

HONG KONG / JUDGMENT

RE RATONAL INDUSTRIAL LTD

COURT

Court of First Instance

DECIDED

24 July 2006

CASE / FILE NUMBER

HCCW237/2006

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bjbj [mi gP Cap. 32 of the Laws of Hong Kong

Before: Hon Kwan J in Court Date of Hearing: 24 July 2006 Date of Judgment: 24 July 2006

J U D G M E N T

This is a petition presented by Ho Hoi Tung against Ratonal Industrial Limited (the Company). The petition was presented on the basis of an award made by the Labour Tribunal being a claim for arrears of wages in LBTC No. 6626 of 2004 on 17 December 2004. The Company was ordered to pay the petitioner \$403,334.90. A demand for the judgment debt was served on the Company on 25 2005. When the petition came before me on 17 July 2006, I adjourned the petition for one week for the Company to seek leave for one of its directors to represent the Company. The director who was present in court, Mr Tung Ka Hung was told very clearly that if the Company should wish to file any evidence in opposition, this should be done before the end of last week. The Company has appeared by counsel today, but has not filed any evidence in opposition. Mr Jonathan Chu submitted for the Company that the petition is an abuse of process of the court as there is existing another petition to wind up the Company on the just and equitable ground in HCCW No. 1193 of 2002, and this petition has not been dealt with. This does not amount to an abuse of process. I note also that the solicitors for the petitioner in the earlier proceedings have been told of the present petition, and they have no objection to a winding-up order on this petition. Mr Chu informed the court that the Company has applied to set aside the Labour Tribunal award. However, it would appear from the orders made by the Labour Tribunal on 10 November 2005 and 25 March 2006 that the Company s applications were refused. Mr Chu has not been able to tell this court any reason or basis for the Company s application to set aside the Labour Tribunal award, save that the Company was not aware of the proceedings brought in the Labour Tribunal or the judgment entered against it. This in itself is not a sufficient reason to set aside the award. I note also that in the two previous applications of the Company to set aside the award, its director,

Mr Tung, did not attend the hearing. He had written to the Labour Tribunal in March this year informing the court that he was away on a business trip, and he sought an adjournment of his application to set aside the award to July 2006. Nothing that counsel has informed me today would form any valid basis to set aside the Labour Tribunal award. I see no purpose to be served with any adjournment to give the Company opportunity to file evidence in opposition. I make an order to wind up the Company. The petitioner s costs are to be paid out of the Company s assets. (S Kwan) Judge of the Court of First Instance High Court Mr Joseph Lo of Legal Aid Department, for the Petitioner Mr Jonathan Chu, instructed by Messrs Keith Ho & Co., for the Company Miss Vivian Yeung, for the Official Receiver PAGE - A B C D E F G H 1udk 1udk i\$&`G 5<>| i1kQ i1kQ HCCW.dot setup Microsoft Word 9.0 Judiciary Hong Kong Title Microsoft Word Document MSWordDoc Word.Document.8

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