

Be Specific Or Be Ignored: The Consequences Of An Ambiguous Injunction Order

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Injunctions are court orders that either require specific actions (mandatory injunctions) or prohibit certain actions (prohibitory injunctions). These orders are crucial for maintaining rights and ensuring the status quo until a final resolution. Breaching an injunction may result in contempt proceedings, which carry serious legal and personal consequences.

But here is the catch, for contempt proceedings to succeed, the terms of the injunction must be clear, specific and unambiguous. Anything less risks confusion and renders the order unenforceable.

A recent High Court decision, *Two Square Sdn Bhd v Perbandaran Pengurusan 3 Two Square & 8 Ors* [Civil Suit No: 22NCvC-586-10/2013], highlights this principle clearly.

Background

The Plaintiff, a developer of a mixed-use property, had secured a High Court judgment on 22 June 2017, compelling the Defendants (the property's management corporation and its committee members) to maintain common property. The judgment included two key directives:

1. Mandatory Injunction:

The Defendants were ordered to maintain various parts of the Crest Tower (Block F) and its shared areas including:

- Lifts
- Central cooling tower
- Public toilets
- Glass panels and facades
- Common areas in both the tower and parking facility

2. Declaration

The First Defendant was declared responsible for maintaining the common property, cooling towers, and parking areas.

Years later, the Plaintiff filed contempt proceedings, claiming the Defendants had failed to:

- Pay electricity charges for common areas
- Manage and repair the cooling system
- Maintain public toilets, including replenishing supplies like soap and tissue paper.

The High Court Ruling

The High Court dismissed the contempt application, citing the vague and general nature of the judgment. Although the judgment imposed a duty to maintain common property, it lacked specific details about what actions would constitute compliance.

The court also found that the Plaintiff's application lacked good faith, suggesting it was an attempt to impose additional obligations not clearly ordered. Furthermore, the Plaintiff had delayed filing the contempt claim, weakening their case.

Key Points

This case reaffirms a critical legal principle: an ambiguous injunction is unenforceable. Injunctions must clearly specify the required actions so that there is no doubt about compliance. As the Court of Appeal emphasised in *Mah Siew Keong v Bayu Gamitan Sdn Bhd* [2002] 2 MLJ 107, an unclear injunction is defective because it makes it impossible to identify specific acts of contempt:

"If the respondent wanted the appellants' company to execute the deeds of assignment, it should have taken greater care in settling the terms of the injunction... If an injunction is drafted in wide and ambiguous terms, it is difficult, if not impossible, to identify particular acts of contempt."

In the present case, the judgment set out a general duty to maintain but failed to specify essential tasks, such as paying electricity bills or maintaining air-conditioning units. Without such clarity, the Defendants were left guessing whether their actions violated the order.

Courts have consistently ruled that any ambiguity in a court order should be resolved in favour of the alleged contemnor. In *Tan Kang Ho v Mao Sheng Marketing (M) Sdn Bhd & Ors* [2015] 4 CLJ 113, the court commented:

"For committal proceedings, a court order should be interpreted as if it were a penal statute. If there is any ambiguity, it should be resolved in favor of the alleged contemnor's liberty."

Conclusion

This case is a timely reminder for a party to draft injunctions with precision. Vague terms or open-ended obligations risk being unenforceable. Furthermore, if one believes an injunction has been violated, don't wait too long as delaying contempt proceedings can weaken one's case. As the Supreme Court held in *Malaysian Bar v Tan Sri Dato Abdul Hamid bin Omar* [1989] 2 CLJ 373:

"Contempt is a serious matter, and any allegations should be pursued within a reasonable time. A delay of nearly nine months, unexplained, is not reasonable."

Ultimately, the clarity of an injunction is not just a technicality; it's a vital part of ensuring due process. When the stakes are high, make sure your orders are specific, and act promptly if enforcement is needed.

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