

CASE UPDATE



13 September 2017

Warning to Take Mareva Injunction Orders Seriously - Businesswoman Sent to Jail for Contempt

1. In HC/Suit 211/2017, the Plaintiffs applied for an order of committal against the 1st and 4th Defendants, Song Fanrong and Friedrich Frobel Holding Pte Ltd (Friedrich Frobel) respectively. The application for committal was in respect of Song Fanrong and Friedrich Frobel's acts of dissipation of assets in breach of the Mareva Injunction Order.
2. At the hearing of the committal proceedings on 11 September 2017, Song admitted liability and responsibility to all four occasions of dissipation. These acts involved dissipation of Song's personal shareholding in Friedrich Frobel, as well as the dissipation of Friedrich Frobel's shareholdings in two of its stable of eight subsidiary kindergartens.
3. Altogether, Song collected almost S\$300,000/- of sale proceeds in respect of the said dissipations. In purported mitigation, Song claimed that all the sale proceeds have been spent for the kindergartens' expenses. Song also blamed the media for publicizing the Suit in the Lianhe Zaobao newspaper report dated 26 June 2017, which she said caused her adverse publicity and gravely affected the kindergarten business. She claimed that she had no alternative but to dissipate the shares to raise funds and to preserve the value of Friedrich Frobel and its kindergartens.
4. In refuting the Defendants' excuses, the Plaintiffs highlighted several aggravating factors. Firstly, the expression of remorse and contrition was insincere and contrived because the Defendant did not respond in like manner upon being served the committal papers but only did so almost 6 weeks later just a weekend prior to the hearing. Even after service of the committal papers, the Defendants continued to be defiant and persisted in their contempt by dissipating their further shares. Secondly, from the Defendants' own statement of accounts, that all the acts of dissipation took place even before the alleged adverse publicity and the kindergartens were already struggling financially before the Suit commenced. Thirdly, the Plaintiffs highlighted to the court that at least in the case of Song's dissipation of 2% of her shareholding in the 4th Defendant for S\$1 million, it is apparent that she had concealed the fact of the Mareva Injunction and also inflated the value of the shares sold in light of the poor financial state of the business.
5. The court therefore rejected the excuses offered by Song and Friedrich Frobel, who were accordingly found guilty of contempt of court. Song was sentenced to imprisonment until further orders. The court ordered that the case be brought back for review on the 27 September 2017 whereupon the court will consider whether and if so how the Defendant is prepared to purge the contempt.

For any queries relating to this article, please contact:

Quek Mong Hua
quekmonghua@leenlee.com.sg

Jacqueline Chua
jacquelinechua@leenlee.com.sg

Authors:
Quek Mong Hua
Jacqueline Chua

Lee & Lee
50 Raffles Place, #06-00 Singapore
Land Tower, Singapore 048623
Tel: +65 6220 0666

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6. This case serves as a stern reminder to potential contemnors not to disobey and flout court orders. Even while it is often said that imprisonment is a matter of last resort, the court will not hesitate to impose a sentence of imprisonment even at the first instance in appropriate cases.

The Plaintiffs were successfully represented by Quek Mong Hua, Jacqueline Chua and Yik Shu Ying of our firm.

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The following partners lead our departments:

Kwa Kim Li
Managing Partner
kwakimli@leenlee.com.sg

Quek Mong Hua
Litigation & Dispute Resolution
quekmonghua@leenlee.com.sg

Owyong Thian Soo
Real Estate
owyongthiansoo@leenlee.com.sg

Tan Tee Jim, S.C.
Intellectual Property
tanteejim@leenlee.com.sg

Adrian Chan
Corporate
adrianchan@leenlee.com.sg

Louise Tan
Banking
louisetan@leenlee.com.sg