

Vatten International Pte Ltd (formerly known as Vatten Familj International Pte Ltd v Chan
Hong Seng Engineering & Construction Pte Ltd Vatten Familj International Pte Ltd
[2003] SGHC 228

Case Number : CA 69/2002, NM 49/2002
Decision Date : 17 January 2003
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Jinny Tan Ai Ling (Wee, Tay & Lim) for the Appellant; Tan Liam Beng and Yow Sue Joan (Drew & Napier LLC) for the Respondent
Parties : Vatten International Pte Ltd (formerly known as Vatten Familj International Pte Ltd — Chan Hong Seng Engineering & Construction Pte Ltd

Civil Procedure – Stay of appeal – Appellant's appeal inter-related with the Respondent's own appeal – Appellant unable to pay costs ordered below – Whether stay should be granted in respect of the Appellant's appeal.

1. Vatten International Pte Ltd ("Vatten") was sued by Chan Hong Seng Engineering & Construction Pte Ltd ("CHS") in Suit 1062 of 2000. CHS lost the suit and costs were awarded against them. Both parties have appealed against different aspects of the trial judges' decision. However, there was no stay of execution in respect of the costs that CHS were ordered to pay Vatten. The latter applied by motion to stay CHS's appeal until costs are paid. The motion was heard by me on 5 December 2002. Mr. Tan Liam Beng appearing on behalf of CHS informed me that CHS were unable to raise sufficient funds because they were unable to recover money from their debtors.

2. The two appeals are scheduled for hearing in the week beginning 20 January 2003. If I granted a stay of CHS's appeal, Vatten's appeal will still proceed (unless otherwise directed by the Court of Appeal). The two appeals are inter-related in that they concern findings of fact that include the nature and extent of variation of payment rates and the termination of the contract between the parties. A stay of proceedings in this case will merely stay CHS's appeal. It does not strike out the appeal. It is, therefore, conceivable that CHS's appeal may still be heard after Vatten's, but the consideration of that appeal may be subject to, or affected by, the appeal court's decision in the Vatten appeal. Hence, ideally, the two appeals should proceed in tandem. It was primarily for this reason that I granted CHS a month's grace to pay the costs. On 6 January 2003 the parties appeared before me again and Mr. Tan asked for a final grace period of four days which I granted. When parties appeared again Mr. Tan stated that his client had been promised payment but their debtor did not fulfil its promise. The desirability of having the two connected appeals heard together must, however, give way to the right of Vatten's appeal proceeding as scheduled since there is no clear or definite date in which CHS is able to procure funds to pay the costs it owes. In the circumstances, I allowed Vatten's application and stayed CHS's appeal.

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