

HONG KONG / JUDGMENT

AH FAT JEAN MAX v. XIAN CORP LTD

[2021] HKCFI 22

COURT

Court of First Instance

DECIDED

7 January 2021

CASE / FILE NUMBER

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HCLA 11/2019

[2021] HKCFI 22

IN THE HIGH COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

COURT OF FIRST INSTANCE

LABOUR TRIBUNAL APPEAL NO 11 OF 2019

(ON APPEAL FROM LABOUR TRIBUNAL CLAIM NO 100 OF 2018)

BETWEEN

AH-FAT JEAN MAX

Claimant

(Appellant)

and

XIAN CORP LIMITED

Defendant

(Respondent)

Before: Hon Wilson Chan J in Court

Date of Hearing: 12 August 2020

Date of Judgment: 7 January 2021

JUDGMENT

A.

INTRODUCTION

The appellant, Mr Jean Max Ah-Fat, was granted leave to appeal against the award/order of Deputy Presiding Officer Siu (the “Presiding Officer”) dated 6 June 2019 by order of this court dated 19 November 2019.

The appellant was given leave to appeal in respect of the following grounds:

the Award is erroneous in point of law in that:

the Presiding Officer did not correctly apply the law in interpreting the Employment Contract, in particular Clause 3.4; and

the Presiding Officer made a finding that there was a change to the appellant’s contractual terms without applying the law and/or without there being any evidence in support of such finding;

the Presiding Officer erred in construing Clause 8 of the Employment Contract;

the Presiding Officer erred in failing to take into account Exhibit D18 when considering the appellant’s entitlement of annual leave;

the Presiding Officer erred in shifting the burden of proving variation of contract onto the appellant;

the Presiding Officer erred in varying Clause 3.4 of the Employment Contract; and

the Presiding Officer had no jurisdiction to in substance rectify Clause 3.4 of the Employment Contract.

Grounds 1, 4, 5 and 6 concern the appellant’s claim for payment of commission in the sum of HK\$9,220,627.59. These grounds raise issues of interpretation and application of the Annual Commission Clause (Clause 3.4).

Ground 2 concerns his claim for payment of housing allowance of HK\$39,000, pursuant to the Housing Allowance Clause (Clause 8). This ground argues that the Presiding Officer erred in construing that clause.

Ground 3 concerns his claim for annual leave payment of HK\$67,504.02, under the Annual Leave Clause (Clause 6). This ground raises a question of evidence.

B.

RELEVANT FACTUAL BACKGROUND

The essential facts are:

The appellant and the respondent, Xian Corp Limited (“Xian Corp”), entered into an employment contract (the “Employment Contract”).

The Employment Contract was signed on 9 July 2014.

The relevant terms of the Employment Contract are:

Clause 3.4: You will receive a yearly commission amounting to 10% of the net profit of the company named Xian Corp Trade. Such commission will be paid on yearly basis after the audit of the Xian Corp Trade balance sheet.

(“Annual Commission Clause”)

Clause 6: You will be entitled to 25 days paid annual leave and on a pro-rated basis for services rendered if your employment terminates on a date other than the anniversary of the date of your employment.

(“Annual Leave Clause”)

Clause 8: The Company will provide you a monthly housing allowance amounting to HKD 31,650.00. You will have the possibility to use this budget for a Serviced Apartment at the beginning of your contract to have time to find an apartment fitting with your needs.

(“Housing Allowance Clause”)

Clause 14: Either you or the Company may terminate employment under this Agreement by giving TWO MONTHS notice in writing ...

(“Termination Clause”)

Clause 17: To indicate acceptance of the Company’s offer, please sign and date this letter in the space provided below and return it to the Company. The letter sets forth the terms of your appointment as Managing Director of the Company and supersedes any prior representations or agreements, whether written or oral. This letter may not be modified or amended except by a written agreement, signed by the Company and you. Please send to us back a copy after signing.

(“No Oral Modification Clause”)

Clause 18: This contract supersedes any previous agreement between yourself and the Company and constitutes the entire agreement governing your employment by the Company.

(“Entire Agreement Clause”)

The appellant was to commence employment as Managing Director of Xian Corp on 18 August 2014 subject to visa approval.

On 31 October 2014, Yezalel Food & Trade SA was “injected” into Xian Corp for the consideration of 1,000,000 of Xian Corp’s shares.

The appellant immediately commenced employment on 1 November 2014.

In or around January 2016, the Housing Allowance was varied to HK\$39,000. This was accepted by Xian Corp.

On 26 January 2016, Xian Corp made an advanced payment for the appellant's annual commission in the sum of US\$50,000 to cover the period from commencement of employment to the end of 2015.

In April 2016, GEYM S.A. was injected into Xian Corp, when its entire issued share capital (110,000) shares were transferred to Xian Corp as consideration for the subscription of 126,029 shares of Xian Corp.

FY 2015 (1 January 2015 to 31 December 2015) Audit Report was approved on 18 August 2016.

On 29 November 2016, Xian Corp made an advanced payment for the appellant's annual commission in the sum of US\$40,000 to cover the period from 1 January 2016 to 30 June 2016.

The appellant's Employment Contract was terminated on 20 November 2017 pursuant to the Termination Clause, which provides that two months' notice must be given prior to termination.

The appellant remained in the property for 1-month post termination until 21 December 2017.

FY ½ 2016 (1 January to 30 June 2016) Audit Report was approved on 10 January 2017.

FY 2017 (1 July 2016 to 30 June 2017) Audit Report was approved on 8 November 2017.

On 10 January 2018, the appellant filed his claim at the Labour Tribunal.

The trial for the appellant's labour tribunal claim was heard on 2, 3, 6 and 7 May 2019.

The Presiding Officer gave Judgment on 6 June 2019 (the "Judgment"), where she held (at [83]-[85]):

The appellant is not entitled to the claims of (i) annual commission, (ii) housing allowance, and (iii) annual leave;

Xian Corp has the duty to pay the appellant the severance payment, following set-off; and

The appellant is to pay 70% of Xian Corp's costs.

C.

GROUND 1, 4, 5 AND 6 ON COMMISSION

C1.

Presiding Officer's unchallenged findings of fact

The Presiding Officer's reasoning on matters, both legal and factual, arising from the dispute on the payment of commission was set out in §§53-73 of the Judgment. In its Skeleton Submissions, Xian Corp has highlighted certain unchallenged findings of fact by the Presiding Officer. In summary:

First, the Presiding Officer rejected the appellant's evidence that it was pursuant to some "Distinctive Incentive Scheme", alleged by him in oral evidence for the first time, that he had been paid sums of US\$50,000 and US\$40,000 by Xian Corp on 26 January 2016 and 30 November 2016 respectively; and that such payments were not even part of the commission to which he had been entitled (see Judgment §§53-55). The appellant does not challenge this conclusion on fact/credibility.

Secondly, having rejected the untruthful evidence of the appellant, the Presiding Officer found as a fact (accepting Mr Mazallon's evidence as set out in the Judgment §§36-38) that such payments, as agreed between the parties in the end of 2015 or early January 2016, did not replace the Annual Commission Clause but was only an interim arrangement for the purposes of "temporary" payment of commission (if any) pending audit of year-end results of Xian Corp (see Judgment §56). Crucially, the Presiding Officer found that even these payments were "only based upon the PRC and Asian markets, ie C's own profit centres" (Judgment §67). The appellant does not challenge these findings of fact.

Thirdly, for reasons stated in the Judgment §§62-70, the Presiding Officer concluded that there was no concrete positive evidence in support of the interpretation of the Annual Commission Clause suggested by the appellant; and that clause, on proper construction, would be objectively understood by any reasonable person to mean that the 10% net profit referred to therein was to be calculated based on profit centres of the appellant, ie the Asian and PRC markets for which he had been responsible under the Employment Contract (Judgment §71).

Fourthly, a specific point about variation and estoppel was made by the Presiding Officer in Judgment §70. This was to deal with the appellant's reliance on the No Oral Modification Clause (Clause 17) in arguing that the mutual agreement resulting in the US\$50,000 and US\$40,000 payments was rendered invalid by that clause. The Presiding Officer rejected that submission on the ground of waiver or estoppel which she found to have been soundly made out on the undisputed evidence of the conduct of the parties at all material times. Her conclusion in this regard now forms the subject of complaint in Grounds 1(b), 4 and 5.

Lastly, on the basis of the interpretation of the Annual Commission Clause as concluded by the Presiding Officer (see paragraph 10(3) above), the appellant was not entitled to payment of commission as the US\$50,000 and US\$40,000 received by him exceeded the amount that he would be paid by reference to the audited results of Xian Corp (Judgment §§72-73).

Further, Xian Corp submitted it is crucial that the court takes note of the following further primary findings of fact made by the Presiding Officer in the course of her reasoning in the Judgment §§62-70 (leading to her conclusion on contractual interpretation as mentioned in paragraph 10(3) above). These findings of fact are also not challenged by the appellant:

First, the appellant's main duty was to deal with and develop the Asian and PRC markets in the course of his employment; he was not involved in the day-to-day management of Xian Corp's subsidiaries (like GEYM and YFT) and had only signed some papers for the subsidiaries as and when required, such that his involvement in non-Asian and non-PRC markets had been minimal at all material times. See: Judgment §63 (also §§11(a), 27).

Secondly, there was nothing in the Employment Contract and no written agreement indicating that Xian Corp Trade (as intended) would include any subsidiaries of Xian Corp. Nor was there any verbal agreement or even representation by Xian Corp to this effect. See: Judgment §64.

Thirdly, the appellant (on admission) (i) had received the two emails from Mr Mazallon on 5 June 2014 and 3 July 2014; and (ii) had never raised objection to the suggestion that a company named Xian Corp Trade be set up to record the profit of the appellant's own profit centre (ie the Asian and PRC markets). On such evidence, the Presiding Officer made a specific finding of fact, by way of inference, that the appellant "must have accepted the 10% annual commission was to be based upon his own profit centres, ie Asian and PRC markets as stated in" those emails. See: Judgment §65 (also §26).

Fourthly, on the basis of consistent evidence of Xian Corp's witnesses and admission by the appellant himself, it was found that the appellant had never raised in writing questions to Xian Corp and its staff on his entitlement to payment of "outstanding" commission until November 2017; and this fact supported the finding in paragraph 11(3) above. See: Judgment §§66-67.

Fifthly, the idea of setting up Xian Corp Trade was abandoned mutually by agreement between the appellant and Xian Corp (via Mr Mazallon) after commencement of the former's employment, so that the company has never existed. Such idea was "dropped" because of the establishment of the ERP system, in March 2015, which could properly record the profit made by the appellant at his profit centres. See: Judgment §69 (also §11(b)).

With the Judgment so properly understood, and within the parameters of the above unchallenged findings of facts, Grounds 1, 4, 5 and 6 are discussed below.

C2.

Ground 6 – no "equitable jurisdiction" argument

It will be convenient to address this argument first, which seems to underpin a number of the appellant's points.

Xian Corp's short answer is that the Presiding Officer did not even rectify the Annual Commission Clause, so the complaint on rectification is on a wholly false premise.

For the reasons stated by Xian Corp, the appellant's submission that the Presiding Officer "rectified" the Annual Commission Clause is simply wrong:

It is plain that the Presiding Officer understood the dispute about the Annual Commission Clause raised only issue of proper contractual interpretation: see Judgment §§8, 12(1), 14, 15, 19, 56, 57, 60, 61, 66, 68, 71, 73. There was indisputably no analysis in the Judgment on rectification of that clause.

In the appellant's Skeleton Submissions §§28-30, it is alleged that the Presiding Officer added and deleted certain words (as set out in his Skeleton §30). This point has no merit because that is simply the outcome or effect of the proper interpretation of the Annual Commission Clause held by the Presiding Officer. If this contention were correct, then it could be (erroneously) said that any interpretation that gives effect to parties' intention not "written" in the relevant contractual term is rectification. The contention is clearly incorrect.

Most importantly, I agree that the Presiding Officer simply could not have validly rectified the Annual Commission Clause because, as found by the Presiding Officer, there was no mistake at the time of contract. The Presiding Officer mentioned "mistake" only once in the Judgment at §69, but the "mistake" (which she put in quotes) was the fact that the parties had not substituted the term "Xian Corp Trade" in the Annual Commission Clause by a suitable replacement "subsequent to their agreement to abandon the idea to establish a company known as Xian Corp Trade". The Presiding Officer never found common mistake on the part of the parties, or unilateral mistake on the part of either, so that the clause should be rectified. She was clearly alive to the fact that the agreement not to set up Xian Corp Trade to record the profit at the appellant's profit centre was reached after the commencement of the appellant's employment (Judgment §11(b)).

This court further notes the absence of any analysis in the Judgment on rectification. The appellant's complaint about rectification simply distorts the Judgment.

Also, for these reasons, the fall-back submissions by the appellant on whether the Presiding Officer "correctly" rectified the contract, as a matter of law and on the facts of the case, are also irrelevant. Those issues do not arise in this case at all because the Presiding Officer never decided to "rectify" the Annual Commission Clause.

In the premises, Ground 6 (on no "equitable jurisdiction") must be rejected.

C3.

Ground 1(a) – proper interpretation of the Annual Commission Clause

As submitted by Xian Corp, the following principles are relevant:

It is trite that evidence of pre-contractual negotiations could be admitted as part of the factual matrix to establish the "genesis or object" of a contractual provision. As cited at the Judgment §14, in *Channel Green Ltd v Huge Grand Ltd* [2015] 1 HKLRD 655 at §35, Lam VP referred to the decision of Lord Hoffmann in *Chartbrook Ltd v Persimmon Homes Ltd* [2009] 1 AC 1101 at §42 and held that there is no absolute prohibition against admission of previous negotiations, and the issue of admissibility depends on the purpose for which the evidence is sought to be admitted. As

held in *Chartbrook*, the exclusionary rule: “... excludes evidence of what was said or done during the course of negotiating the agreement for the purpose of drawing inferences about what the contract meant. It does not exclude the use of such evidence for other purposes: for example, to establish that a fact which may be relevant as background was known to the parties” (§42).

In particular, if the parties in the course of their negotiation are agreed on a general objective that is to be achieved by inclusion of a provision in their contract, that agreed objective would naturally inform the way in which a reasonable person in the position of the parties would approach the task of interpreting the provision in question: see *Investec Bank (Channel Islands) Ltd v The Retail Group Plc* [2009] EWHC 476 at §§75-76; *Merthyr (South Wales) Limited v Merthyr Tydfil Country Borough Council* [2019] EWCA Civ 526 at §§44, 51-55; *McMeel on the Construction of Contracts* (3rd ed.) §§5.103-5.105.

The principle on admissibility of evidence even in pre-contractual negotiation for the purpose of showing the parties’ objective or purpose or aim in agreeing upon a contractual term is not new. The courts in *Investec* (at §75) and *Merthyr* (at §§43, 52, 53) cited Lord Wilberforce’s speech in *Prenn v Simmonds* [1971] 1 WLR 1381 at 1384-1395. In fact, Lord Neuberger in *Arnold v Britton* [2015] AC 1619 at §15 specifically held that the purpose of a clause must be part of the factual matrix. As held by Lord Wilberforce in *Prenn v Simmonds* at 1385H:

“In my opinion, then, evidence of negotiations, or of the parties’ intentions, and a fortiori of Dr Simmonds’ intentions, ought not to be received, and evidence should be restricted to evidence of the factual background known to the parties at or before the date of the contract, including evidence of the ‘genesis’ and objectively the ‘aim’ of the transaction ...” (Emphasis supplied)

This court also notes that *Prenn v Simmonds* was cited in the judgment of the Court of Appeal in *Channel Green Ltd* referred to in Judgment §14. The Presiding Officer was aware of the principles underpinning the admissibility of evidence in pre-contractual negotiation for the purpose of demonstrating the genesis, aim or purpose of a contractual provision, which the court is entitled to take into account as part of the factual matrix in the exercise of interpretation. In fact, *Channel Green* was an authority provided by the Presiding Officer to the parties upon her own research.

As to the arguments raised by the appellant:

The appellant’s Skeleton Submissions at §§49(1)(a)-(c) complain about the Presiding Officer’s consideration of the emails from Mr Mazallon on 5 June 2014 and 3 July 2014 to the appellant as part of the pre-contractual negotiation, as being impermissible in law.

This complaint is unsound because on the application of the principles above, the Presiding Officer was entitled to admit and consider evidence showing what the parties agreed upon the purpose of the Annual Commission Clause as stated in the emails which the appellant was found to have accepted before entering into the Employment Contract, namely, to record the profit made at the appellant’s own profit centre. As stated in the email of 3 July 2014, which attached the final form of the Employment Contract: “In order to easily calculate the profit generated by the

trade, I will set up a subsidiary company of Xian Corp that will be named Xian Corp Trade and will only deal with the trading operations for which you will be responsible for, so the profit generated by these operations will be isolated in this company. You will then have a real profit centre under your responsibility ...”.

Indeed, it is impermissible and misleading for the appellant to claim that the purpose or aim as stated in the emails was unilateral statement of intent of Mr Mazallon (acting for Xian Corp) in negotiation, because of the unchallenged finding of fact that the appellant had not objected to and therefore agreed to such genesis, purpose or aim of the Annual Commission Clause stated in those emails: see paragraph 11(3) above. It is wrong to characterise that crucial part of the factual background as evidence of the “subjective intent” of the Xian Corp alone – there was an agreement by the parties on it.

The appellant’s Skeleton Submissions at §49(1)(d) refers to the “subjective evidence of Mr Mazallon and Ms Fung” referred to in Judgment §§66-69 and argues that the Presiding Officer erred in taking that into account. I agree that describing their evidence as “subjective” is meaningless and does not assist the court. The appellant has not explained by what principle of law was the Presiding Officer prohibited from accepting the evidence of those witnesses on the matters analysed in the Judgment at §§66-69, which were not part of pre-contractual negotiation. The cited passages simply do not go to the question of construction, and only concern the credibility and inherent improbability of the appellant’s claim or evidence. The appellant’s argument now does not purport to challenge the Presiding Officer’s findings of fact; in any event, he has made no submissions on how the Presiding Officer erred in those findings.

The appellant’s Skeleton Submissions at §49(2) argues that the Presiding Officer erred in the Judgment §§63, 66-67 and 69 in considering a host of post-contractual conduct on the part of the appellant, including his lack of objection to the establishment of the ERP system. I agree this point is misconceived because it mischaracterises the exercise: the Presiding Officer simply took into account all those facts as part of her assessment of the appellant’s credibility about the agreed purpose or aim of the Annual Commission Clause. The Presiding Officer did not “use” the evidence for the purpose of construing the clause, or drawing inference about what the clause means or would be understood by a reasonable person in the circumstances to mean. The mischief sought to be addressed by the “subsequent conduct” rule in *James Miller & Partner Ltd v Whitworth Street Estates (Manchester) Ltd* [1970] AC 583 was absent in this case (c.f. Lord Reid at 603E).

For reasons stated above, Ground 1(a) must be rejected. The reasoning of the Presiding Officer simply interpreted (and never rectified) the Annual Commission Clause, and her reasoning on this question of interpretation is unassailable in law.

C4.

Grounds 1(b), 4 and 5 – variation of contract and/or estoppel

These grounds go to the same point, arising from the Presiding Officer's conclusion in the Judgment at §§70-71 that the mutual agreement between the parties (leading to those payments of US\$50,000 and US\$40,000 by Xian Corp on 26 January 2016 and 30 November 2016) varied the Annual Commission Clause to a limited extent, and that such variation was not precluded by the No Oral Modification Clause.

Therefore, as Xian Corp submits, the only issue arising from these grounds is whether the Presiding Officer was correct in her conclusion about waiver or estoppel. The submissions of the appellant in this regard are without substance, for reasons below:

First, those submissions are unhelpful because they do not explain how the Presiding Officer erred and do not address the reasoning in the Judgment at §70. The appellant makes a separate point that Xian Corp's evidence "does not align with their case" – it is unclear why this point is relevant to the issue of waiver or estoppel.

Mr Mazallon gave clear evidence (never challenged by the appellant) that the US\$50,000 had been suggested by the appellant himself, which Mr Mazallon accepted as a fair amount. For the US\$40,000, it was paid pursuant to the relevant sales target and although the appellant had underperformed, Mr Mazallon still agreed to pay him a bit more and hence a sum of that amount. In fact, the contention now that Xian Corp has never explained these is wrong when the Presiding Officer actually made findings on such evidence in the Judgment §37.

The appellant further makes the point that it is "inexplicable" why Xian Corp would have overpaid the appellant in the interim (ie pending year-end audit) when the ERP system could "calculate very easily" each person's profit centre. The point is without substance because given the evidence described in paragraph 21(2) above (which the appellant ignores), the payments were certainly not inexplicable.

In the premises, there is no evidential basis for the appellant to suggest that the "only logical inference" which the Presiding Officer should have drawn was that the Annual Commission Clause was to provide for a calculation of commission at 10% of the net profit made by Xian Corp (including its subsidiaries).

For completeness, the complaint by the appellant that the Presiding Officer failed to give "significant weight" to the appellant's evidence about his conversations in 2016 with Mr Hak and Ms Fung is irrelevant. The relevance of this point is unclear when the appellant does not challenge findings of fact – in any event, any such challenge has no hope on trite principles: *Lee Wai Kei Wicky v World Family Limited* (HCLA 35/2015, 3.10.2017) at §13. The Presiding Officer has carefully addressed the evidence in the Judgment §§66-67.

For the reasons stated above, Grounds 1(b), 4 and 5 have no merit and must also be rejected.

D.

GROUND 2 ON HOUSING ALLOWANCE

The Judgment at §§74-75 set out the Presiding Officer's reasoning and conclusion on this issue.

Ground 2 contends that the Presiding Officer erred in construing the Housing Allowance Clause. The appellant's submissions in this regard are rejected for the following reasons:

First, "wages" is defined under section 2 of the Employment Ordinance, Cap 57 but it expressly excludes "the value of any accommodation ..." (under sub-paragraph (a) of the definition). It is established that these benefits do not form part of wages because they are provided by employers in kind instead of a money payment. In this case, it is undisputed that starting from January 2015, the appellant was granted the licence to live in an apartment rented by Xian Corp in lieu of a sum of money as "housing allowance", such that the Housing Allowance Clause was varied by the conduct of the parties (Judgment §11(e)). It is incorrect for the appellant to argue that he could or should have received payment for any such "value of accommodation".

Further, given that the appellant's employment was terminated with effect from 20 November 2017 so that he had no further work to be done pursuant to the Employment Contract thereafter, it is plain that he was not entitled to any wages afterwards: *Neckel Nils v Dual Voltage Co Ltd* (HCLA 110/1996, 9.12.1996) at pp.5-6; *Thomas, Vincent v South China Morning Post Publishers Ltd* [2004] 2 HKLRD 373 at §76. With his employment terminated, the licence of occupation granted ancillary to the employment must automatically lapse: *Vipac Engineers & Scientists Ltd v Karpovich & Anor* [1989] 2 HKC 358 at 362F-I. The Presiding Officer's finding is supported fully by these cases.

Lastly, the argument of the appellant at §76 of his Skeleton Submissions disregards the evidence completely. The undisputed evidence was that Xian Corp offered to allow the appellant to stay on for 2 more months until 20 January 2018, but he never accepted the offer which was thus withdrawn. He was never "allowed" to stay as asserted by him. His occupation of the flat in the period after termination of employment until eviction was unauthorised and unlawful, and it was in the circumstances of his refusal to respond to Xian Corp's demand to vacate the flat that Mr Mazallon and Ms Fung personally attended the flat on 21 December 2017 and took action thereafter to evict the appellant. All these were explained in witness statements and affirmed evidence. The argument must be rejected.

In the premises, Ground 2 on Housing Allowance must fail.

E.

GROUND 3 ON ANNUAL LEAVE

The Judgment at §§76-77 set out the Presiding Officer's reasoning and conclusion on the appellant's claim for 18-day annual leave payment. The question was simply whether the Presiding Officer was satisfied that the appellant had discharged the burden of proving that he had taken such number of days of annual leave thereby leaving a balance of 18 days. It was solely a matter of evidence before the Presiding Officer.

In this regard, the appellant has made purely forensic submissions. On the trite principles set out in Lee Wai Kei Wicky, supra at §13, there is no merit in those submissions. It is of note that the appellant accepted (and does not now contend otherwise) that the burden of proof was on him and him alone, and there was no evidence in terms of contemporaneous properly-kept record showing the alleged 18 days.

In the premises, Ground 3 on Annual Leave is without substance and must fail.

F.

CONCLUSION

For all the reasons stated above, none of the grounds of appeal put forward by the appellant has merit. Accordingly, I dismiss this appeal with costs to Xian Corp, such costs are to be taxed if not agreed.

Lastly, I express my gratitude to counsel on both sides for their helpful assistance in this matter.

(Wilson Chan)

Judge of the Court of First Instance

High Court

Mr Lavesh Kirpalani, instructed by Messrs Hugill & Ip, for the appellant

Mr Mike Lui and Mr Griffith Cheng, instructed by Messrs Kenneth Sit, for the respondent

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