

Danny Chong Meng Chiang

... **Appellant**

AND

Encore Sdn Bhd

... **Respondent**

**(Court of Appeal of Brunei Darussalam)
(Civil Appeal No. 18 of 2007)**

Before: Power, P; Mortimer and Davies, JJ.A.
23rd May, 2009.

Appeal dismissed. Further stay of orders made below refusal. Costs of the appeal and below to the respondent.

Mr David Teo Kiang Khong of Messrs. Ibrahim Chee Teo & Ho for the Appellant.
Mr Sajeed Shah bin Abdullah @Sarjeet Singh of Messrs. Sarjeet & Co. for the Respondent.

Mortimer, J.A.:

We first clarify the orders we made on 20 November 2008:

1. That the appeal against the orders made by Hayati J on 25 October 2007 and 11 October 2008 be dismissed.
2. Nevertheless, that the appellant be permitted to pursue his counterclaim as a separate action.
3. The orders made by Hayati J on 25 October 2007 and 11 October 2008 be stayed until the commencement of the May 2009 sittings of this court.
4. The costs of the appeal and any further hearings in this court be reserved.

We also made detailed orders for various steps to be taken in pursuing the counterclaim which have been complied with.

The issues before us are the appellant's application for a further stay of the above orders made by Hayati J and the costs of this appeal.

The stay expired on the first day of our sitting and was extended until today for the court to hear the parties.

On 20 November 2008 we dismissed the appeal against Hayati J's judgment given on 25 October 2007 and drawn up on 11 February 2008. She made a number of orders including:

“That the defendant do render to the plaintiffs within one (1) month from the date of this Order a full and proper account of all rental incomes and monies derived from the four (4) pieces land received by the defendant in trust for the plaintiffs details of which are set out as follows.”

The 4 pieces of land were then set out.

Having heard Mr Teo, for Mr Chong the defendant/appellant, and read Mr Sarjeet Singh's submissions for the respondent it is clear that Mr Chong never complied with the above order and that having regard to the confusion which now exists over the bank account into which at least some of the monies have been paid we are not prepared to grant a further stay.

Orders

1. The appellant's application for a further stay of the orders made by Hayati J on 25 October and 11 February 2008 is refused.
2. An order nisi that the appellant will pay the respondent's costs of the appeal and below as well as its costs of all other applications to this court to be taxed if not agreed. The order to become final on 3 June unless prior application is made to be heard.

Power, P.

Mortimer, J.A.

Davies, J.A.