

**Foreign Court Judgement  
With Regard To Proceedings  
in another Jurisdiction Not  
Enforceable In Hong Kong:  
Hong Kong Court Of Appeal**

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Hong Kong Court of Appeal refuse to enforce an English anti- suit injunction with regard to legal proceedings in another Jurisdiction (in this case PRC) on the ground that Hong Kong is not a natural forum for the disputes in question by a judgement dated 11<sup>th</sup> March 2015 in the case of **Compania Sud Americana De Vapores SA and Hin- Pro International logistics Ltd.,**

### **Brief Facts and Contentions of the Case:**

Compania Sud Americana De Vapores SA (herein after Appellant) entered into a series of contracts with Hin-Pro International Logistics Ltd., (Herein after Respondent) a Hong Kong Company, for carriage of goods by sea as the carrier and shipper. The respondent commenced various proceedings against the appellant in various Courts of People's Republic of China for wrongful release of cargo without production of Bill of lading. The Respondent got 19 judgments from Ningbo Maritime Court in his favour. The appellant initiated action to file appeals against those judgments.

In the meantime the appellant obtained anti-suit injunction in UK (UK Mareva) against the proceedings in PRC and also a worldwide freezing order. The appellant on the basis of the UK Mareva obtained HK Mareva and an exparte receivership order from the Hong Kong Courts. On the basis of these orders the appellant tries to stall the proceedings in the PRC Courts. Hence on the application of the Respondent the said interim orders passed by the HK court were discharged later and hence the appellant approached this Hong Kong Appeal court by way of an appeal.

**The Decision of the Hong Kong Court of Appeal:** The Appeal Court dismissed the appeals with costs and held that the UK anti suit injunction orders with regard to proceedings in other jurisdictions cannot be enforced in Hong Kong on the following grounds:

- a. While exercising the powers under S. 21.M of High Court ordinance (HCO) grant interim relief in relation to proceedings commenced outside Hong Kong, the court was required to apply the general principles governing the interim relief, they cannot just follow the Foreign court judgment and decide the application for interim relief. To grant this Mareva type relief the appellant must have an arguable case. (**Pacific King Shipping Pte Limited Vs Huang Ziqi Ang** (2015)(1) HKLRD 830, **Refco Inc Vs Eastern Trading Co.**, (1999) 1 Lloyd's Rep 159, **Motorola Credit Corp Vs Uzan** (No.2)(2001) 1 WLR 113 applied.
  
- b. Moreover while considering these types of cases courts should apply the rule of judicial comity. Here in the present case Hong Kong is not a natural, designated or chosen forum of the parties and hence such an interim order issued by a foreign court cannot be enforced. (**AIR BUS INDUSTRIE GIE Vs Patel** (1999) 1 AC 119 applied)
  
- c. The appellant has not filed an Anti-suit proceedings in Hong Kong. It has filed such a proceeding in UK and got UK Mareva. Using the UK Mareva he has got a HK Mareva and appointment of receiver orders. The receivers have tried to stall the PRC proceedings using the HK Mareva and receiver orders. One should not be allowed to side step the requirement of law with regard to judicial comity in this way. (**Refco Inc Vs Eastern Trading Co.**, (1999) 1 Lloyd's Rep 159 Applied)

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