

HCA 1174/2024  
[2025] HKCFI 626

IN THE HIGH COURT OF THE  
HONG KONG SPECIAL ADMINISTRATIVE REGION  
COURT OF FIRST INSTANCE  
ACTION NO 1174 OF 2024

BETWEEN

VERDE BRASIL INDUSTRIA DE  
PRODUTOS PLASTICOS LTDA Plaintiff

and

WOSITE LIMITED (沃斯特貿易有限公司) 1<sup>st</sup> Defendant  
FENGYUE TRADING LIMITED (豐悅貿易有限公司) 2<sup>nd</sup> Defendant  
GREATING TRADE CO., LIMITED (宸星貿易有限公司) 3<sup>rd</sup> Defendant  
JUTA TRADE CO., LIMITED (玖達貿易有限公司) 4<sup>th</sup> Defendant  
RACE SUN TRADING LIMITED (偉宸貿易有限公司) 5<sup>th</sup> Defendant  
RUILIN TRADING LIMITED (銳霖貿易有限公司) 6<sup>th</sup> Defendant  
YOCANG TRADING CO., LIMITED (優倉貿易有限公司) 7<sup>th</sup> Defendant

Before: Hon Au-Yeung J in Chambers

Date of Hearing: 7 February 2025

Date of Judgment: 7 February 2025

J U D G M E N T

*Background*

1. This is an application for default judgment pursuant to Order 19, rule 7 of the Rules of the High Court (“**RHC**”).

2. The Plaintiff, a company incorporated in Brazil, carried on the primary business of manufacture of plastic products.

3. By a written agreement dated 21 September 2022 made between the Plaintiff and Costruzioni Meccaniche Luigi Bandera SPA (“**Bandera**”), a business located in Italy, the Plaintiff agreed to purchase various extrusion line machines for agricultural files from Bandera for the total price of €5,500,000 (“**the Agreement**”). It was a term of the Agreement that the price would be payable by the Plaintiff by instalments, one of which was in the sum of €3,700,000 to be paid by 26 April 2024.

4. On 15 April 2024, the Plaintiff’s representative paid a sum of €3,700,000 (“**the Sum**”) into D1’s bank account maintained with the Bank of Communications (Hong Kong) Limited (“**D1’s Account**”), pursuant to a fraudulent email purportedly from Mr Daniele Marcon of Bandera. Mr Marcon’s email address was the same as that of the fraudulent email except that the former used “Ibandera” whereas the latter used “ibandera”.

5. D1 was the 1st layer recipient who received the Sum on 29 April 2024. D1 immediately exchanged the Sum into a sum of HK\$30,869,964.61 and made a series of transfers from D1’s Account to D2 to D7 as follows.

No.	Transferee	Amount(HK\$)	Recipient Bank
(1)	D5	998,760	HSBC
(2)	D4	199,860	Fubon Bank (Hong Kong) Limited (“Fubon”)
(3)	D4	1,799,600	Fubon
(4)	D3	2,998,850	HSBC
(5)	D4	2,499,760	Fubon
(6)	D3	1,998,650	HSBC
(7)	D6	1,985,600	HSBC
(8)	D5	1,898,750	HSBC
(9)	D4	1,995,960	Fubon
(10)	D2	1,896,500	HSBC
(11)	D2	1,997,890	HSBC
(12)	D7	2,987,500	DBS
(13)	D7	2,989,650	DBS
(14)	D7	2,996,820	DBS
30 April 2024			
(15)	D3	1,298,650	HSBC
(16)	D4	291,600	Fubon
	<b>Total: 30,834,400</b>		

6. On or around 30 April 2024, the Plaintiff discovered that the fraudulent email was not given by personnel of Bandera and Bandera had never instructed the Plaintiff to remit any funds to D1’s Account. However, the Plaintiff’s request to its bank in Brazil to cancel the transfer to D1’s Account was not successful.

7. On 3 and 10 May 2024, the Plaintiff reported the matter to the police in Brazil and Hong Kong.

8. An interim proprietary and Mareva injunction has been in place since 17 June 2024. The writ was issued on 18 June 2024. The Statement of Claim was filed on 18 October 2024 and served on D2-D6. Pursuant to PD 19.2, service was deemed to be effected on the second working day after posting, ie 22 October 2024. The time for the Defendants to file and serve their defence fell on 19 November 2024 pursuant to O.18, rule 2 of RHC.

9. The Statement of Claim was also served on D1 and D7 by leaving at their respective registered office on 30 October and 6 November 2024 respectively. The time for D1 and D7 to file and serve their defence fell on 27 November and 4 December 2024 respectively, pursuant to O.18, rule 2 of RHC.

10. None of the Defendants have filed any acknowledgement of service or defence.

11. The Summons for default judgment and Order of this Court dated 9 January 2025 were served on the 7 Defendants on 15 January. They have not responded either.

12. At this hearing the Plaintiff only seeks money judgments against each Defendant and caps its total recovery to the defrauded sum of €3,700,000, together with interests. The cause of action relied on is unjust enrichment.

*Legal principles*

13. The principles for granting default judgment under Order 19, rule 7 are trite. In determining whether to grant default judgment, the Court must consider the application according to the pleadings alone and decide whether the Plaintiff appears to be entitled to judgment on its Statement of Claim. The Court cannot receive any evidence and it is thus not necessary for the Plaintiff to prove its case by evidence.

14. Notwithstanding the wording in Order 19, rule 7, the Court's power to grant default judgment is discretionary and not mandatory.

*Analyses*

15. The Plaintiff has pleaded a valid claim that D1 was enriched by the receipt of the Sum, at the Plaintiff's expense, and by reason of the Plaintiff's mistake that it had to pay a contract sum, to which D1 was not entitled. The Defendants almost immediate transfer of the sum to other Defendants was only consistent with an attempt to dissipate the sum as soon as possible.

16. The other Defendants were second-tier recipients who had received monies traceable from D1, being monies originally transferred by the Plaintiff to D1. Since the monies were in law the Plaintiff's money, the second tier Defendants should be treated as if they had received the Plaintiff's monies. See *JSP International SRO v Alacrity Limited and others* [2022] HKCFI 977, §20, Cheng J.

17. The Plaintiff has never had any dealing with any of the Defendants. These Defendants do not have any bona fide or substantial business in Hong Kong or elsewhere. They knew or ought to have known that there was no legitimate reason for the Plaintiff to transfer the Sum or part of it to them, or for them to retain or dispose of the sum.

18. There is a case of unjust enrichment, based on the principles in *Shanghai Tongji Science & Technology Industrial Co Ltd v Casil Clearing Ltd* (2004) 7 HKCFAR 79, at §67, properly pleaded against all Defendants. I grant judgment to the Plaintiff solely on this cause of action against each of the Defendants for the respective amounts as set out in the table above. There shall be interest from the respective dates of deposit into each Defendant's account until the date of judgment at prime rate plus 1% per annum, and thereafter at judgment rate until full payment.

19. On a *nisi* basis, costs are to be borne by the Defendant, summarily assessed at \$181,324.

20. I thank Mr Huang for his assistance.

(Queeny Au-Yeung)  
Judge of the Court of First Instance  
High Court

Mr Huang Eugene Yi Jun of Haldanes for the Plaintiff

1<sup>st</sup> to 7<sup>th</sup> Defendants are absent