

**IN THE HIGH COURT OF MALAYA AT KUALA LUMPUR
(COMMERCIAL DIVISION)
COMPANIES WINDING-UP NO.: WA-28NCC-949-09/2023**

BETWEEN

WILBUR TOCK BING HENG

... PETITIONER

AND

TOCK KHEE SONG

YEW LEE BLASTING SDN BHD

... RESPONDENTS



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JUDGMENT

INTRODUCTION

- [1]** Enclosure 55 is the First Respondent's ("R1") application pursuant to Order 38 rule (1) of the Rules of court 2012 ("ROC 2012") to challenge the admissibility of the voice recording and transcripts exhibited in Enclosure 19 and the entire affidavit affirmed by Lu Siew Bee on 05.11.2023 (Enclosure 20) together with the undated certificate under section 90A of the Evidence Act 1950.
- [2]** The 2 impugned voice recording in Exhibit P-14, Enclosure 19 and the certificate mentioned above was introduced in the Petitioner's application to appoint Interim Liquidator. The admissibility of the recording was disputed by R1 on the basis that the recording were made without the consent/knowledge of R1.
- [3]** R1 submitted that the audio recording was recorded in TKS' residential in Ang Mo Kio, Singapore which is subject to the jurisdiction of Singapore law. It was further argued by the R1 that the audio recording contravenes Section 5 of the Singapore Copyright Act 2021.



- [4] I agree with the Petitioner's submission that the use of the audio recording is in respect of a proceedings in Malaysia. Singapore law has no application over this Court in Malaysia.
- [5] I also agree with the Petitioner's submission that any evidence of audio recording is admissible in court as long as it is relevant to the proceedings herein.
- [6] In any event notwithstanding the issue of admissibility of the audio recording, I have made my decision to allow the Petition in Enclosure 2, and the appointment of Interim Liquidator in Enclosure 5, based on the affidavits of the parties **without** even having to refer to the recording or the transcripts.
- [7] My decision in Enclosure 5 for which I have earlier written my grounds and in Enclosure 2, were arrived at, based on the evidence contained in the Petitioner's affidavit in support of the Petition. I found from the affidavits by the Petitioner that he has proven the loss of substratum of the Company since the Company has ceased its principal business operations, and R1 was merely collecting rentals pending the sale of the 2 lands which were the only assets of the Company.
- [8] R1 has in fact admitted that he intended to sell the 2 lands.
- [9] Thus the application in Enclosure 55 is frivolous and unnecessary.



[10] Therefore the application in Enclosure 55 is dismissed with costs.

Dated 08 April 2025

.....t.t.....
Ahmad Murad Bin Abdul Aziz
Judge
High Court of Malaya
Kuala Lumpur

**COUNSEL FOR THE PETITIONER: GOIK KENWAYNE WITH FOONG
KAR YEE
SOLICITORS FOR THE PETITIONER: TETUAN DENNIS NIK & WONG**

**COUNSEL FOR THE RESPONDENT: PHAN YIT LENG
SOLICITORS FOR THE RESPONDENT: TETUAN LEAW & PHAN**

Cases Referred to: -

Legislation Referred to:

- Companies Act 2016
- Companies (Winding-Up) Rules 1972

Decision date: 01 July 2024



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