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17 JUNE 2020

Court Rules Closure of Plant as Part of Business Reorganisation Justifiable Ground for Retrenchment

Au Lai Chan v Malaysian Mosaics Sdn Bhd
(Industrial Court Award No 811 of 2020)

Wong Meng Koon v Malaysian Mosaics Sdn Bhd
(Industrial Court Award No 812 of 2020)

Lim Chwee Hoon v Malaysian Mosaics Sdn Bhd
(Industrial Court Award No 813 of 2020)

A retrenchment exercise undertaken by a subsidiary of Hap Seng Consolidated Berhad was put to the test before the Industrial Court when several claimants challenged the genuineness of the exercise. Malaysian Mosaics Sdn Bhd (**the Company**) decided to close one of three plants in Kluang. As a result of the closure, a number of positions were identified as redundant, including senior personnel comprising the three named claimants.

In support of its case, the Company produced financial statements and organisational charts to justify the reorganisation and selection process. The Company further referenced newspaper articles to evince the Company's decline in profit.

The Industrial Court concurred with the Company's position and consequently found that the reorganisation was a *bona fide* exercise of the Company's managerial prerogative to run business operations as it deemed fit. The court was of the view that audited accounts are a true indication of the financial status of a company. The court, in its judgment, went on to hold that as a result of the Company's unsustainable financial performance, the management team was justified in reviewing its operations and taking drastic measures to improve efficiency in all its affairs.

The Company was represented by partner Dato' Thavalingam Thavarajah and associate Shivani Sothirachagan, assisted by pupil-in-chambers Keshan Makadia Pillay, of [Lee Hishammuddin Allen & Gledhill](#).

The respective Industrial Court awards may be viewed [here](#), [here](#) and [here](#).

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Published by the Employment Practice

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