

SUPREME COURT OF SEYCHELLES

Reportable

[2023]

MA No.324/2023

Arising in CS89/2023

In the matter between

LI YOUNG

(rep. Basil Hoareau)

and

CHEN TSUNG-WEI

(Unrepresented)

1st Defendant

LI CHAO

(Unrepresented)

2nd Defendant

PAEDIQ THERAPEUTIC SERVICE INC

(Rep by Audrick Govinden)

3rd Defendant

OVERSEAS MANAGEMENT COMPANY (SEYCHELLES)

(rep. by Serge Rouillon)

4th Defendant

Neutral Citation: Young v Tsung-Wei & Ors CS89/2023) [2023] SCSC

G. Dodin, J

Heard: 28 November 2023

Delivered: 28 November 2023

ORDER

G.DODIN J

- [1] The Plaintiff, Li Young, a Chinese national, was initially the holder of 100,000 shares in the 3rd Defendant, Paediq Therapeutic Services Inc, a company, having its registered office at Oliaji Trade Centre, Victoria, Mahe, Seychelles. The 4th Defendant, Overseas Management Company (Seychelles) Limited, a company, is the registered agent of the 3rd

Defendant and is also based at Oliaji Trade Centre, Victoria, Mahe, Seychelles. The 1st Defendant Chen Tsung-Wei and the 2nd Defendant, Li Chao, are Chinese nationals residing in China.

- [2] The Plaintiff filed a complaint, CS 89/2023 against the Defendants claiming that by fraudulent transfers perpetrated by the 1st or 2nd Defendants, the 1st Defendant has fraudulently acquired 5000 shares of the Plaintiff and the 2nd Defendant has fraudulently acquired 95,000 shares of the Plaintiff, hence fraudulently depriving the Plaintiff of all his shares. The Plaintiff avers that he has never signed any transfer of his shares to anyone and therefore the documents of transfer in favour of the 1st and 2nd Defendant could only be forgeries.
- [3] In addition to the remedies being sought in case CS89/23, the Plaintiff now Petitions the Court in MA324/2023 for the following *ex parte* (without notice) interim or interlocutory prohibitory injunctions :
- (i) an *ex parte* (without notice) interim or interlocutory prohibitory injunction, prohibiting Chen Tsung-Wei (hereinafter referred to as Tsung-Wei) from selling, transferring, dealing with, or otherwise disposing or compromising, all or any of the 5000 shares presently held in his name, in Paediq Therapeutic Service Inc (hereinafter referred to as “the Company”);
 - (ii) an *ex parte* (without notice) interim or interlocutory prohibitory injunction, prohibiting Li Chao (hereinafter Chao), from selling, transferring, dealing with, or otherwise disposing or compromising, all or any of the 95000 shares presently held in his name in the Company;
 - (iii) an *ex parte* (without notice) interim or interlocutory prohibitory injunction prohibiting the Company and Overseas Management Company (Seychelles) Limited, from registering any transfer of shares by virtue of which Tsung-Wei and/or Chao are transferring any of the shares presently held in their respective names in the Company;

- (iv) an *ex parte* (without notice) interim or interlocutory prohibitory injunction, prohibiting the Company and Overseas Management Company (Seychelles) Limited (hereinafter Overseas Management), from making any alteration to the register of members, register of beneficial owners and register of the directors of the Company;
- (v) an *ex parte* (without notice) interim or interlocutory prohibitory injunction prohibiting the Company from transferring, dealing with, or otherwise disposing or compromising in any manner whatsoever, all of any part of the sum of USD 2,500,000 (hereinafter “the funds”), found in the USD bank account of the Company held with DBS Bank Ltd in Singapore (hereinafter “the bank account”); and/or
- (vi) an *ex parte* (without notice) interim or interlocutory prohibitory injunction prohibiting Tsung-Wei and/or Chao, whether singly or jointly, from causing and allowing the Company to transfer, deal with, or otherwise dispose or compromise in any manner whatsoever, all or any part of the funds found in the bank account;

[4] All the above to be maintained until further order of this Honourable Court.

[5] Should the above prayers be granted, the Petitioner prays further for service on the Chen Tsung-Wei, Li Chao, Paediq Therapeutic Service Inc and Overseas Management Company (Seychelles) Limited (hereinafter collectively referred as “the Respondents”), of the *ex parte* interim or interlocutory injunctions.

[6] After hearing the application inter parties, the Petitioner moves the Court to make the following *inter partes* interlocutory injunctions;

- (i) an interlocutory prohibitory injunction, prohibiting Tsung-Wei from selling, transferring, dealing with, or otherwise disposing or compromising, all or any of the 5000 shares presently held in his name, in the Company;

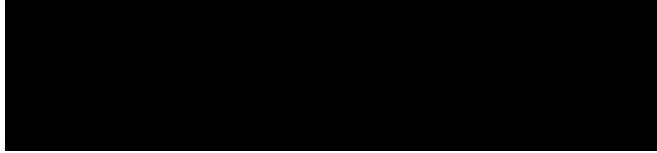
- (ii) an interlocutory prohibitory injunction, prohibiting Chao, from selling, transferring, dealing with, or otherwise disposing or compromising, all or any of the 95000 shares, presently held in his name in the Company;
- (iii) an interlocutory prohibitory injunction prohibiting the Company and Overseas Management, from registering any transfer of shares by virtue of which Tsung-Wei and Chao is transferring any of the shares presently held in their respective names in the Company;
- (iv) an interlocutory prohibitory injunction, prohibiting the Company and Overseas Management Company (Seychelles) Limited (hereinafter Overseas Management), from making any alteration to the register of members, register of beneficial owners and register of the directors of the Company;
- (v) an interlocutory prohibitory injunction prohibiting the Company from transferring, dealing with, or otherwise disposing or comprising in any manner whatsoever, all or any part of the sum of USD 2,500,000 (hereinafter “the funds”), found in the USD bank account of the Company held with DBS Bank Ltd in Singapore (hereinafter “the bank account”); and/or
- (vi) an interlocutory prohibitory injunction prohibiting Tsung-Wei and/or Chao, whether singly or jointly from causing and allowing the Company to transfer, dealing, with, or otherwise dispose of compromise in any manner whatsoever, all or any part of the funds found in the bank account.

[7] The Petitioner prays for all the above *inter partes* injunction to remain in force until the final determination of the suit instituted by the Applicant against Chen Tsung-Wei, Li Chao, Paediq Therapeutic Service Inc and Overseas Management Company (Seychelles) Limited, in case number 89 of 2023.

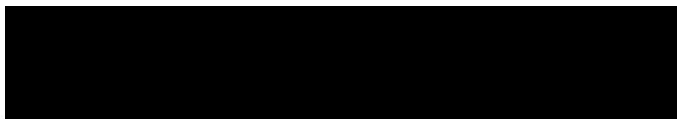
[8] The Petitioner further prays the Court to grant leave to the Petitioner to serve notice of the suit instituted by the Applicant against Chen Tsung-Wei, Li Chao, Paediq Therapeutic Service Inc and Overseas Management Company (Seychelles) Limited, in case number

CS89 of 2023 on the 1st and 2nd Defendants outside of the jurisdiction of the Supreme Court of Seychelles, more specifically on;

(a) Chen Tsung-Wei



(b) Li Chao



- [9] The Supreme Court is vested with the necessary power to grant injunctions in view that it is also a court of equity. Section 6 of the Courts Act provides that:

“The Supreme Court shall continue to be a Court of Equity and is hereby invested with powers, authority, and jurisdiction to administer justice and to do all acts for the due execution of such equitable jurisdiction in all cases where no sufficient legal remedy is provided by the law of Seychelles”.

- [10] Furthermore under article 304 of the Seychelles Code of Civil Procedure the Court have power to issue injunctions *pendente lite* or after judgment. Article 304 provides that:

“It shall be lawful for any plaintiff, after the commencement of his action and before or after judgment, to apply to court for a writ of injunction to issue to restrain the defendant in such action from the repetition or continuance of the wrongful act or breach of contract or injury of a like kind, arising out of the same contract or relating to the same property or right, and such writ may be granted or denied by the said court upon such terms as to the duration of the writ, keeping an account, giving security, or otherwise, as shall seem reasonable and just.”

- [11] The consideration for granting an *ex parte* interim injunction are similar to the criteria in determining the granting of *inter partes* injunction. These are that there must be a serious matter to be tried; there is a real prospect of the main case to succeed and the balance of convenience. In the case of Exeter Trust Com v Indian Ocean Tuna Limited (253 of 2009) [2010] SCSC 89 (26 May 2010) stated:

“ . . . in matters of interlocutory injunctions, the Court must be satisfied prima facie that the claim is bona fide, not frivolous or vexatious; in other words, that there is a serious question to be tried vide:... Unless the materials available to the court at the hearing of the application for an interlocutory injunction, disclose that the petitioner has a real prospect of succeeding in his claim at the trial, the court should not go on to consider whether the balance of convenience lies in favour of granting or refusing the interim relief that is sought. In considering the balance of convenience, the governing principle is whether the petitioner would be adequately compensated by an award of damages, which the respondent would be in a financial position to pay, and if so, the interim injunction should not be granted. Where there is doubt as to the adequacy of remedies in damages available to a party, the court would lean to such measures as are calculated to preserve the status quo.”

- [12] The Court is not required to consider in detail the main claim by the Petitioner but only whether there is a prima facie or apparent case to be tried. I find that the Plaintiff in Case 89/23 (Petitioner in this Petition) does have a serious matter to be tried and should the Plaintiff prove that he never signed any of the share transfers, he has a real chance of succeeding. It is also obvious that if the 1st and 2nd Defendants dispose of the shares they are now holding, it may be possible that the Plaintiff may not be able to recover the shares. Further, it is more likely that if the money, USD 2,500,000 in the USD bank account of the Company Paediq Therapeutic Services Inc held with DBS Bank Ltd in Singapore is disposed of, it may never be recovered.

[13] For these reasons, I grant the interim injunction as prayed for by the Petitioner by making the following orders:

- i. I grant an *ex parte* interlocutory injunction, prohibiting the 1st Defendant Chen Tsung-Wei from selling, transferring, dealing with, or otherwise disposing or compromising, all or any of the 5000 shares presently held in his name, by the 3rd Defendant, the company Paediq Therapeutic Service Inc.
- ii. I grant an *ex parte* interlocutory injunction, prohibiting the 2nd Defendant Li Chao from selling, transferring, dealing with, or otherwise disposing or compromising, all or any of the 95000 shares presently held in his name in the company Paediq Therapeutic Service Inc.
- iii. I grant an *ex parte* interlocutory injunction prohibiting the 3rd Defendant Paediq Therapeutic Service Inc. and the 4th Defendant Overseas Management Company (Seychelles) Limited, from registering any transfer of shares held by the 1st and 2nd Defendants in Paediq Therapeutic Service Inc.
- iv. I grant *ex parte* interlocutory injunction prohibiting the 3rd and 4th Defendants from making any alteration to the register of members, register of beneficial owners and register of the directors of the Paediq Therapeutic Service Inc.
- v. I grant an *ex parte* interlocutory injunction prohibiting the 3rd Defendant from transferring, dealing with, or otherwise disposing or compromising in any manner whatsoever, all or any part of the sum of USD 2,500,000 found in the USD bank account of the Company held with DBS Bank Ltd in Singapore.
- vi. I grant an *ex parte* interlocutory injunction prohibiting the 1st Defendant or the 2nd Defendant whether singly or jointly, from causing and allowing the 3rd Defendant to transfer, deal with, or otherwise dispose or compromise in

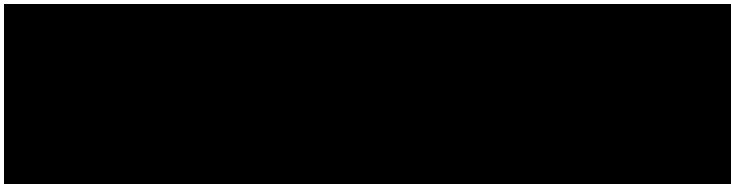
any manner whatsoever, all or any part of the funds found in the bank account;

[14] All the above orders shall be maintained until further orders of this Honourable Court or until the final determination of case CS89/23.

[15] This Order shall be served on the 1st Defendant Chen Tsung-Wei, the 2nd Defendant Li Chao, the 3rd Defendant Paediq Therapeutic Service Inc and the 4th Defendant Overseas Management Company (Seychelles) Limited.

[16] I further grant leave to the Petitioner to serve notice of the suit instituted by the Petitioner, (Plaintiff in CS89/2023) against Chen Tsung-Wei and Li Chao outside of the jurisdiction on the following addresses;

i. Chen Tsung-Wei



ii. Li Chao



Signed, dated and delivered at Ile du Port on 1st December, 2023.

A handwritten signature in blue ink, appearing to read 'C G Dodin'.

C G Dodin
Judge.

