IN THE APPELLATE DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2022] SGHC(A) 18

Civil Appeal No 116 of 2021

Between

(1) Metupalle Vasanthan
(2) Laszlo Karoly Kadar

… *Appellants*

And

(1) Loganathan Ravishankar
(2) Gunaratnam Sakunthar Raj

… *Respondents*

EX TEMPORE JUDGMENT

[Contract — Formation — Offer]
[Contract — Formation — Acceptance]
[Contract — Assignment]
[Contract — Waiver]

Metupalle Vasanthan and another
v
Loganathan Ravishankar and another

[2022] SGHC(A) 18

Appellate Division of the High Court — Civil Appeal No 116 of 2021
Belinda Ang JAD, Kannan Ramesh J and Hoo Sheau Peng J
20 April 2022

20 April 2022

Hoo Sheau Peng J (delivering the judgment of the court *ex tempore*):

Introduction

1 The appellants, Metupalle Vasanthan ("Dr Vas") and Laszlo Karoly Kadar ("Mr Laszlo"), appeal against the dismissal by the learned Judge ("Judge") of Dr Vas' claim against the first respondent, Loganathan Ravishankar ("Mr Logan"), for the sum of US$3.05m (the "Skantek debt"). The Skantek debt was allegedly owed by Mr Logan to Mr Laszlo, and then purportedly assigned by Mr Laszlo to Dr Vas.

Background

2 The facts are detailed by the Judge in *Metupalle Vasanthan and another v Loganathan Ravishankar and another* [2021] SGHC 238 (the "Judgment"), and we set out those relevant for the appeal.

3 Sometime in 2013, Mr Laszlo sold his shares in SkanTek Group Limited ("Skantek") to Mr Logan under an oral contract for US$4m. Skantek held about 70% of the ICE Group comprising a Malaysian company, ICE Mobile Sdn Bhd, and a Singapore company, ICE Messaging Pte Ltd. Mr Logan made payments totalling US$950,000 towards the purchase price, seemingly leaving a balance of US$3.05m. In a letter dated 25 June 2014, marked "without prejudice", a lawyer representing Mr Logan, Mr Tan Siew Bin Ronnie ("Mr Tan") from Central Chambers Law Corporation, wrote to Mr Laszlo to acknowledge that a balance of US$2.4m for the transaction would be paid to Mr Laszlo in December 2014 (the "Central Chambers Letter"). The unpaid balance, be it US$3.05m or US$2.4m, formed the Skantek debt.

4 The parties fell out thereafter. When Mr Laszlo pressed Mr Logan for payment of the Skantek debt, Mr Logan claimed that Mr Laszlo fraudulently misrepresented the value of the ICE Group. He discovered, *inter alia,* that the ICE Group did not have major contracts lined up with telecommunications giants as represented by Mr Laszlo. Mr Laszlo disputed the allegations; he insisted on payment of the Skantek debt. Sometime after 19 December 2014, there was a telephone call between Mr Tan and Mr Laszlo (the "2014 Telephone Call"). In respect of the call, there is a comprehensive and detailed attendance note by Mr Tan (the "Attendance Note"). According to Mr Tan, during the call, in view of Mr Logan's allegation of misrepresentation, the parties had agreed not to claim against each other. Thus, the Skantek debt had been compromised. Mr Laszlo, however, contended that during the conversation, he proposed that the parties should move on, but only after Mr Logan had paid him the sum of US$2.4m. No compromise was reached. Notably, the quantum of the Skantek debt that Mr Laszlo said he demanded is different from the US$3.05m claimed by Dr Vas.

5 Separately, on 13 October 2015, Mr Logan lent US$350,000 to Dr Vas's company, Clarity Radiology Pte Ltd ("Clarity" and the "Clarity debt"). When Clarity did not repay the money, Dr Vas signed a letter dated 30 July 2017, personally guaranteeing repayment of the Clarity debt, as well as certain other sums furnished to Clarity. Under the personal guarantee, Vas was to make repayment by 30 August 2017, failing which default compound interest at 2% per month would be payable.

6 Notwithstanding the personal guarantee, Dr Vas made no repayment to Mr Logan. On 29 December 2017, Dr Vas and Mr Logan entered into a trust deed (the "Logan Trust Deed"). The Logan Trust Deed recorded Dr Vas' indebtedness to Mr Logan in the sum of US$739,624.60, including interest calculated to 15 January 2018. It declared that Dr Vas held 7,000 shares in MyDoc Pte Ltd ("MyDoc") on trust for Mr Logan. If Dr Vas did not fully repay the amount by 15 January 2018, Dr Vas would transfer those 7,000 MyDoc shares to Mr Logan, who would sell them to a third party at the best price reasonably obtainable, set-off the proceeds of sale against the indebtedness, and return any surplus to Dr Vas. One of the clauses increased the interest rate that was payable upon default.

7 On 15 January 2018, however, Dr Vas emailed Mr Logan stating that he had used those same 7,000 MyDoc shares as "leverage to pay [Mr Laszlo], *as below email*, who was owed $2.4m … from yourself. With this, having *bought your debt*, I hope it makes it easier for your repayment [emphasis added]" (the "15 January 2018 Email"). The email which Dr Vas forwarded was from Mr Laszlo to Dr Vas dated 14 January 2018 (the "14 January 2018 Email"). In it, Mr Laszlo thanked Dr Vas "for the payment of 3M usd from you, attached is the debt note collateral from [Mr] Logan's lawyer confirming debt". The

attachment was the Central Chambers Letter, acknowledging that the balance of US$2.4m was due to Mr Laszlo.

8 Mr Logan responded via email, calling Dr Vas's conduct "unacceptable" and that he was "coming up with a NEW SCAM". He told Dr Vas to "please … not do anything with Mr [Laszlo] on my behalf. You have nothing to do with this except paying my loan to me". They met later that day (the "2018 Meeting"). Shortly after the meeting, Dr Vas emailed Mr Logan saying he "[understood] that there may be a lot more behind scenes with this loan obligation to the third party". He stated that he had "agreed to shelve this" and would write "separately about [his] loan obligation and settlement with Mydoc shares and clarity asset sale". According to the minutes of the 2018 Meeting, Dr Vas and Mr Logan agreed to, *inter alia*, assign 7,000 MyDoc shares to Mr Logan, preparatory to finding a buyer for them. However, Dr Vas failed to transfer the 7,000 MyDoc shares to Mr Logan or to repay the monies recorded as owning in the Logan Trust Deed.

9 On 31 July 2019, Mr Logan issued a statutory demand for the amount in the Logan Trust Deed, which was served on Dr Vas on 1 August 2019. Dr Vas applied to set aside the statutory demand on the basis, *inter alia*, that Mr Logan owed him more than the amount demanded due to the assignment to him of the Skantek debt. The bankruptcy proceedings were unsuccessful. Meanwhile, Dr Vas also commenced this action. He claimed against Mr Logan for the Skantek debt on the basis that it had been assigned to him. The amount claimed was US$3.05m. He argued in the alternative that the amount should be set-off against the debt of US$739,624.60 owed to Mr Logan under the Logan Trust Deed.

10 In response, Mr Logan contended that the Skantek debt had been compromised. Mr Logan brought a counterclaim against Dr Vas for the sum of US$739,624.60 reflected in the Logan Trust Deed as damages for Dr Vas' failure to transfer the 7,000 MyDoc shares to him. As against Mr Laszlo, Mr Logan sought damages for a breach of the compromise agreement between them to not claim against each other, and/or for fraudulent misrepresentation which led to Mr Logan's purchase of the Skantek shares.

The decision

11 The Judge found that the Skantek debt had indeed been compromised during the 2014 Telephone Call. In this connection, he accepted Mr Tan's evidence on what had transpired. He found that this was supported by the Attendance Note. In his view, Mr Tan had the authority to bind Mr Logan to a settlement. Thereafter, the parties considered the dispute between them resolved as a result of the 2014 Telephone Call, and they acted on that understanding. Further, the Judge observed that the present case was akin to *Carlill v Carbolic Smoke Ball Company* [1893] 1 QB 256 ("*Carlill*"), where the offeror (Mr Laszlo) did not expect or require any notice of acceptance other than performance by the offeree (Mr Logan) of his side of the bargain.

12 While the determination of the compromise issue was sufficient to fully dispose of the claim, the Judge proceeded, *obiter*, to deal with other points raised by the parties on the basis there was no compromise. Specifically, the Judge accepted that Mr Laszlo "did assign in equity the Skantek debt (if it existed) on or about 14 January 2018" (see the Judgment at [66]). That said, the Judge ruled that, in any event, Dr Vas had permanently waived the claim for the Skantek debt at the 2018 Meeting. Accordingly, the Judge dismissed the claim.

13 Turning to the counterclaim, the Judge assessed that the damages payable to Mr Logan for Dr Vas' failure to transfer the MyDoc shares was primarily the Clarity debt with interest, amounting to US$388,281.22. The Judge dismissed all other counterclaims. There is no appeal against the Judge's decision on the counterclaims.

The appeal

14 In the appeal, the appellants contend that the Judge erred in finding that the Skantek debt had been compromised, and that Dr Vas had permanently waived the claim for the same at the 2018 Meeting. Mr Logan argues that the appellants have failed to show that the Judge went wrong on these matters. Having distilled the parties' arguments before us, there are two issues (with two sub-issues in the second one) for our consideration:

(a) Whether the Skantek debt was compromised during the 2014 Telephone Call; and

(b) Whether the Skantek debt was assigned to Dr Vas, and if so, whether Dr Vas agreed to waive his claim on 15 January 2018 at the 2018 Meeting.

Whether the Skantek debt was compromised during the 2014 Telephone Call

15 On the compromise issue, essentially, the appellants run two related arguments. First, the appellants argue that there could not have been a settlement during the 2014 Telephone Call. Mr Tan did not have instructions to settle to begin with at that time. In fact, Mr Tan had explicitly informed Mr Laszlo that he would relay Mr Laszlo's proposal to Mr Logan and would take instructions from Mr Logan. Furthermore, Mr Laszlo had also stated, in his email to Mr Tan

requesting a call, that this would be "absolutely off the record". Any compromise should have been recorded in an open letter at the very least. Second, on the premise that Mr Laszlo did offer to settle the dispute, the appellants submit that this was never formally accepted by Mr Logan. Silence cannot amount to acceptance. On the face of the Attendance Note, during the call, there was merely an offer by Mr Laszlo to settle the dispute. If there was subsequent acceptance by Mr Logan of the offer, it must be communicated to Mr Laszlo. As Mr Tan did not communicate Mr Logan's acceptance to Mr Laszlo, a compromise was not reached. Connected to this, the appellants contend that the Judge's reliance on *Carlill* was misplaced.

16 In response, Mr Logan refers to a series of email correspondence between Mr Laszlo, Mr Logan and Mr Tan, which demonstrates that Mr Laszlo clearly knew that he was to only deal with Mr Tan, who had been engaged by Mr Logan. Furthermore, Mr Tan had not reserved his client's rights during the 2014 Telephone Call, or in a follow up email or letter after the same, as observed by the Judge. The Judge had correctly considered that Mr Laszlo did not appear to need to check for a response from Mr Tan after the latter had taken instructions from Mr Logan. Therefore, the Judge was correct to find that Mr Tan had authority to enter into a compromise, and that he did enter into the compromise agreement during the 2014 Telephone Call.

17 Turning to the appellant's first argument, we are of the view that the Judge was fully justified in finding that the Skantek debt was compromised during the 2014 Telephone Call. We are not persuaded that the Judge's assessment of the evidence and his conclusion that the Skantek debt was compromised were plainly wrong or against the overall weight of the evidence.

18 As explained by the Judge, he accepted "Mr Tan's evidence that an agreement was concluded on the telephone call, with Mr Tan saying words to the effect 'Yes, okay, you want to settle, *it is settled as you say*, *I will bring it to [Mr Logan]* [emphasis added]'". In the Judge's view, this position was "*captured*" in the last line of paragraph 9 of the Attendance Note where Mr Tan recorded that "[Mr Tan] would relay whatever [Mr Laszlo] told [him] to [Mr Logan] and take instructions from there." Further, the Judge observed that being a careful solicitor, if there had been no concluded compromise, Mr Tan would have expressly reserved Mr Logan's position. Mr Tan did not say that he needed to take Mr Logan's instructions, and come back to Mr Laszlo before there was a concluded compromise. Instead, Mr Tan ended the conversation "believing he had served his client's interest by settling the dispute" (see the Judgment at [37]).

19 Read in isolation, it appears to us that there is some ambiguity whether the last line of paragraph 9 truly "captured" Mr Tan's stance that during the telephone call, he had concluded the compromise. Without reference to Mr Tan's evidence, that line could be interpreted, as Mr Laszlo contends, to mean that Mr Tan would bring Mr Laszlo's offer to Mr Logan, *ie, relay whatever Mr Laszlo told him*, and take Mr Logan's instructions. In this connection, we note that Mr Tan candidly conceded that there was no mention of a binding settlement agreement in the Attendance Note. Nonetheless, he disagreed that this was not mentioned during the 2014 Telephone Call. That was the substance of the conversation. This was duly considered by the Judge and he believed Mr Tan's testimony.

20 Having considered Mr Tan's evidence and the Judge's analysis, and reading the Attendance Note in its entirety, we are of the view that the last line

of paragraph 9 supports Mr Tan's account that he would report to Mr Logan that the matter has been settled with Mr Laszlo (which Mr Logan confirmed he did).

21 In taking this view, we are fortified by the fact that the other portions of the Attendance Note corroborate Mr Tan's testimony. As we observed at [4] above, the Attendance Note is comprehensive and detailed. It is an important contemporaneous record of the conversation between the two men. Due weight should be accorded to it. As the Judge observed, Mr Tan stated that during the conversation, Mr Laszlo began "by talking at length about how much Mr Logan owed him", and how he and his family had suffered. After Mr Tan explained to him that Mr Logan was furious at what he had discovered and believed he was the victim of a fraud, Mr Laszlo "changed his position". He said that "both sides had lost out and should just move on with their lives, with no claims against each other" (see the Judgment at [28]). The Attendance Note reflects these significant aspects of Mr Tan's testimony.

22 More importantly, the Attendance Note contradicts Mr Laszlo's account. According to Mr Laszlo, during the 2014 Telephone Call, he had said that the parties should move on but only after Mr Logan had paid him US$2.4m. He ended with the threat of taking legal action. One difficulty with this version, as the Judge noted, is that it was not put to Mr Logan (see the Judgment at [31]). If there is any truth in Mr Laszlo's testimony, this was an important omission that is not addressed in the appeal. Like the Judge, we question the veracity of Mr Laszlo's version of his position uttered during the conversation. More significantly, such a position was contradicted by the Attendance Note. There was absolutely no mention of Mr Laszlo's alleged demand and threat of legal action. If Mr Laszlo had threatened legal action if he was not paid US$2.4m, undoubtedly, Mr Tan would have recorded this, and informed Mr Logan. Otherwise, he would put Mr Logan at risk of being sued. Instead, as pointed out

above, the Attendance Note recorded that Mr Laszlo proposed, more than once, that parties should have no claims against each other. Mr Laszlo's account, therefore, was undermined by this contemporaneous record.

23 Further, Mr Laszlo's version is also inconsistent with his subsequent inaction. Mr Logan's evidence (which was not disputed) was that he did not hear from Mr Laszlo for several years after the 2014 Telephone Call, until Mr Laszlo supported Dr Vas in the latter's reliance on the alleged assignment of the Skantek debt. As the Judge astutely observed, "had Mr Laszlo ended the call with how they could get on with their lives only after Mr Logan paid up, he would surely have followed up with a demand or even commenced proceedings against Mr Logan soon after". His version did not fit "with the three years of inaction on his part". It must be remembered that the onus was very much on Mr Laszlo. He was allegedly owed US$2.4m by Mr Logan for the Skantek shares which he had transferred to Mr Logan. Mr Logan had not paid him or transferred the shares back to him. Therefore, the Judge, quite rightly, rejected his version as "wholly unbelievable" (see the Judgment at [30]).

24 We also consider some other evidential points raised by the appellants. As the appellants point out, it is undisputed that Mr Logan did not reply to Mr Laszlo following the 2014 Telephone Call. Also, nothing was recorded by way of a letter from Mr Tan. Mr Laszlo had also stated, in his email dated 19 December 2014 to Mr Tan requesting a call, that this would be "absolutely off the record" (at [15] above). However, from what we have discussed above, we agree with the Judge's holding that Mr Tan and Mr Laszlo had compromised the Skantek Debt during the conversation. Moreover, Mr Logan explained that he accepted Mr Tan's update that the matter had been settled, and that there was nothing more to be done about it. As against this, if Mr Laszlo had been waiting for a response from Mr Tan after Mr Tan had taken instructions from Mr Logan,

he would have followed up to clarify, but he never did so. As noted earlier, the onus was very much on Mr Laszlo.

25 Based on the foregoing, we reject the appellants' first argument. For completeness, and for the reasons stated by the Judge, we are of the view that Mr Tan had the authority to enter into the compromise agreement on behalf of Mr Logan (see the Judgment at [38]). We see no need to say anything more on this question.

26 We turn to address the appellants' second argument, and the Judge's reliance on *Carlill*. The second argument was also run before the Judge as an alternative case. As the Judge noted, counsel for the appellants sought to characterise the conversation during the 2014 Telephone Call "as at best an offer by Mr Laszlo to forbear to sue, in return for a like promise from Mr Logan, which Mr Tan did not and could not accept without first relaying the offer to Mr Logan" (see the Judgment at [35]). Thereafter, there was no communication of Mr Logan's acceptance. As a preliminary observation, we make the same point made by the Judge that the alternative case is wholly inconsistent with Mr Laszlo's testimony (see the Judgment at [36]). *Mr Laszlo's evidence was that he demanded payment and threatened legal action, and not that he offered not to sue in return for a like promise from Mr Logan*. Therefore, we agree with the Judge that counsel for the appellants cannot run an alternative case which is palpably inconsistent with the evidence of the client, Mr Laszlo.

27 Putting this to one side, the Judge seemed to have accepted, as an alternative, that even if there was no concluded agreement during the 2014 Telephone Call, Mr Laszlo did not require notice of acceptance of his offer, save for the performance by Mr Logan of his side of the bargain. In this connection, he applied the principle in *Carlill.*

28 In *Carlill,* the Carbolic Smoke Ball Company ("Carbolic") placed advertisements for its remedy for influenza offering money to any person who contracted influenza after having used one of the smoke balls under specified conditions. Mrs Carlill bought a smoke ball, and despite using it in the manner as specified by the company, caught influenza. She successfully sued Carbolic. An argument raised by Carbolic was that Mrs Carlill had never accepted its offer, and that there was no binding contract. Rejecting the argument, the English Court of Appeal held that the offeror had impliedly indicated that it did not require notice of acceptance other than performance of the condition.

29 The Judge noted that while it might be argued that Carbolic had an interest in supervising performance and so might have preferred notification of acceptance prior to performance by Mrs Carlill, in case it wanted to check on her use of the smoke ball, here, Mr Logan's performance of the condition not to sue him would be clearly known to Mr Laszlo. The Judge also found that this was supported by Mr Laszlo's inaction for several years (see the Judgment at [40]–[43]). Therefore, the facts are "more compelling" than those in *Carlill,* and justified an application of the principle in *Carlill*.

30 With respect, we are unable to agree with this reasoning. As pointed out by Mr Laszlo, *Carlill* involved an invitation to treat to the general public, and it may be inferred from the terms of the offer that performance of the condition would be sufficient as acceptance without notification. However, if there was no compromise agreement concluded during the 2014 Telephone Call, and there was merely an offer of forbearance from Mr Laszlo, for a like promise from Mr Logan, performance alone by Mr Logan forbearing to sue, in our view, is not sufficient to constitute acceptance (notwithstanding Mr Laszlo's subsequent inaction). Mr Laszlo did not clearly stipulate that he would dispense with

notification of acceptance, and it could not be inferred from the circumstances that performance by the offeree in accordance with the condition would suffice.

31 On Mr Tan's version of the facts (ignoring for the moment his evidence that the compromise was reached), there was no clear intimation on Mr Laszlo's part that he did not wish to hear from Mr Tan. In fact, according to Mr Tan, Mr Laszlo had "continually emphasised" that it was best for them to take it that there should be no claims against each other. Proceeding on the premise, as the Judge did, that there was no concluded compromise during the conversation, there seems to be no reason to infer that Mr Laszlo would have dispensed with the requirement of notice of acceptance. On the contrary, he would have wanted Mr Tan to respond with Mr Logan's decision on the proposal. Mr Laszlo's subsequent inaction, in our view, does not change this analysis. On this postulation, Mr Laszlo's offer would not have been accepted.

32 The present case is therefore unlike that contemplated by Bowen LJ in *Carlill,* where since "notification of acceptance is required for the benefit of the person who makes the offer, the person who makes the offer may dispense with notice to himself if he thinks it desirable to do so … if the person making the offer, expressly or impliedly intimates in his offer that it will be sufficient to act on the proposal without communicating acceptance of it to himself, performance of the condition is a sufficient acceptance without notification" (at 269–270). Accordingly, we do not agree with the application of the principle in *Carlill* to the present facts.

Whether the Skantek debt was assigned to Dr Vas, and whether there was waiver by Dr Vas

33 Having determined the first issue, it is strictly not necessary for us to deal with the second issue. Given the compromise agreement, there simply

could not have been an assignment of the Skantek debt to Dr Vas. Dr Vas said that he obtained an assignment of the Skantek debt from Mr Laszlo on 14 January 2018 and had made payment of US$3m. As it subsequently transpired, the payment was supposed to be by way of transfer of 7,000 MyDoc shares to Mr Laszlo valued at US$3m. However, there was no transfer of shares as claimed. In short, there is no evidence that supports Dr Vas' claim that he bought the Skantek debt. Against this backdrop, we have concerns with the Judge's approach on the assignment issue, albeit *obiter,* and therefore find it necessary to set out our views.

34 Although the Judge acknowledged that the issue was moot, he proceeded to accept that there was an equitable assignment of the Skantek debt (if it had not been compromised during the 2014 Telephone Call). Specifically, the Judge "*infer[red]*" that "there was a conversation prior to" the 14 January 2018 Email (this is the email from Mr Laszlo to Dr Vas acknowledging the payment of US$3m for the debt, and attaching the Central Chambers letter) "which constituted the equitable assignment". The Judge proceeded to accept that "Mr Laszlo did assign in equity the Skantek debt (if it existed) on or about 14 January 2018, and that Dr Vas notified Mr Logan of the assignment by his email of 15 January 2018" (see the Judgment at [66]).

35 Putting aside the fact (as we have found) that the Skantek debt had been compromised, there were many other dubious circumstances surrounding the assignment which renders it questionable whether Dr Vas had proven his pleaded case that Mr Laszlo "assigned the aforesaid debt" to Dr Vas "for consideration of US$3[m]". We raise four points.

36 First, it would seem that the very same 7,000 MyDoc shares which Dr Vas was holding on trust for Mr Logan pursuant to the Logan Trust Deed formed

the consideration allegedly agreed on for the assignment. In the 15 January 2018 Email, Dr Vas informed Mr Logan that he used the 7,000 MyDoc shares as "leverage" to pay Mr Laszlo, and that he had "bought" the Skantek debt. As noted earlier, Dr Vas and Mr Laszlo deposed that the consideration for the assignment was the 7,000 MyDoc shares, and they agreed that the MyDoc shares would have a value of US$3m. Dr Vas should have known that it was not open to him to use the 7,000 MyDoc shares (held on trust under the Logan Trust Deed) to buy the debt. Also, it is difficult to understand why Dr Vas would pay US$3m as consideration, when the attached Central Chambers Letter only acknowledged a debt of US$2.4m.

37 Secondly, the assignment purportedly took place on 14 January 2018. Suspiciously, this was one day before Dr Vas was obliged to repay the outstanding amount to Mr Logan under the Logan Trust Deed, failing which the 7,000 MyDoc shares would have been transferred to Mr Logan for the purpose of finding a buyer for the shares. It seems to us that the assignment was contrived to offer Dr Vas some basis to resist payment of the indebtedness under the Logan Trust Deed, as the deadline for the payment had fallen due on 15 January 2018 and Dr Vas was obliged to transfer the shares to Mr Logan for the purpose of finding a buyer.

38 Third, there is no evidence that there were any transfers of MyDoc shares which ought to have taken place as part of purchase of the Skantek debt. Dr Vas and Mr Laszlo deposed that the consideration of 7,000 MyDoc shares was later renegotiated between them to 4,000 shares which (according to Mr Laszlo) were to be held on trust by Dr Vas for Mr Laszlo's wife, Ms Dutt Devika Maria ("Ms Devika"). But there is only correspondence indicating these figures, as well as a trust deed dated 1 November 2019 between Dr Vas and Ms Devika. That deed declares that Dr Vas will assign 4,000 of his MyDoc shares for an

estimated US$2.4m debt due from Mr Logan to Ms Devika, and that he holds these shares on trust for her. Even if this might explain why there were no share transfers prior to that, we note that there is no other evidence to shed light on the status of the 7,000 MyDoc shares that were allegedly sold to Mr Lazlo by Dr Vas in 2018. Neither is there any explanation for why the US$2.4m debt is said to be due to Ms Devika and not Mr Laszlo, or why the deed was signed by Mr Laszlo and not Ms Devika.

39 Fourth, a deed of assignment of the Skantek debt dated 14 January 2018 between Dr Vas and Mr Laszlo was only signed much later in 2019. This was, *inter alia*, deposed by Dr Vas, and supported by a screenshot of the document properties of the deed that was put to Dr Vas in cross-examination, which included 18 September 2019 in its file name (see the Judgment at [33]). We agree with the Judge that it would appear that the deed of assignment was created on that date, and therefore intended to defeat the statutory demand which was issued on 31 July 2019 and served on Dr Vas on 1 August 2019. On that basis, the Judge rejected the contention that there was a valid legal assignment. Instead, as we stated, the alleged equitable assignment on or about 14 January 2018 was found to rest on a conversation between the parties.

40 In our view, the conclusion to be drawn from all the questionable circumstances is that by the purported purchase of the Scantek debt, Dr Vas sought to put the 7,000 MyDoc shares out of Mr Logan's reach, without having to pay what was due to Mr Logan. We appreciate that Mr Logan has not specifically pleaded that any purported assignment was not genuine but a sham transaction. Nonetheless, it was argued before the Judge that there was no such transaction. The flimsy, inconsistent and unsatisfactory evidence means that the pleaded case of a purported purchase of the Skantek debt for a consideration of US$3m faltered at the outset. That said, we are mindful that consideration is not

required for a valid assignment of a present chose in action (*Sutherland, Hugh David Brodie v Official Assignee and another* [2021] 4 SLR 752 at [24]). Our point is that we are doubtful that the transaction, as pleaded, was proven. In particular, it seems to us that the Judge was generous with the appellants in drawing the inference that there was a conversation which constituted the equitable assignment. Instead, the questionable circumstances only serve to highlight the opportunistic conduct of Dr Vas and Mr Laszlo, as observed by the Judge, and to support the finding that there had been a compromise agreement which puts an end to any claim based on the Skantek debt.

41 To round off, we also have some difficulties with the Judge's finding of a waiver by Dr Vas. This was not pleaded by Mr Logan, who merely pleaded that Dr Vas had admitted and agreed to not get involved with the alleged debt and to "shelve this"; and that even if there was such a notice of assignment of the debt, which was denied, it was "effectively withdrawn" by Dr Vas. Before us, counsel for Mr Logan accepted this. In any case, it does not seem to us that "waiver" is the applicable legal concept. We note that the term has been used in at least six different ways, including as an agreed variation of a contract, or the effect of the doctrine of abandonment of rights (Michael Barnes QC, *The Law of Estoppel* (Hart Publishing, 2020) at paras 2.206 to 2.213). In our view, though, what the Judge appeared to have found was in fact a compromise agreement whereby Dr Vas promised not to sue, and he was in turn given more time to raise funds from the sale of some of his MyDoc shares to a person he was comfortable with (see the Judgment at [74]). However, we say no more on this.

Conclusion

42 By all of the above, we dismiss the appeal. Having considered the parties' costs submissions, we order the appellants to pay costs of $38,000 (all in) to Mr Logan. The usual consequential orders apply.

Belinda Ang Saw Ean
Judge of the Appellate Division

Kannan Ramesh
Judge of the High Court

Hoo Sheau Peng
Judge of the High Court

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