



CASE UPDATE

Striking Out at the Outset of Trial: When an Open Offer of Full Relief Leaves Nothing to Be Tried

Commercial Litigation | Dispute Resolution

IN BRIEF

In an unreported decision of the General Division of the High Court, on the first day of trial, [Suang Wijaya](#) and [Faraaz Amzar](#) (acting for the defendant) successfully persuaded an Honourable Judge of the General Division of the High Court to strike out the entirety of a claimant's claim pursuant to the Court's powers under O 9 r 16 of the Rules of Court 2021.

Our key ground was that the continuance of the trial, in the face of an open offer for amicable resolution by the defendant, would be an abuse of process for the claimant's collateral purposes.

The Court held that the defendant's open offer for amicable resolution already gave the claimant, in substance, every relief he had prayed for, so that a trial would serve no useful purpose. Despite the claimant's misgivings and dissatisfaction with the terms of the defendant's open offer, we successfully submitted that any purpose to be achieved by the trial would be limited to the claimant's collateral purposes of, say, obtaining oral testimony from the defendant to assist the claimant in the claimant's other disputes with the defendant.

The Court also exercised its inherent powers to maintain a confidentiality and sealing order over the proceedings leading up to the striking out of the claimant's claim, over the claimant's strenuous objections.

Can a claimant insist on a trial when the defendant has already offered, in open correspondence, everything the claimant asked the court to award? At the outset of a trial listed for around six days, a Judge of the General Division of the High Court answered no — striking out the claim on terms that the parties proceed in accordance with the defendant's open offer, and sealing the settlement under its inherent jurisdiction.

BACKGROUND

The claimant alleged that he had entered into an agreement with the defendant (whom we act for), under which the claimant would pay (and did pay) a third party a sum of money, and in return the claimant would acquire a beneficial interest in land outside Singapore. The claimant alleged that he had been induced into this agreement by the defendant's misrepresentations, and that he never received any beneficial interest in land. In essence, the claimant alleged that he had been scammed and deceived by the defendant. The claimant sought rescission of the alleged contract. The defendant, in turn, denied being party to any contract, and denied receiving the money.

The proceedings had run for several years and were ready for trial. Prior to the trial, the defendant made a series of open offers to end the matter. The final offer was to pay the claimant the full sum in issue, with pre-judgment interest and costs to be assessed by the Judge of the General Division of the High Court. In return, the defendant asked that the claimant relinquish to the defendant any interest the claimant might have in the foreign land. The claimant declined all of the defendant's offers.

THE APPLICATION

Acting for the defendant, Suang Wijaya applied orally, at the very start of the trial, for the trial not to proceed and for permission to strike out the claim. The offer already gave the claimant, in substance, all of the reliefs sought, so that a full trial would serve no useful purpose and would be an abuse of process.

The argument drew on [*TMT Asia Ltd v BHP Billiton Marketing AG \(Singapore Branch\)* \[2019\] SGCA 60](#) and [*TMT Asia Ltd v BHP Billiton Marketing AG \(Singapore Branch\)* \[2018\] SGHC 228](#), which recognises that a defendant's unqualified offer of (in substance) everything a claimant seeks may leave the claimant with no legitimate interest in going to trial.

The claimant resisted and cited a whole series of excuses. These included the excuses: (a) that the claimant had no beneficial interest in any land to relinquish to the defendant; (b) that only an offer for the full measure of costs and pre-judgment interest demanded by the claimant would suffice; (c) that the offers were allegedly made in bad faith late in the proceedings; (d) that the offer had "bells and whistles" such as confidentiality obligations which would not normally attach to an ordinary court judgment; and (e) the claimant should be entitled to test the claimant's testimony and prove the serious fraud allegations at trial.

THE DECISION

The Court accepted the defendant's core submission. Consistent with *TMT Asia Ltd v BHP Billiton Marketing AG (Singapore Branch)*, the offer gave the claimant what he had sought by way of relief. On the claimant's primary case in rescission, success at trial would simply return him the sum he had paid as restitution, as well as such quantum of interest and costs as the Court considers appropriate. This was precisely what the offer provided. The Court accepted that it would not be in the interests of justice to run a trial of several days to obtain findings of fact the claimant desired, or to fix interest and costs that could be resolved far more economically.

The Court therefore struck out the claim, on the basis that the parties proceed in accordance with the defendant's offer. The Court granted liberty for the claimant to restore the action if there was non-compliance with the offer. The Judge also directed that His Honour would fix the quantum of interest and costs and directed parties to exchange short written submissions on the same.

The Court also, in the exercise of its inherent powers, acceded to the defendant's application for confidentiality and sealing orders in respect of the proceedings. This was with a view to preserving the confidentiality of the settlement offer. The confidentiality orders were also designed to avoid the very outcome that the settlement offer was intended to achieve – an open court judgment against the defendant in terms of the reliefs the claimant prayed for.

SOME SALIENT POINTS

First, an offer of full relief can end a case. Where a defendant will give the claimant, in substance, everything the claim seeks, the court can close the litigation without a trial even in the face of a claimant's misgivings.

A claimant's wish to be vindicated by findings of fact does not, by itself, entitle the claimant to a full trial of an action. Here, a well-judged offer can be decisive even at the outset of trial, sparing a client days of trial.

Second, the court's inherent powers can protect a settlement's confidentiality. Even against an open-justice objection, the court sealed the proceedings. For parties who value privacy, confidentiality can be secured as part of the resolution itself.

Third, a claim pressed on for a collateral purpose can be struck out. Once the defendant has offered, in substance, all the relief sought, a claimant who insists on trial mainly to extract findings or oral testimony for use in other disputes may be invoking the court's process for a collateral purpose. The court can strike the claim out under O 9 r 16 of the Rules of Court 2021 rather than let its trial process be used that way.

HOW WE CAN HELP

Our firm acts in complex commercial disputes, representing claimants and defendants from strategy and interlocutory applications through to trial and appeal. We advise on bringing litigation to an efficient close — through well-structured offers, applications to strike out, and orders protecting a settlement's confidentiality. If you are facing a dispute of this kind, contact us for a confidential discussion.

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[Suang Wijaya](#)
Managing Director



[Faraaz Amzar](#)
Director

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