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DISPUTE RESOLUTION

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CAN'T HIDE BEHIND A BRIBE

by Kumar Kanagasingam, Chia Oh Sheng, Wong Han Wey & Michelle Louis

The High Court struck out a claim aimed at impeaching a judgment obtained by our client, a financial institution ("**Impeachment Claim**"). The plaintiffs, who were guarantors, alleged that the loan facility at the heart of the judgment had been approved through corrupt means. In response, our client argued that even if such bribery had occurred, the facility agreement and related guarantees remained enforceable.

Notably, the Court expressly adopted, for the first time in Malaysia, the legal reasoning in *Indian Bank v Green Mint Pte Ltd & 2 Ors* [2021] SGHC 265 ("*Indian Bank*") and *Honeywell International Middle East Ltd v Meydan Group LLC* [2014] EWHC 1344 ("*Honeywell*"), thereby clarifying how allegations of bribery impact contractual enforceability.

The High Court accepted our client's submissions and drew a crucial distinction: contracts that are themselves agreements to pay bribes are void and unenforceable, while contracts merely procured by bribery may still be

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enforced, unless the innocent party opts to avoid them. This distinction, while subtle, is key in maintaining commercial certainty and protecting innocent contracting parties.

In **Indian Bank**, the Singapore High Court addressed a similar scenario. A borrower who had bribed a bank employee later tried to avoid repaying the loan by arguing that the facility was tainted. The court rejected this, holding that the bank, being the innocent party, retained the option to affirm the contract. If the contract was not rescinded, it remained binding. Likewise, in **Honeywell**, the English High Court held that a contract obtained through bribery was not automatically void under public policy grounds.

In striking out the Impeachment Claim, the High Court Judge cited the caution expressed by the Federal Court during the leave application proceedings in the original suit:

“...if banks could not recover loans simply because their officers were corrupted, the whole banking system will collapse.”

These cases reaffirm the autonomy of innocent parties in determining the fate of contracts affected by wrongdoing and shuts the door on opportunistic litigants attempting to undo binding agreements by pointing to collateral misconduct.

Takeaways

This decision reinforces that contracts procured through bribery are not void ab initio – they remain valid unless avoided by the innocent party.

In the context of lending transactions, mere allegations of bribery involving officers will not invalidate the contract. This decision re-affirms the courts’ emphasis on upholding commercial certainty and discourages borrowers and guarantors from using alleged misconduct as a means to evade their contractual obligations.

The written grounds of judgment can be read [here](#). Key portions discussing the bribery issue and enforceability can be found at paragraphs [27] to [30]. The decision is currently pending appeal.

The financial institution was successfully represented by Kumar Kanagasingam, Chia Oh Sheng, Wong Han Wey, and Michelle Louis of Lee Hishammuddin Allen & Gledhill’s Dispute Resolution Practice.

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