

Arbitration clauses and the just and equitable winding up jurisdiction (Japanese)

Insights - 11/10/2021

On 23 October 2020, the Court of Appeal (Moses JA, Martin JA and Rix JA) considered the effect of an arbitration clause on the just and equitable winding up jurisdiction of the court.

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Introduction

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Conclusion

China CVS (Cayman Islands) Holding Corp (CVS) is a company incorporated in the Cayman Islands. CVS is a subsidiary of Ting Chuan (Cayman Islands) Holding Corporation (TC). FamilyMart China Holding Co. Ltd (FMCH) is a company incorporated in the Cayman Islands. On 20 October 2020, the court considered the effect of an arbitration clause on the just and equitable winding up jurisdiction of the court.

Court of Appeal

- a. Court of Appeal *Kawaley* [2019] (1) CILR 266 per Kawaley J.
- b. *Gwembe Valley Development Co Ltd (No. 3) [2003] BCLC 131 at 151* [2003] BCLC 131 at 151 *Movitex v Bulfield [1988] BCLC 104*
- c. Court of Appeal *Fortuna Development Corporation [2004-5] CILR 197* [2004-5] CILR 197 *Rackind v Gross [2005] 1 WLR 3505* [2005] 1 WLR 3505 *Board of Trade, ex parte St Martins Preserving Co Ltd (1965) 1 QB 603* [1965] 1 QB 603
- d. *Re Fildes Bros Ltd [1970] 1 LWR 592* [1970] 1 LWR 592 *Ross River v Waverly Commercial [2014] 1 BCLC 545* [2014] 1 BCLC 545 *Sheikh Tahnoon Al Neyhayan v Kent [2018] EWHC 333* [2018] EWHC 333

Court of Appeal

Court of Appeal

Court of Appeal FMCH

[1] In the matter of China CVS (Cayman Islands) Holding Corporation [2019] (1) CILR 266 per Kawaley J.

[2] 4 [...]

[3] 95(2) [...]

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