

Haji Abdullah Bin Haji Metassim  
(as administrator of the estate of the late Haji Metassim  
Bin Abd Rahman@Hj Metassim

... Plaintiff

AND

Ho Guan Heng

... Defendant

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(High Court of Brunei Darussalam)  
(Civil Suit No. 28 of 2022)

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Haji Abdullah Soefri Bin POKSM DSP Haji Abidin, J.C.

**Date of Judgment: 9<sup>th</sup> July, 2025.**

*Headnote: Civil Case – Application For Leave to Appeal to Court of Appeal – No Exceptional Circumstances or Valid Ground – Application Dismissed.*

Ms Nuratikah Binti Awang Hj Omar and Mdm Alice Khan binti Ahmad Khan (M/S Omar & Khan Advocates & Solicitors) for the Plaintiff.

Mr Haji Mansur Dato Paduka Dr Haji Abdul Latif (M/S Pengiran Izad & Lee) for the Defendant.

#### JUDGMENT

**Hj Abdullah Soefri, J.C.:**

This is an application by the Defendant for leave to Appeal to Court of Appeal against the Honourable Judicial Commissioner Edward Timothy Starbuck Woolley's judgment who agreed with the learned Registrar's decision to dismiss the appeal against the Registrar's decision who ruled against the application by the Defendant to strike out the Plaintiff's claim.

Having had heard both parties and having had read their submissions and affidavits, I am in agreement with the Plaintiff that there is no exceptional circumstances or valid ground that has been demonstrated by the Defendant for granting leave to appeal.

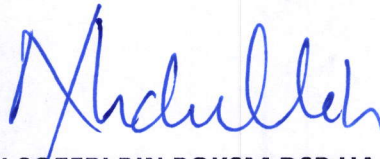
Judicial Commissioner Woolley had stated in his judgment in Para 9 "*the principles of striking out under Order 18 have been considered in a number of cases and it has been repeated in almost all of them that the power of the Court to do so should only be exercised in plain and obvious cases, which should be allowed to proceed unless the case is wholly and clearly unarguable and a reasonable cause of action is one which has some chance of success when only the allegations in the pleadings are considered.*" (*Ha Francesca v Tsai Kit Kan & Ors* (1982) HKC 382.

His Lordship then further stated in para 12:

*"I am therefore of the view that this is not a proper case for striking out. I am unable to say that the Plaintiff's case, as put forward in the pleadings is unable to succeed, and he is entitled to a trial to challenge the case of the defendant".*

I am in agreement with the Plaintiff, in their submission that the Defendant's defence raises contested factual questions that can only be resolved through oral evidence and full evidentiary proceedings. The Plaintiff's claim is clearly not frivolous or hopeless, and falls well outside the category of cases appropriate for striking out. This is also reflected in Judicial Commissioner Woolley's judgment.

Having had said all the above, I am satisfied that the Defendant had not demonstrated that there is exceptional circumstances or valid ground for granting leave to appeal and thus the Defendant's application for leave to appeal is dismissed and cost is awarded to the Plaintiff to be taxed if not agreed.



**HAJI ABDULLAH SOEFRI BIN POKSM DSP HAJI ABIDIN**  
Judicial Commissioner