

Neutral Citation Number: [2015] EWHC 3766 (Ch)
IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 21/12/2015

Before :

MR JUSTICE MORGAN

Between :

(1) JANE REBECCA ONG

Claimants

(2) ALEXANDER ONG

(3) NICHOLAS ONG

(4) JORDANA ONG

- and -

ONG SIAUW PING

Defendant

Andrew Twigger QC and Oliver Hilton (instructed by **Isadore Goldman** for the First Claimant and by **Stephenson Harwood LLP** for the Second, Third and Fourth Claimants) for the **Claimants**

Mark Warwick QC and Henry Webb (instructed by **Addleshaw Goddard LLP**) for the **Defendant**

Upon written submissions following judgment

Judgment

MR JUSTICE MORGAN:

1. This judgment deals with certain matters arising following a judgment I handed down on 11 November 2015: see [2015] EWHC 3258 (Ch).
2. The judgment of 11 November 2015 recorded the fact that at a hearing on 5 October 2015, I notified the parties that, following earlier argument, I would make an order for disclosure in favour of the Second to Fourth Claimants against the Defendant. The judgment of 11 November 2015 gave my reasons for making that order.
3. Following the judgment on 11 November 2015, the Second to Fourth Claimants have submitted a draft order which provides for the Defendant to give disclosure by dates in the future, which I am asked to determine. The Defendant's response is that it is not appropriate to make such an order. The Defendant says that a draft order for disclosure was put before the court on 5 October 2015 and I then determined the dates which were to be inserted in various places in that order. The Defendant says he has complied with such an order; the Second to Fourth Claimants say that the Defendant has purported to comply, but has not properly complied, with such an order. The Second to Fourth Claimants now say that the court should make another order for disclosure with dates in the future and this further order should contain a penal notice.
4. Based on how matters have been described by the parties, it seems to me that I did indicate on 5 October 2015 the order for disclosure which I would make. On that basis, that order in the terms in which it was then expressed should be drawn up and sealed by the court to record the order made orally on 5 October 2015. If the Second to Fourth Claimants wish to argue that the Defendant did not comply with the order of 5 October 2015, then they may apply for further relief as a result. However, at this stage, I am not prepared to rule that the Defendant has failed to comply with the order of 5 October 2015 or to make an order on the basis that he has so failed to comply.
5. The judgment of 11 November 2015 dealt with an issue between the parties as to the Claimants' ability to recover the costs of two firms of solicitors who had been instructed for the Claimants. I have revised the draft orders submitted by the parties to give effect to my ruling on this point.
6. On 20 July 2015, I ordered the Defendant to pay into the Court Funds Office £550,000 on account of the costs of the Second to Fourth Claimants. I am now asked to make a further order that the Defendant make a payment on account of the First Claimants' costs, now that I have ruled on the issue of principle as to the ability of the Claimants to recover the costs of two firms of solicitors. I am prepared to make such an order. However, when I made my order of £550,000 in favour of the Second to Fourth Claimants, I did not reflect any prospect that any part of the Second to Fourth Claimants' costs would be disallowed on the basis that they duplicated costs incurred by the First Claimant. That means that any further order requiring the Defendant to make a payment on account of the Claimants' costs must now reflect to the full the possibility that there has been duplication of costs by the Claimants. On this basis, the further payment to be made on account will be £100,000.
7. I will extend the time for the Defendant to make the two payments on account of costs until 25 January 2016. There should be an extension of time in view of the procedural history to date.

8. The Defendant has asked for a stay of the orders for payments on account until the determination of his appeal against my original judgment of 17 June 2015. I note that Davis LJ has considered the Defendant's application for permission to appeal on the papers and has dismissed it on the basis that the proposed appeal is not realistically arguable. In these circumstances, I am not prepared to order a stay of the orders for payment on account of costs until after the Defendant has had an oral hearing of his application for permission to appeal.
9. As to the costs of the Second to Fourth Claimants' application for disclosure, I will order the Defendant to pay 80% of those costs to reflect the relative degree of success and failure of the parties.
10. As to the Claimants' costs of the argument as to the issues as to two sets of solicitors' costs, I will order the Defendant to pay 25% of those costs to reflect the relative degree of success and failure of the parties.