

CANADA / JUDGMENT

Y.Z. v. A.C.

2018 BCSC 948**COURT**

Supreme Court of British Columbia

DECIDED

16 May 2018

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2018 BCSC 948 Y.Z. v. A.C. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Y.Z. v. A.C., 2018 BCSC 948 Date: 20180516 Docket: E153224 Registry: Vancouver Between: Y.Z. Claimant And A.C. also known as W.C. Respondent Corrected Judgment: Names of the parties have been anonymized for publication purposes on July 30, 2021. Before: The Honourable Mr. Justice Milman Oral Ruling Re: Disposition of Terms of Previous Court Order In Chambers Counsel for the Claimant: T. Wolf J. Kang Counsel for the Respondent: F. Lamer S. Xue Place and Date of Hearing: Vancouver, B.C. May 14-16, 2018 Place and Date of Judgment: Vancouver, B.C. May 16, 2018

- [1] This is the application of the respondent, A.C., who seeks a variety of relief.
- [2] The application has been narrowed considerably following agreement of the parties on a form of order that goes a great distance in addressing the concerns that prompted the application in the first place.
- [3] There are two issues remaining that need to be dealt with by the court. Both issues relate to the fate of an interim order I have previously made in these proceedings, pending a full hearing of this application.
- [4] The first outstanding issue involves certain litigation in China, either extant or proposed, that the claimant, Y.Z., either has brought or proposes to bring, all of which involves his effort to be declared what is known as the "legal representative" of "ZSM", one of the companies in issue in these proceedings. That proceeding involves, in particular, the actions of an administrative official in China known as the "MAA" who is an administrator in the office that oversees Chinese corporations.
- [5] The second issue flows from an order I previously made directing that certain money be paid into trust. That money involved a 37 million RMB payment from "GSM", a company controlled by Y.Z., to another company. The concern was that the payment potentially put the money out of reach of the respondent in these proceedings.

- [6] The issue here is whether those two aspects of my order need to remain in place pending trial in light of the other terms that have been agreed to today. The essence of the agreement, as I understand it, is that an accounting firm, PricewaterhouseCoopers ("PWC"), is to hold the shares of the principal companies that are in dispute in trust on terms that will require some oversight by the court and reporting by PWC and a certain level of transparency for the parties.
- [7] The arrangement that has been made raises a question as to whether there continues to be the potential for irreparable harm that served as the basis for those aspects of my previous orders.
- [8] I have decided that it is appropriate to continue to have in place an order restraining Y.Z. from litigating in China the issue involving the identity of the legal representative of ZSM. I have decided that allowing that litigation to go ahead does pose risks, despite the involvement of PWC and the trust that is proposed to be set up.
- [9] I have a number of concerns with the submission that has been made to me that the Chinese litigation ought to be allowed to proceed.
- [10] The first is that it is not clear to me what legitimate purpose is served by the litigation. I am concerned that even with the shares in trust, Y.Z. could, if he succeeds in getting himself named as the legal representative, remove assets from ZSM such that recourse to the shares of that company may not prove to be an adequate remedy after trial, if such a remedy were needed to address any shortfall thereby created. I would have been more amenable to Y.Z.'s submission that there is no such risk (or that the risk is minimal because he will abide by any order that this Court makes) had he not gone ahead and commenced fresh proceedings in China recently in the face of my earlier order that he not do so. But, as I said at the outset, I have yet to be given a sound explanation for why the Chinese litigation is necessary for Y.Z., or indeed any explanation as to what prejudice will flow to him from being prevented from being named legal representative of ZSM pending the outcome of these proceedings.
- [11] Secondly, with respect to the 37 million RMB, the order I made was that it be held in trust. I see less risk of irreparable harm if that order is no longer in effect given the other assets that are available to be adjusted between the parties according to their respective entitlements at the end of the trial.
- [12] My order will be that upon the following conditions being satisfied:
- (a) the entry of the consent order;
 - (b) execution of all of the documents contemplated by that order; and
 - (c) the return of the 37 million RMB to GSM, my previous order (that is, the order directing that those funds be placed in trust) will expire.

[13] In summary, I am ordering, firstly, that the previous order I made prohibiting continued litigation in China aimed at having Y.Z. declared to be the legal representative of ZSM is to remain in effect until trial. Secondly, the order directing that the 37 million RMB be placed into trust will expire on the satisfaction of those three conditions. "Milman J." The Honourable Mr. Justice Milman

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