] and [37].
46 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [40].
47 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [47].

the SOC relating to moneys transferred by the respondent to their joint venture, as the facts pleaded supported this claim.[48] However, the Court of Appeal overturned the trial judge's decision to award the second head of claim relating to all the profits and benefits traceable to the appellants' breach of fiduciary duties, as the facts pleaded did not support the claim.[49]

III. Principles governing application for leave to serve rejoinder

8.14 In *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo*,[50] the defendant applied for leave to serve a rejoinder under O 18 r 4 of the ROC.[51] The High Court observed that such applications were uncommon and that there is a paucity of case law on the principles in which leave may be granted.[52]

8.15 The High Court surveyed the existing authorities and laid down the applicable principles in determining whether leave should be granted in an application for leave to serve a rejoinder. First, leave to serve a rejoinder will not be granted unless it is really required to raise matters which must be specifically pleaded.[53] Second, this means that the rejoinder must not be a mere repetition or amplification of already pleaded matters, and that the matters sought to be pleaded in the rejoinder could not have been raised earlier or by way of an amendment to the earlier pleading as it was inappropriate to do so.[54]

8.16 In determining whether it was appropriate to raise matters in an earlier pleading, the court will consider the logicality of the flow of arguments within the pleadings and whether those matters may be laid down more conveniently by way of a rejoinder instead.[55] An instance where the court may find it inappropriate for matters sought to be pleaded through a rejoinder to be raised in an earlier pleading is if this involves the plaintiff anticipating and rebutting the defence before it is even made, or if it involves a defendant anticipating the plaintiff's response to its

48 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [58].
49 *Toh Wee Ping Benjamin v Grande Corp Pte Ltd* [2020] 2 SLR 308 at [68] and [69].
50 [2020] SGHCR 9.
51 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [1].
52 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [1].
53 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [41] and [57].
54 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [41] and [57].
55 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [42]–[49] and [57].

earlier pleadings.[56] Third, the court will balance between the need for finality in the pleadings process against the need to prevent the other party from being taken by surprise at trial if the matter was not pleaded specifically.[57]

8.17 Next, as the matters pleaded in the defendant's proposed rejoinder constituted an additional counterclaim,[58] the High Court turned to consider when a rejoinder may contain a new or additional counterclaim.[59] In noting that there was no local decision on the issue, the High Court turned to analyse several English cases and distilled the following principles.[60] The general rule is that the defendant should amend his defence (or defence and counterclaim) to include the new or additional counterclaim instead of bringing the counterclaim through a rejoinder.[61]

8.18 However, an exception to this general rule may be granted if the court is satisfied of the following: First, the cause of action appears to be one that cannot be added to the defence and counterclaim without causing hardship and injustice to the defendant.[62] Citing *Renton Gibbs & Co Ltd v Neville & Co*,[63] the High Court pointed out that an example of this is where the defendant's proposed new counterclaim, if included by way of amendments to the defence and counterclaim, would result in inconsistency with its real cause of action.[64] Second, where it would be inequitable to allow the plaintiff to benefit from its claims being altogether free from the defendant's new cause of action.[65] Citing *Toke v Andrews*,[66] the High Court held that an example of this would be when the cause of action involves cross-rights arising from the very same contract and at the very same time as the plaintiff's claims.[67] Third, if the defendant could not have raised the counterclaim earlier, leaving the rejoinder as

56 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [42]–[49] and [57].
57 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [55]–[57].
58 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [3].
59 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [58].
60 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [62].
61 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [75].
62 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [65], [66] and [75].
63 [1900] 2 QB 181.
64 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [75].
65 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [67], [68] and [75].
66 (1882) 8 QBD 428.
67 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [75].

the only stage at which the new counterclaim could be raised.[68] Citing *Toke v Andrews*, the High Court held that an example of this would be if the elements of the new cause of action crystallised only after the defence (or defence and counterclaim) was served.[69]

8.19 On the facts, the defendant principally pleaded two new matters in its proposed rejoinder, *viz*, that the clauses relied on by the plaintiff were unenforceable under the Unfair Contracts Term Act,[70] and that the plaintiff's reliance on these clauses constituted unfair practice under the Consumer Protection (Fair Trading) Act[71] ("CPFTA").[72] Applying the principles above, the High Court granted leave to serve the rejoinder in respect of these two pleadings, as it found that these new matters could not have been pleaded earlier by the defendant since the plaintiff's reliance on these clauses only surfaced in the plaintiff's reply and defence to counterclaim.[73]

8.20 For similar reasons, the court was satisfied that even though the defendant's CPFTA pleading constituted a counterclaim, the circumstances justified an exception to the general rule.[74] Finally, the court disallowed the part of the defendant's proposed rejoinder which consisted largely of miscellaneous responses to the plaintiff's reply and defence to counterclaim as they were nothing more than further responses to earlier pleadings and did not satisfy the requirements for leave.[75]

IV. Voluntary disclosure of documents in pre-action discovery and *Riddick* principle

8.21 In *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd*,[76] the appellant made an application for pre-action discovery and the respondent filed several affidavits to resist the application. The exhibits to these affidavits contained documents sought by the appellants. While the application was unsuccessful, the appellant used these documents to add the respondent to foreign proceedings commenced against other

68 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [68] and [75].
69 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [75].
70 Cap 396, 1994 Rev Ed.
71 Cap 52A, 2009 Rev Ed.
72 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [3].
73 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [77] and [78].
74 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [80] and [81].
75 *CGS-CIMB Securities (Singapore) Pte Ltd v Koh Yew Choo* [2020] SGHCR 9 at [83].
76 [2020] 2 SLR 695.

parties.[77] The respondent successfully obtained an injunction from the High Court to restrain the appellant from doing so.[78] The appellant then appealed against the High Court's decision.[79]

8.22 On appeal, the Court of Appeal identified two issues:[80] First, whether the use of the disclosed documents in the foreign proceedings in such a situation constituted an abuse of process; and second, whether the *Riddick* principle was engaged since there was no court order compelling disclosure of the documents disclosed by the respondent.

8.23 On the first issue, the Court of Appeal held that where a party commences proceedings predominantly to achieve a collateral purpose, this would constitute an abuse of process.[81] On the facts, since the sole purpose of pre-action discovery and disclosure was to facilitate commencement of proceedings in Singapore, the appellant's use of the pre-action discovery regime to obtain documents in aid of foreign proceedings constituted an abuse of process.[82] On this basis, the Court of Appeal upheld the trial judge's decision to grant the injunction.[83]

8.24 On the second issue, the Court of Appeal held that the *Riddick* principle is only engaged where there is an element of compulsion and does not apply to voluntary disclosure.[84] The inquiry is whether the disclosure was compelled by way of a court order.[85] According to the Court of Appeal, the *Riddick* principle was developed to balance the public interest in discovering the truth and maintaining the disclosing party's confidentiality in the context of discovery made under compulsion.[86] Thus, it does not apply to documents voluntarily disclosed as there is

77 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [3] and [4].
78 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [19].
79 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [19].
80 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [5].
81 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [39].
82 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [40].
83 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [64].
84 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [68].
85 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [69] and [70].
86 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [66] and [71].

no court order compelling the disclosure.[87] Therefore, on the facts, the *Riddick* principle did not apply as the documents were voluntarily disclosed by the respondent to resist the appellant's pre-action discovery application and not pursuant to a court order.[88]

8.25 Additionally, while the Court of Appeal accepted that the English decision of *Prudential Assurance Co Ltd v Fountain Page Ltd*[89] referred to an obligation analogous to that under the *Riddick* principle in the context of documents disclosed without an element of compulsion, the Court of Appeal concluded that it was sufficient to rely on the broad doctrine of abuse of process in its judgment.[90] In other words, on the facts of the case, there was no need to recognise an obligation analogous to the *Riddick* principle.[91]

V. Proprietary and Mareva injunctions

8.26 In *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA*,[92] the respondents sued the appellant for transferring assets away from the family business to himself and obtained a proprietary injunction against the appellant.[93] The respondents then applied for and were granted a worldwide Mareva injunction over the assets in the appellant's name.[94] At this juncture, both the Mareva and proprietary injunction were concurrently in force.[95] The High Court dismissed the appellant's application to vary the proprietary injunction.[96] On appeal, the appellant argued that the court had the power to vary the proprietary

87 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [66] and [71].
88 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [70].
89 [1991] 1 WLR 756.
90 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [80].
91 *ED&F Man Capital Markets Ltd v Straits (Singapore) Pte Ltd* [2020] 2 SLR 695 at [80].
92 [2020] 1 SLR 950.
93 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [7] and [10].
94 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [14].
95 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [15].
96 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [17].

injunction under s 56 of the Trustees Act,[97] and that it should exercise that power.[98]

8.27 On the facts, the Court of Appeal found, *inter alia*, that the appellant had no *locus standi* to make the application under the Trustees Act and dismissed the appeal.[99] However, since the appellant's application sought to vary the proprietary injunction instead of the Mareva injunction, the Court of Appeal considered the distinction between a Mareva injunction and a proprietary injunction, as well as the implications of this distinction.[100]

8.28 According to the Court of Appeal, a proprietary injunction, unlike a Mareva injunction, fastens onto the specific asset which the plaintiff asserts a proprietary interest in – to prevent the defendant from dealing with that asset and its traceable proceeds.[101] On the other hand, a Mareva injunction does not latch onto any specific asset – it simply restricts the defendant from disposing of his own assets beyond a certain value to defeat a potential judgment against him.[102] Thus, the Mareva injunction assumes that the enjoined assets belong to the defendant.[103]

8.29 The implication of this distinction is that while there may ordinarily be carve-outs in a Mareva injunction to provide for the defendant's living and legal expenses, this is not the case for proprietary injunctions.[104] Where a defendant seeks a carve-out under a proprietary injunction to meet such expenses, the defendant would be required to prove that there are no other funds or assets available to him to be utilised for payment other than those enjoined by the proprietary injunction.[105]

97 Cap 337, 2005 Rev Ed.
98 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [20].
99 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [18] and [30].
100 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [1] and [58]–[59].
101 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [59].
102 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [59].
103 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [59].
104 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [60].
105 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [60].

8.30 Further, even if a defendant is able to prove the above, the court will still assess if the injustice of permitting the defendant to use the funds is outweighed by the possible injustice to the defendant if he is denied the opportunity of advancing a potentially successful defence.[106] In this assessment, the court will consider whether the defendant is willing to give an undertaking to replenish the funds used if there are non-proprietary assets that subsequently becomes available to him.[107] On the facts, the Court of Appeal found that the appellant had funded his living expenses with liquid cash, without disclosing the quantum and origins of his cash. As such, he failed to show that there were no other assets available to meet his living and medical expenses.[108]

8.31 In *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd*,[109] the appellant commenced proceedings against the respondents in the tort of deceit and tort of conspiracy and successfully obtained Mareva injunctions against the respondents.[110] After the trial, the judge dismissed the appellant's claims and discharged the Mareva injunctions but ordered a temporary stay of the discharge pending the appellant's appeal.[111] On appeal, the Court of Appeal took the opportunity to address the relevant principles governing the grant of the Mareva injunction pending an appeal against the dismissal of the applicant's claim.[112]

8.32 According to the Court of Appeal, the applicable threshold for an unsuccessful applicant to satisfy in order to sustain the injunction pending an appeal is that of a good arguable appeal, not that of a good arguable case.[113] Further, the unsuccessful applicant must show that there is objectively a real risk of dissipation under the current circumstances.[114]

8.33 The Court of Appeal first rejected the argument that the threshold of a good arguable appeal requires the court to find a more than 50% chance of success in the appeal.[115] This is because such a threshold would

106 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [63].
107 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [63].
108 *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar SA* [2020] 1 SLR 950 at [61].
109 [2020] 2 SLR 490.
110 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [3]–[5].
111 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [6].
112 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [2] and [8].
113 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [2] and [30].
114 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [30].
115 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [33].

require the court pre-empt the outcome of the appeal even before the merits of the appeal are even heard.[116]

8.34 The Court of Appeal held that a "good arguable appeal" envisages a more stringent test than that under "a good arguable case".[117] This is attributed to several reasons. First, where the appeal turns on findings of fact made by the trial judge against the plaintiff, the threshold of appellate intervention is high as the trial judge's assessment must be proven to be plainly wrong or against the weight of the evidence.[118] Second, in contrast to interlocutory injunctions pending trial which may be supported by evidence without formal proof, more would be required to sustain the Mareva injunction post-trial. In other words, the same evidence previously used in the interlocutory application would not suffice to keep the Mareva injunction alive, given that the threshold of a good arguable appeal would have to be assessed against the evidence proved at trial.[119] Third, the distinction between the respective thresholds required to prove a good arguable case *versus* a good arguable appeal is underpinned by the need to recognise that the trial process involves findings of fact made, as well as proof of evidence.[120]

8.35 However, where there are no adverse findings of fact or where there is no need to address failure to prove evidence at the trial in the application to sustain the injunction pending appeal, the Court of Appeal held that the threshold of a good arguable appeal would, in substance, be similar to that of a good arguable case.[121]

8.36 On the requirement of proving a real risk of dissipation, the Court of Appeal held that the test is whether the current circumstances following the conclusion of the trial evince a risk of dissipation.[122] Past events are only relevant in so far as they serve as evidence of a current, ongoing risk of dissipation of assets.[123]

8.37 On the facts, the Court of Appeal found that the threshold of a good arguable appeal was met to sustain the Mareva injunction pending appeal as the trial judge's findings were arguably against the weight of the evidence.[124] Further, there was a current risk of dissipation on the part

116 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [33].
117 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [34].
118 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [34].
119 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [35].
120 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [36].
121 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [37].
122 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [39].
123 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [39].
124 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [44]–[91].

of two of the respondents as, *inter alia*, there was a continuous breach of disclosure obligations and attempts to circumvent the worldwide Mareva injunction obtained against them.[125] Therefore, the Court of Appeal reinstated the Mareva injunction against two of the respondents.[126]

VI. Corporate self-representation before the Singapore International Commercial Court

8.38 In *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd*,[127] the respondent applied for and was granted a summary judgment against the appellant by the Singapore International Commercial Court ("SICC") for alleged breach of a settlement agreement.[128] On appeal, the appellant, a Malaysian-registered company, was unrepresented.[129] The appellant's sole shareholder and executive director appeared on behalf of the appellant.[130] The Court of Appeal considered the preliminary issue of whether the appellant, a foreign registered body corporate, must be represented by a solicitor.[131]

8.39 The Court of Appeal held that the starting point under O 5 r 6(2) and O 12 r 1(2) of the ROC is that a body corporate is generally prohibited from commencing or continuing an action, as well as entering an appearance or defending an action unless represented by a solicitor.[132] This general prohibition applies to the Court of Appeal, the High Court, as well as the SICC since the SICC is a division of the High Court.[133] Next, the Court of Appeal observed that O 1 r 9(2) prescribes a mechanism for a company to apply for leave for corporate self-representation.[134] However, O 1 r 9(6) limits the availability of this leave mechanism only to companies incorporated under the Companies Act.[135]

8.40 Thus, the Court of Appeal concluded that foreign bodies corporate in all proceedings before the SICC, as well as appeals from the SICC, must be represented by a solicitor.[136] Further, unlike locally incorporated

125 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [95] and [96].
126 *JTrust Asia Pte Ltd v Group Lease Holdings Pte Ltd* [2020] 2 SLR 490 at [103].
127 [2021] 1 SLR 27.
128 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [8]–[10].
129 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [12].
130 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [12].
131 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [12].
132 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [14].
133 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [16] and [20].
134 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [17].
135 Cap 50, 2006 Rev Ed. See *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [21].
136 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [22].

companies, foreign bodies corporate cannot avail themselves of the leave mechanism under O 1 r 9(2) to seek corporate self-representation.[137]

8.41 Against this backdrop, the Court of Appeal observed that such a conclusion was unsatisfactory since SICC matters would often involve foreign bodies corporate. As such, the unavailability of the leave mechanism to foreign bodies corporate for corporate self-representation before the SICC undermines the *raison d'être* of the SICC, which is to broaden the internationalisation of Singapore law.[138] For example, the substantive merits of the appellant's case were procedurally barred from being heard simply because the appellant was unrepresented in this case and could not avail itself of the leave mechanism under O 1 r 9(2).[139] Nonetheless, the Court of Appeal noted that any change to the present regime ought to be made by way of legislative amendments and that this was an issue that merits consideration for potential legislative amendments.[140]

8.42 On the facts, the Court of Appeal found that O 12 r 1(2) was the applicable rule that prohibited the appellant from corporate self-representation, and not O 5 r 6(2), as the appellant was the defendant in the action.[141] Further, the appellant, being a foreign body corporate, could not avail itself of the leave mechanism under O 1 r 9(2).[142] In any event, the court turned to consider the merits of the appellant's arguments and held that the appeal ought to be dismissed even on its merits.[143]

VII. Submission of no case to answer

8.43 In *Ma Hongjin v SCP Holdings Pte Ltd*,[144] the respondent made a submission of no case to answer and elected not to call evidence if the submission failed after the close of the appellant's case at trial.[145] The Court of Appeal noted that while the applicable test to be applied upon a submission of no case to answer by a defendant was not an issue that arose on appeal, it raised a point of general importance.[146] As such, the Court of Appeal proceeded to lay down observations for future guidance.

137 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [22].
138 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [13] and [22].
139 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [34].
140 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [32] and [34].
141 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [16].
142 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [21].
143 *Offshoreworks Global (L) Ltd v POSH Semco Pte Ltd* [2021] 1 SLR 27 at [35].
144 [2020] SGCA 106.
145 *Ma Hongjin v SCP Holdings Pte Ltd* [2020] SGCA 106 at [16].
146 *Ma Hongjin v SCP Holdings Pte Ltd* [2020] SGCA 106 at [22].

8.44 First, the Court of Appeal noted that when the defendant makes a submission of no case to answer, the plaintiff need only satisfy the court that there is a *prima facie* case on each of the essential elements of the claim in order to obtain a judgment in its favour.[147] However, the plaintiff still bears the legal burden of proving its case against the defendant on a balance of probabilities.[148] In other words, the legal burden on the plaintiff to meet the standard of proving its case on a balance of probabilities does not change even where a submission of no case to answer has been made.[149]

8.45 Rather, where a defendant makes a submission of no case to answer coupled with an election not to call evidence, the plaintiff need only prove a *prima facie* case on the relevant facts in issue to result in a finding that it has proved its case on a balance of probabilities.[150] This is because in such a scenario, the defendant is unable to adduce evidence to contradict the plaintiff's position, and there is no contrary evidence for the court to find that the fact in issue is either disproved or not proved.[151]

8.46 Second, the Court of Appeal affirmed its previous decision in *Ho Yew Kong v Sakae Holdings Ltd*,[152] where it held that when a defendant makes a submission of no case to answer, this submission must be accompanied with an election not to call evidence.[153]

8.47 In summary, where a defendant makes a submission of no case to answer, the plaintiff need only establish a *prima facie* case on each of the essential elements of its claim to prove its case against the defendant on a balance of probabilities and succeed.[154] On the facts, the Court of Appeal found that the judge in the court below was therefore mistaken in thinking that the legal standard of proof for the plaintiff is different where the defendant makes a submission of no case to answer.[155]

VIII. Acceptance of offer to settle

8.48 In *Michael Vaz Lorrain v Singapore Rifle Association*,[156] the respondent accepted the appellant's offer to settle ("OTS") after judgment

147 *Ma Hongjin v SCP Holdings Pte Ltd* [2020] SGCA 106 at [25] and [32].
148 *Ma Hongjin v SCP Holdings Pte Ltd* [2020] SGCA 106 at [26].
149 *Ma Hongjin v SCP Holdings Pte Ltd* [2020] SGCA 106 at [26]–[31].
150 *Ma Hongjin v SCP Holdings Pte Ltd* [2020] SGCA 106 at [31] and [32].
151 *Ma Hongjin v SCP Holdings Pte Ltd* [2020] SGCA 106 at [31] and [32].
152 [2018] 2 SLR 333.
153 *Ma Hongjin v SCP Holdings Pte Ltd* [2020] SGCA 106 at [32].
154 *Ma Hongjin v SCP Holdings Pte Ltd* [2020] SGCA 106 at [33].
155 *Ma Hongjin v SCP Holdings Pte Ltd* [2020] SGCA 106 at [26].
156 [2020] 2 SLR 808.

and damages had been awarded against the appellant, but before the appeal against the trial judge's assessment of damages was heard.[157] The OTS contained, *inter alia*, a term requiring the respondent to file a notice of discontinuance.[158] The Court of Appeal raised the issue of whether an OTS could validly be accepted if the term requiring discontinuance of the claim is not capable of compliance after judgment on the merits has been issued, noting that this was the first time that this issue has been raised.[159] The Court of Appeal held that where a judgment on the merits has been issued, an OTS containing a discontinuance term cannot be validly accepted.

8.49 First, the Court of Appeal construed the discontinuance term in the OTS and found, on an objective construction, that the offeror only intended for the OTS to be capable of acceptance before a judgment on the merits was obtained.[160] According to the Court of Appeal, a discontinuance term envisages the existence of an outstanding matter yet to be disposed of which is within the scope of an OTS.[161] It is in such a situation where an OTS would remain valid for acceptance. To this end, the Court of Appeal held that if there already has been a judgment on the merits, an OTS containing a discontinuance term is incapable of acceptance.[162]

8.50 Second, the Court of Appeal held that as a matter of principle, an action can only be discontinued before judgment.[163] Once a judgment has been issued on a cause of action, the cause of action merges with the court's judgment and the cause of action is then *res judicata*.[164] Thus, there is nothing for parties to discontinue. This is also consistent with O 21 r 4 of the ROC, which sets out the effect of a discontinuance before judgment on the merits, as well as O 21 r 2(6), which establishes that an action is not subject to automatic discontinuance after a final judgment is issued.[165]

8.51 In any event, the Court of Appeal also observed in *obiter* that an OTS cannot be accepted after judgment, regardless of whether it contains a discontinuance term. According to the Court of Appeal, O 22A r 3(5) of the ROC, which sets out the timeline for acceptance of an OTS, only

157 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [2]–[4].
158 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [5].
159 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [1] and [5].
160 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [11].
161 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [11].
162 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [11].
163 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [14]–[16].
164 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [14]–[16].
165 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [18]–[26].

allows for an OTS to be accepted before a first instance court disposes of the matter.[166] Further, allowing parties to accept the OTS after a judgment on the merits has been issued would undercut the rationale underlying the O 22A regime, which aims at encouraging parties to settle rather than litigate the matter and adopt a "wait and see" approach.[167]

8.52 Finally, the Court of Appeal acknowledged that this line of reasoning may contradict its previous decision in *NTUC Foodfare Co-operative Ltd v SIA Engineering Co Ltd*[168] ("*NTUC Foodfare*").[169] In *NTUC Foodfare*, it was held that under O 22A rr 3(5) and 9(3)(*a*) of the ROC, a matter is only disposed of when the appellate court renders its decision on the merits.[170] Nonetheless, the Court of Appeal left the issue for detailed consideration in the future.[171] On the facts, the Court of Appeal held that the respondent's acceptance of the OTS was invalid as it was accepted after the trial judge had issued a judgment that disposed of the matter.[172]

IX. Garnishing joint bank accounts

8.53 In *Timing Ltd v Tay Toh Hin*,[173] the plaintiff sought to garnish joint bank accounts held by the defendant and his wife to enforce an arbitral award against the defendant.[174] The High Court departed from its previous decision in *One Investment and Consultancy Ltd v Cham Poh Meng*[175] ("*One Investment*"), which held that joint bank accounts should not be the subject of garnishee orders.[176]

8.54 In this case, the High Court held that a show cause order under O 49 of the ROC can be made against joint accounts where the following conditions are satisfied:[177] First, that there is a strong *prima facie* case that the whole of the moneys in the joint accounts belong to the judgment debtor. The burden of proof falls on the applicant. Second, that notice is served on the non-judgment-debtor joint account holder(s). Third, the

166 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [37]–[41].
167 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [44].
168 [2018] 2 SLR 1043.
169 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [45].
170 *NTUC Foodfare Co-operative Ltd v SIA Engineering Co Ltd* [2018] 2 SLR 1043 at [17].
171 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [45].
172 *Michael Vaz Lorrain v Singapore Rifle Association* [2020] 2 SLR 808 at [36] and [46].
173 [2020] 5 SLR 974.
174 *Timing Ltd v Tay Toh Hin* [2020] 5 SLR 974 at [5]–[7].
175 [2016] 5 SLR 923.
176 *Timing Ltd v Tay Toh Hin* [2020] 5 SLR 974 at [29].
177 *Timing Ltd v Tay Toh Hin* [2020] 5 SLR 974 at [31]–[36].

applicant must give an undertaking to pay for any costs and reasonably foreseeable losses of the garnishee, or non-judgment debtor joint account holder(s), should it be shown to the court's satisfaction that the moneys subject to the show cause order are not in fact payable in whole or in part to the judgment debtor.

8.55 In arriving at this conclusion, the High Court first distinguished the Commonwealth authorities cited in *One Investment* as none of those authorities involved situations where the court has had to consider the effect of there being evidence as to parties' respective contributions to the joint account.[178] Next, the High Court held that in any event, those authorities should not be followed as this would allow debtors to insulate their assets by holding them in joint bank accounts, rendering the recoverability of a judgment debt dependent on how a debtor structures his/her finances.[179] Thus, this would unduly undermine the interests of judgment creditors.[180]

8.56 Further, the High Court observed that the practical concerns raised in *One Investment* against garnishing joint bank accounts, *viz*, that banks would be prejudiced as they do not have visibility as to the various contributions by account holders and that non-judgment-debtor joint account holders would also be prejudiced, may be ameliorated by the above conditions.[181]

8.57 Finally, the High Court rejected the contention that permitting the garnishment of joint bank accounts would lead to uncertainty where a judgment debtor holds multiple joint accounts.[182] According to the High Court, just like how a creditor may choose which of the debtor's assets he wishes to subject to a writ of seizure and sale, the creditor should likewise be allowed to determine which of the multiple joint accounts held by a judgment debtor he wishes to garnish.[183]

8.58 On the facts, the High Court granted the show cause order as the conditions above were met. In particular, the High Court found that

178 *Timing Ltd v Tay Toh Hin* [2020] 5 SLR 974 at [16]–[22].
179 *Timing Ltd v Tay Toh Hin* [2020] 5 SLR 974 at [24].
180 *Timing Ltd v Tay Toh Hin* [2020] 5 SLR 974 at [24].
181 *Timing Ltd v Tay Toh Hin* [2020] 5 SLR 974 at [26].
182 *Timing Ltd v Tay Toh Hin* [2020] 5 SLR 974 at [29].
183 *Timing Ltd v Tay Toh Hin* [2020] 5 SLR 974 at [29].

there was a strong *prima facie* case that all the moneys in the defendant's joint bank accounts belonged solely to him.[184]

184 *Timing Ltd v Tay Toh Hin* [2020] 5 SLR 974 at [35] and [36].