

Baiduri Bank Berhad

... **Appellant**

AND

L & L Engineering Corporation Sdn Bhd

... **Respondent**

**(Court of Appeal of Brunei Darussalam)
(Civil Appeal No. 13 of 2008)**

Mr. Tang Weng Leong of Messrs. CCW Partnership for the Appellant.
Mr Selvanathan a/I N of Messrs. Fathan Rudi Lee & Associates for the Respondent.

Before: Power, P; Mortimer and Davies, JJ.A.
12th November, 2009.

R U L I N G

Mortimer, J.A.:

We allowed the bank's appeal in this case on 24 November 2008. The bank sought and obtained a garnishee order against the company respondent (the garnishee) in respect of a judgment debt owed by the garnishee to Allan Ronald Widdows, its former judicial manager, who is also a judgment debtor of the bank.

We ordered;

- 1. The appeal is allowed.*
- 2. The garnishee order is made absolute.*
- 3.*

The parties applied to vary the nisi order for costs and we made an ordered the costs of the appeal and below to be paid by the respondent.

The bank proposed to the respondent company that the judgment to be drawn in the following terms:

- 1. That the appeal be allowed and the said Judgments be set aside;*
- 2. That the Garnishee do pay forthwith to the said Appellant. B\$96,337.50 the debt due from the Garnishee to Allan Ronald Widdows, and*

But the respondent has not agreed this draft. It says that the draft does not follow the words used by this court in its order set out at the close of the reasons and that, in any event, the Garnishee order ought to follow Form 100 in O.49 r.4 of the RSC.

Being unable to agree the parties came before the court for clarification of the terms in which the order should be drawn.

Once it is recognised that the second clause of the appellant's draft follows Form 100 for all practical purposes, there is no substantial issue between the parties on that point. But the respondent is also concerned that the proposal fails to include the words, "the Garnishee Order is made absolute" in our judgment. Although little turns on this in the present appeal undoubtedly the terms of the formal judgment ought to reflect the orders in the court's written reasons.

Having heard counsel for we order as follows:

Following the opening statement, the judgment shall be in the following terms:

1. That the Appeal be allowed and the Garnishee Order be made absolute.
2. That the Garnishee do forthwith pay to the Appellant, the judgment creditor, B\$96,337.50, being the debt due from the Garnishee to Allan Ronald Widdows, the judgment debtor.
3. That the costs of the Appeal and below, including the costs of the application for the Garnishee Order shall be to the Appellant to be taxed if not agreed. The said costs shall be added to the judgment debt and be retained out of the money recovered by the Appellant under this order in priority to the amount of the judgment debt.

Costs of the present application

The parties are agreed that there be no order for costs in the present application.

The Orders

The above orders are made nisi and will become absolute at 9.30 am on Tuesday 17 November 2009 unless prior application is made to the court.

Power, P.

Mortimer, J.A.

Davies, J.A.