

**Lim Mah Lik@Lim Peng Kok  
Haji Ahmad Morshidi bin Abd Rahman  
Lau Kung Ching  
Kim Yin Mei**

**... Plaintiffs**

AND

**Wong Su Seh  
C.E.A Sdn Bhd**

**... 1<sup>st</sup> Defendant**

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**(High Court of Brunei Darussalam)  
(Civil Suit No. 49 of 2021)**

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Edward Timothy Starbuck Woolley, J.C.  
**Date of Hearing: 12<sup>th</sup> November, 2024.**  
**Date of Judgment: 23<sup>rd</sup> November, 2024.**

*Application to discharge prohibitory order – whether reasonable cause shown*

Ms Evelyn Lee (M/S YC Lee & Lee) for Plaintiffs.  
Muhammad Rusyddin Bin Bagul (M/S Ahmad Zakaria & Associates) for 1<sup>st</sup> Defendant.

**DECISION**

**Woolley, J.C.:**

This is an application by way of summons on the part of the 1<sup>st</sup> Defendant to partly discharge a prohibitory order made in respect of six properties registered in his name to secure the payment of a judgment debt of B\$126,000.00 owed to the Plaintiffs.

2 Following the judgment on 23 December 2021, the 1<sup>st</sup> Defendant was the subject of an Order for Examination of Judgment Debtor, for which he completed a questionnaire, and which was heard on 30 August 2022. In the questionnaire he denied owning any real property, and at the hearing under oath he repeated this denial save that he admitted owning Lot 59331, Kampong Sungai Tilong, Mukim Berakas which he said was his family home. However, a search conducted by the Plaintiff's solicitors in June 2023 showed that the 1<sup>st</sup> Defendant was also the donee of powers of attorney in respect of five other properties, namely two more in Kampong Sungai Tilong: Lots numbers 62786 and 61445, two in Kampong Tanjong Nangka, Mukim Sengkurong: Lots numbers 63941 and 63942, and one in Kampong Sungai Tampoi, Mukim Sengkurong: Lot No 59932. The 1<sup>st</sup> Defendant does not now deny his interest in these properties and has offered no excuse or apology for his earlier concealment of them.

3 The Plaintiffs accordingly obtained this order on 13 January 2024 in respect of all these properties, which provided that they be attached to satisfy the judgment debt and that the 1<sup>st</sup> Defendant be prohibited from transferring, charging or leasing the properties or his interest in them. This is, of course, only to secure the Plaintiffs' interest. Should they wish to sell any of these properties to satisfy the judgment debt, they would have to come back to the Court for a further order.

4 It is conceded by the Plaintiffs that, since the date of the judgment, the 1<sup>st</sup> Defendant has paid the Plaintiffs B\$3,000.00, and they have recovered a further total of B\$65,884.34 by way of garnishee orders against two banks with which the 1<sup>st</sup> Defendant had accounts, leaving the sum of B\$81,319.71 of the judgment debt, and interest to 21 October 2024, outstanding.

5 The prohibitory order was made under the provisions of section 17 of the Debtor's Act, Cap 195 (the Act), and it is not in dispute that it was properly made under that section. This application is made under section 18 of the Act which reads as follows:

*"The court or a judge may at any time, on reasonable cause being shown and upon such terms, if any, as to security or otherwise as seem just, release the property seized and order any moveable property to be returned."*

6 The 1<sup>st</sup> Defendant in his affidavit evidence maintains that he has shown reasonable cause in respect of the properties and that they should be released. The Plaintiffs oppose the application with the exception of Lot No 62786, which they accept has already been sold and the 1<sup>st</sup> Defendant no longer has an interest in it. The reasons for the application in respect of the other properties I will look at in the order listed in the 1<sup>st</sup> Defendant's affidavit in support.

**Lot No 59331, Kampong Sungai Tilong**

7 I am told that this is the 1<sup>st</sup> Defendant's family home and has been in the family for a long time. He says that it would cause hardship to him and his family if it were sold and they were made homeless. However, nothing has been shown to me to support the proposition that a property being the home of a judgment debtor is a good reason for discharging an order such as this. I am mindful also of the fact that there is as yet no order for sale. This order just gives the Plaintiffs security in respect of what is owed to them. Should they return to the Court for an order for sale, then I have no doubt that the fact of it being the 1<sup>st</sup> Defendant's family home will be taken into account, but I do not consider it reasonable cause under section 18 of the Act.

**Lot No 61445, Kampong Sungai Tilong**

8 The 1<sup>st</sup> Defendant puts forward no reason why this property should be released, except that it is unnecessary to remain charged if Lot No 59932 is sold, which I have considered in paragraphs 11 and 12 below. He says that it is registered in another person's name and is vacant and undeveloped.

**Lot Nos 63941 and 63942, Kampong Tanjong Nangka**

9 While the 1<sup>st</sup> Defendant does not deny paying the purchase price for these properties, he submits that he has an arrangement, based on mutual trust, with a Mr Robert Hii who has paid sums of money to him to acquire a half share in the land which Mr Hii intends to develop. He goes on to say that it would be unfair and unjust in the circumstances for the land to be sold.

10 He does not deny, however, that he has an interest in this land himself, and, apart from a few receipts, from himself, there is no other evidence of Mr Hii's interest. Even if there was, it is the 1<sup>st</sup> Defendant's interest which is charged here and the question of Mr Hii's interest can be raised if there is an application for sale. I do not consider his reasons show cause for discharge.

**Lot No 59932, Kampong Sungai Tampoi**

11 In respect of this property, while the 1<sup>st</sup> Defendant does not seek an order for discharge, he says that he has had a valuation in the sum of B\$265,000.00, and a fire sale value of B\$198,750.00, and a sale of this would generate sufficient funds to satisfy the judgment debt, making it unnecessary to continue the prohibitory order in respect of the other properties. Ms Lee for the Plaintiffs submits that, following the judgment for B\$126,000.00 there was a further assessment of damages in the sum of B\$2,180,000.00 with interest and costs and the proceeds of sale of this property would not be sufficient to cover this as well, and that the order is not limited to the original judgment alone. I cannot agree with this argument. The wording of the order is quite clear and refers to the judgment sum of B\$126,000.00 only. If it had been intended to catch further sums due in the proceedings it would have said so. If the Plaintiffs wish to have an order in respect of the assessed damages as well they will have to apply for a fresh order. Ms Lee suggested that I could vary it. I am not prepared to do that at this late stage.

12 In any event, I do not consider the willingness of the 1<sup>st</sup> Defendant to sell one property a good reason for discharging the rest of the order. I am sure the Plaintiffs would be pleased if an agreement could be reached with the 1<sup>st</sup> Defendant to sell it without a further order of the Court, but, until that is done, they are still entitled to the security of the order over the rest of the properties.

13 For these reasons the application is dismissed in relation to all the properties in the order with the exception of Lot No 62786, Kampong Sungai Tilog, which I discharge. In view of the fact that the 1<sup>st</sup> Defendant has been unsuccessful in his application with the exception of one property conceded by the Plaintiffs, there will be an order for costs in favour of the Plaintiffs to be taxed if not agreed.



**EDWARD TIMOTHY STARBUCK WOOLLEY**  
Judicial Commissioner