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Aquapoint LP (in Official Liquidation) v Xiaohu Fan [2025] UKPC 56

NOVEMBER 2025

Court: Privy Council (from the Court of Appeal of the Cayman Islands)
Subject: Exempted Limited Partnership (**ELP**), just and equitable winding up, quasi-partnership not necessary for intervention of equity, ability of equity to override robust contractual clauses, availability of alternative remedies, derivative action
Judges: Lord Sales, Lord Leggatt, Lord Burrows, Lord Richards, Dame Janice Pereira

Summary

This is now the leading case on the availability of just and equitable winding up relief in relation to Cayman ELPs. The decision is likely to change the way such relief is argued – not just in Cayman but in other places where the just and equitable winding up jurisdiction is available. It further emphasises that contractual drafting (such as entire agreement clauses, non-reliance statements, and absolute discretions) will not invariably insulate decisions from equitable intervention.

Further details

Not necessary to establish a 'quasi-partnership' – The Board reaffirmed that the jurisdiction to wind up on the just and equitable ground is not dependent on establishing a 'quasi-partnership' (itself a term of uncertain scope). The fundamental principle is that the just and equitable jurisdiction enables the court, 'as equity always does', to subject the exercise of legal rights to considerations of a personal character arising between one individual and another. This requires a close examination of the relationship between the individuals which led to or provide the context for their association as shareholders, or as partners in an ELP.

Not a straightjacket – Accordingly, the application of equitable principles is not subject to a scheme of categories into which a case must sit. The Board's emphasis in this regard is likely to lead to a rather less 'formulaic' approach to pleading such relief.

Equity may intervene even in the context of robust contractual provisions – The court may wind up an ELP on the just and equitable ground where, notwithstanding entire agreement and non-reliance language and an express absolute discretion of the general partner over withdrawals, pre-entry assurances made it inequitable for the general partner to conduct itself in the manner it did.

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Source of jurisdiction – The Board noted the uncertainty as to the statutory provision under which jurisdiction to wind up an ELP on the just and equitable ground arises under Cayman law. Its present view is that the source of jurisdiction is section 36(3)(g) of the ELP Act.

Key facts – Relevant to the finding that the court was entitled to wind up the ELP on the just and equitable ground was the limited partner was induced by repeated assurances that his 10% economic position would roll over into the listed vehicle and be accessible six months post-IPO. After the lock-up expired, the general partner blocked meaningful access, offering only *de minimis* sales inconsistent with those assurances. Further, no new partners were admitted who might have relied exclusively on the written terms.

Alternative remedies – It is well established that the court may, and typically will, decline to make a winding up order on a shareholder's petition where one or more alternative remedies are available to the petitioner and the petitioner is acting unreasonably in not pursuing them. The availability of a derivative action would not bring a remedy for the limited partner personally, so it would not be an adequate remedy for the limited partner personally.

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