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Suning International Group Co Limited and Suning.com Co Ltd v Carrefour Nederland BV [2025] CICA (Civ) 11

AUGUST 2025

Court: Court of Appeal (Cayman Islands)
Subject: Enforcement of arbitration awards, New York Convention, GCR O.73 (Part II), relevance of service provisions under Hague Convention
Judge: Field, Birt and Beatson JJA

Summary

The Court of Appeal unanimously dismissed an appeal challenging an *ex parte* order to enforce a Hong Kong arbitral award in the Cayman Islands, reinforcing the jurisdiction's pro-enforcement stance under the New York Convention and for swift enforcement of arbitral awards.

The Defendants had challenged the order on grounds including improper service, arguing that the Judge had been wrong to permit service directed on the Defendants' Hong Kong solicitors, who had acted in the arbitration, rather than through Hague Convention channels.

Hague Convention

The Court clarified that, while the Court retains a wide discretion to order alternative service under O.73 r.31(6), the Hague Convention could not simply be ignored and that applicants must show “good reason” before departing from Hague Convention procedures. The Court outlined specific evidence requirements to demonstrate "good reason", including where a state has made an objection under Article 10 whether there are 'special' or 'exceptional' circumstances.

Despite finding that the initial application had lacked the proper evidence to justify bypassing the Hague Convention, the Court of Appeal treated the service defects as irregularities and declined to set aside the Judge's order, observing that to do so would be a "triumph of form over substance". However, it came with a clear warning that, following the Court's clarification on service, a failure to follow the now clarified approach in the future would likely to result in service being treated as ineffective.

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