

HONG KONG / JUDGMENT

QUESCO HOLDINGS LTD v. QUESCO SYSTEMS LTD AND ANOTHER

COURT

Court of First Instance

DECIDED

10 October 2007

CASE / FILE NUMBER

HCMP81/2007

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bjbj HCMP 81/2007 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE MISCELLANEOUS PROCEEDINGS NO. 81 OF 2007

IN THE MATTER of QUESCO SYSTEMS LIMITED formerly known as LECCO CONSULTANTS LIMITED and IN THE MATTER of Section 100 of the Companies Ordinance, Cap. 32 of the Laws of Hong Kong

BETWEEN QUESCO HOLDINGS LIMITED Applicant formerly known as LECCO STRATEGIC HOLDINGS LIMITED and QUESCO SYSTEMS LIMITED 1st Defendant formerly known as LECCO CONSULTANTS LIMITED YU CHEUK SIN 2nd Defendant Before: Hon Kwan J in Chambers Date of Hearing: 10 October 2007 Date of Decision: 10 October 2007

DECISION

This is an application by originating summons taken out by Quesco Holdings Limited, seeking an order that one share of Quesco Systems Limited, the 1st defendant herein, standing in the name of Yu Cheuk Sin, the 2nd defendant herein, as the nominee for the applicant, be transferred to the applicant and that the transfer be entered on the register of members of the 1st defendant. The application first came before the court on 26 January 2007. It was adjourned for the applicant to seek an order for substituted service of the originating summons and supporting affirmation on the 2nd defendant. That order was obtained from the Registrar on 21 June 2007 and was complied with on 7 August 2007. Hence, the application was restored for hearing today. The 2nd defendant was an employee of the applicant at the material time and he held one share in the 1st defendant as the nominee and for the benefit of the applicant. He executed a declaration of trust

on 17 March 2000 which was exhibited in the supporting affirmation of the applicant. By the declaration of trust, the 2nd defendant undertook when called upon to do so by the applicant to transfer the share he held as the applicant may direct and for such purpose he had executed an instrument of transfer of the share he held. He had also irrevocably appointed the applicant as his attorney, to insert the name of such person as the applicant shall nominate to take a transfer of the share. The applicant and the 1st defendant are, however, unable to locate the instrument of transfer or the bought and sold notes signed by the 2nd defendant in the applicant's favour. The 2nd defendant left the employment of the applicant in March 2006 and despite repeated attempts, the applicant has not been able to locate the 2nd defendant. It is appropriate in the circumstances to grant this application. I make an order that the one share of the 1st defendant now standing in the name of the 2nd defendant as nominee for the applicant be transferred to the applicant. I further order that the transfer be entered on the register of members of the 1st defendant. I make no order as to the costs of this application. (S Kwan) Judge of the Court of First Instance High Court Ms Lau Yan Ling of Messrs Fong Yin Cheung & Co., for the Applicant The 1st Defendant, absent The 2nd Defendant, absent 1udk 1udk i\$&` r*pa 5<>| P!_HD Vx[Hi w[{}t0 w[{}t P!_H HCCW.dot setup Microsoft Word 9.0 Judiciary Hong Kong Title Microsoft Word Document MSWordDoc Word.Document.8

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