

Donghai Investment Holding Ltd v Crystal Fount Investments Ltd [2025] CIGC (FSD) 97

OCTOBER 2025

Court: Grand Court (Cayman Islands)

Subject: Service out of jurisdiction, forum non conveniens, presumption parties have already considered forum issues if relevant contract contains jurisdiction clause

Judges: Asif J

Summary

When considering an application to serve out of the jurisdiction, if a contractual agreement exists with respect to jurisdiction, the court will not re-weigh factors which were foreseeable in assessing whether the Cayman Islands is the most appropriate jurisdiction, absent exceptional, unforeseen circumstances.

Further details

The Plaintiff sought leave to serve a writ out of the jurisdiction on the Defendant, in the British Virgin Islands. In determining whether to grant leave to serve out of the jurisdiction the Court must consider whether:

1. there is a serious issue to be tried on the merits of the case;
2. there is a good arguable case that the claim falls within one of the gateways in Order 11 of the Grand Court Rules; and
3. the Cayman Islands is the most appropriate forum to hear the case.

Limbs (i) and (ii) were satisfied. As to (iii), Asif J adopted the principles stated by Gloster J in *Antec International Ltd v Biosafety USA Inc* [2006] EWHC 47 (Comm), as applied by Doyle J in *Seahawk China Dynamic Fund v Gold Dragon Worldwide Asset Management Ltd* (unreported, 2 February 2024). Thus Asif J reaffirmed the position that, if parties have agreed either an exclusive or non-exclusive jurisdiction clause, they are taken to have considered all relevant factors of convenience at the time of contracting. Accordingly, there must be overwhelming or very strong reasons to depart from the contractual choice, and convenience factors that were foreseeable at the time the contract was made (such as location of witnesses or documents) do not suffice.

Finding no exceptional or unforeseen circumstances pointing to another jurisdiction, and noting the strong connecting factor of a Cayman choice of law clause, Asif J held that the Cayman Islands was the appropriate forum.

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