IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 162 OF 2019 (RPJ)

BETWEEN

RAIFFEISEN INTERNATIONAL BANK AG

Applicant / Plaintiff

AND

(1) SCULLY ROYALTY LTD
(a company incorporated in the Cayman Islands)

Respondent / First Defendant

AND

(2) LTC PHARMA (INT) LTD.
(a company incorporated in the Marshall Islands)

Second Defendant

(3) MERKANTI HOLDING P.L.C.(formerly MFC Holding Ltd, a company incorporated in Malta)

Third Defendant

(4) 1178936 B.C. LTD.
(a company incorporated in British Columbia, Canada)

Fourth Defendant

(5) MFC 2017 II LTD.

Fifth Defendant

(6) 1128349 B.C. LTD.

Sixth Defendant

(7) IEM SERVICES CO. LTD.

Seventh Defendant

(8)) LTCM ASSET PRIVATE LIMITED

Eighth Defendant

APPEARANCES:	Tim Penny QC instructed by William Jones and Will Waldron of Ogier for the Applicant John Wardell QC instructed by Peter McMaster QC and Heather Froude of Appleby for the Respondent
BEFORE:	THE HON. RAJ PARKER
HEARD:	23 September 2020
Draft Reasons Circulated:	23 October 2020
Reasons Delivered:	28 October 2020

Headnote

Anti-Suit injunction-Grand Court Law (2015 Revision) section 11(1)-Senior Courts Act section 37-Cayman defendants-Malta proceedings-principles to be applied-international judicial comity-participation in Cayman proceedings-Cayman Islands the appropriate forum-trial of conspiracy claims-multi party litigation-vexation and oppression-interests of and ends of justice-risk of issue estoppel and irreconcilable judgments.

Introduction

1. These proceedings were commenced by the Plaintiff (**RBI**) in the Cayman Islands in August 2019. They concern a contested claim under an Austrian law governed Guarantee dated 2 January 2017 (**the Guarantee**) under which D2 (or Old MFC) guaranteed liabilities in respect of underlying borrowing, which together with interest and other charges amounts to over EUR 43 million.

2. The gist of the relief sought by RBI is to reverse transfers allegedly made by the MFC group whereby D2 was allegedly asset stripped pursuant to a fraudulent conspiracy. The stated purpose of RBI is to secure assets so that in due course RBI can enforce its rights under the Guarantee.

3. RBI applied by summons dated 22 June 2020 for an interim anti-suit injunction (**ASI**) requiring D1 (or New MFC) to cease to engage in and withdraw from the proceedings in Malta which were issued on 6 May 2020, some 9 months after the Cayman proceedings were started.

4. By a ruling dated 28 September 2020 the court granted the relief sought.

5. These are the reasons for that decision.

6. There were originally four defendants in the Cayman Islands proceedings.

7. Of relevance to this application D1 is sued as transferee, both direct and indirect, of the shares in D3, Merkanti Holdings PLC (Malta), and allegedly as a lead conspirator in the asset stripping of D2. D2 is sued as transferor. D2 has been taken out of the MFC group and has been served in the Marshall Islands (its current domicile). D3 is now owned by D1.

8. D4, (36 B.C Ltd), is sued as the ultimate transferee of certain mining rights. Four more defendants D5 - D8 were subsequently joined. None of D4-D8 are parties to the proceedings in Malta.

9. D1[1] is a Cayman Islands company and has participated extensively to date in the Cayman proceedings and in addition has pleaded a substantial counterclaim against RBI in the sum of over EUR 203m.

The Malta case

10. Proceedings were commenced in Malta by two of the defendants to the Cayman case, D3 (Merkanti Holdings PLC)[2] and D1, (as well as Merkanti Bank Ltd (**M Bank**)) against RBI and D2.

11. The Malta proceedings concern a subset of the issues in dispute in the Cayman proceedings, namely the transfer of D3 by D2 to D1[3]. This is not disputed.

12. The transaction is documented in an agreement dated 23 August 2017 (the Merkanti SPA) between D2 and D1. There is also another agreement (the Clarification Agreement) dated 28 September 2017 between the same parties. Both agreements are governed by the laws of Malta and the Merkanti SPA contains an arbitration clause. The choice of venue in the Clarification Agreement is the courts of Malta.

13. D3, M Bank and RBI are not parties to those agreements which are the foundation of the relief claimed.

14. The relief sought in the Malta proceedings is for: declarations that the transfer of the shares in D3 was lawful and not carried out to defraud creditors; that the transaction

[1] Which is a traded entity on the NYSE

[2] Following an Order that I made on 13 July 2020 permitting substituted service on D3, D3 was served on 16 July 2020 pursuant to that Order (Dellemann 8 §7.(f)), but has been on notice of the Cayman proceedings since October 2019; and Mr Morrow, who is CFO of D1 and CEO of D3, has sworn two affidavits in relation to the January 2020 hearing which resulted in the Judgment of 7 July 2020: see Dellemann 7, 19 June 2020 §15.

[3] See Dellemann 7 §§57-60.

should not be impeached and so the shares are the property of D1; and that none of D1, D3 and M Bank have acted illegally in bad faith or with fraud and so are not liable in damages to RBI.

The Cayman proceedings

15. It is common ground that the Malta proceedings involve a direct overlap with the Cayman proceedings in relation to this transaction[4].

16. This court has found that RBI has a good arguable case that the transfer was at an undervalue as the basis of the claim which is pursued pursuant to the Fraudulent Dispositions Law (15 of 1989)(1996 Revision) (**FDL**) and in the tort of unlawful means conspiracy.

17. The court has found that RBI had the better of the argument on the available material that D2 disposed of its shares in D3 to D1 at an under value for the purposes of putting the shares beyond the reach of RBI.

18. RBI's Cayman Islands claims under the FDL and in the tort of unlawful means conspiracy are directed against two principal alleged co-conspirators, both Cayman Islands companies, D1 and D5.

19. It is alleged that D5 became the 100% parent of D2 following a Plan of Arrangement dated 14 July 2017, and prior to D2 being transferred out of the group.

20. RBI claims that D1 continues to hold an indirect interest in all of the assets that were transferred which remain within the MFC group, and that it holds over 99% of the shares in D3, which in turn holds over 99% of the shares in M Bank, with D5 holding the only other share.

21. The court has found, on a good arguable case basis, that RBI's claims are properly brought against D1 and D5 and that these entities are at the apex of the conspiracy alleged by RBI.

22. It follows that D1 is a key player in the Cayman proceedings, as the parent of the group and because D5 is its 100% direct subsidiary[5].

23. D2, takes no part in the proceedings, and has not made any challenge to the jurisdiction of the Cayman court. All of its former assets are now allegedly held directly or indirectly by D1 and D5.

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[4] See Amended Statement of Claim §§57.4.0 to 57.4.2 and D1 Amended Defence and Counterclaim at §53D and Morrow 6 §19

[5] §168 of Judgment of 7 July 2020

24. In aid of these proceedings, RBI obtained a worldwide freezing order against D1 on 30 September 2019 which was continued on 3 February 2020 and which is currently under appeal[6].

25. Some relevant background, RBI's case, and the court's interim findings are set out in the judgment of the court dated 7 July 2020[7].

26. The court decided that RBI had demonstrated that the Cayman Islands are clearly the appropriate forum for the trial of all of its claims.[8]

27. At § 174 of the judgment the court found that the Cayman Islands were the appropriate forum to have the case determined:

> "*It is also appropriate to have the case determined in the Cayman Islands to avoid a multiplicity of potential proceedings in a number of different jurisdictions with the risk of conflicting judgments. This is particularly so when a conspiracy is alleged where there is clearly a good reason to have all the facts determined in one court. There is no other clearly more suitable forum".(Parker J)*[9]

Other jurisdictions

28. It is to be noted that in addition to the Malta proceedings, entities in the MFC group have attempted to have their disputes with RBI determined in other jurisdictions. D4 and D6 (each 100% subsidiaries of D5 which in turn is owned by D1) have started proceedings (in March 2020) in the Canadian courts seeking an anti-suit injunction to restrain the Cayman proceedings; although RBI has not to date been served in those Canadian proceedings.

29. It is also worth noting that D4 made a forum challenge to this Court and was unsuccessful[10]. D3 and D6 have now similarly filed jurisdiction challenges.

Submissions of the parties.

RBI submissions

30. Mr Penny QC appeared for RBI.

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[6] The appeal may not be heard until September 2021
[7] §§34-75 of Judgment of 7 July 2020.
[8] §154-167 of Judgment of 7 July 2020.
[9] See also §§ 94, 130, 133, 167 -176 on *forum conveniens*, of Judgment of 7 July 2020.
[10] §159-180 of Judgment of 7 July 2020.

31. Mr Penny QC argued that the Malta proceedings are both objectively and subjectively vexatious and/or oppressive, have been brought to harass and vex RBI and that the ends of justice require an ASI to be granted. Further he submits D1 has acted in bad faith in participating in the Malta proceedings.

32. He submits, relying on expert evidence on Maltese law[11], that the claim in Malta is a bad claim[12]. The Maltese court is bound to find that it lacks jurisdiction and alternatively is likely stay the claim, which are factors this court should take into account in the exercise of its discretion.

33. He submits that principles of comity and the interests of justice favour the grant of relief at this relatively early stage of the Malta proceedings. Moreover as a matter of discretion, given D1's extensive participation in the Cayman proceedings to date, the relief should be granted.

34. He submits that D1 has not suggested in its pleading[13] in the Cayman proceedings that Maltese law (to the extent it differs from Cayman law) governs any part of its defences (or specifically claims regarding M Bank) or that the courts of Malta are the appropriate forum to have them determined.

35. Mr Penny QC further argued that if the Malta claim proceeds to trial and is resolved prior to the trial in Cayman in favour of the claimants in the Malta claim so that the transfer is held to be lawful and not carried out with intent to defraud a creditor, there would be an issue estoppel as between RBI and D1 pending an appeal, which could take four or five years, but no issue estoppel as between RBI and D4-D8 because they are not parties in Malta. He submitted that this would be a recipe for chaos in the Cayman proceedings.

36. By contrast if D1 was restrained and M Bank and D3 chose to and were able to continue in Malta that will not lead to a risk of irreconcilable judgements or a relevant issue estoppel.

D1 submissions

37. Mr Wardell QC appeared for D1.

38. Mr Wardell QC submits that the court should take note that RBI's strategy has been to obtain a worldwide freezing order in order to put pressure on the defendants for a settlement whilst not progressing the Cayman proceedings, and not making any attempt to bring proceedings under the Guarantee. Mr Morrow in his affidavit dated 14 July 2020 puts the point like this at § 14:

[11] Mamo TCV Advocates 18 June 2020 (Mamo 1) §§12.1-12.18
[12] Article 7 (1) (a) of the Recast Brussels Regulation EU Regulation 1215/2012 and Mamo 2 §3.16
[13] §§57-67 of the Amended Defence and Counterclaim of D1

" *The Plaintiff's object in these proceedings is to sit on its over collateralized injunction and use it as a lever for settlement*."

39. As has been noted, the worldwide freezing order against D1 is under appeal and this may well be an argument for another day. Mr Wardell QC also criticized the volume and scope of the material put in issue by RBI on this application. Mr Penny QC vehemently refuted that RBI was sitting on its hands and unnecessarily complicating matters so as to run up costs. Again, this is not a matter which needs to detain the court in considering the key issues on this application.

40. Mr Wardell QC forcefully argued that if RBI wishes to protect its interests in the Malta proceedings, in the interests of comity, RBI should make an application in Malta to ask the Maltese courts to decline jurisdiction and alternatively to stay their own proceedings. If RBI is right, then there will be no injustice to it (although he accepted it might not recover all its costs in bringing such a jurisdiction challenge in Malta).

41. He further submitted that Malta is party to the "Recast Brussels Regulation" (EU Regulation 1215/2012) and the Cayman Islands is not. The Malta court ought to apply that legislation in relation to jurisdiction. The Cayman court should not interfere with the Maltese courts in relation to the jurisdiction issue by applying a foreign law.

42. He argued that there is a strong connection between Malta and the substance of the Maltese claims. Two of the claimants (but not D1) are Maltese entities and the relevant share sale and purchase agreement between D1 and D2 is governed by Maltese law with the shares being registered in Malta where the share register is kept. There is a legitimate interest pursued by M Bank and its shareholders in the home forum.

43. If RBI is wrong on jurisdiction and the case proceeds in Malta he accepted that there may be some risk of inconsistent judgments with the Cayman court but asserted that would not be materially reduced by granting an anti-suit injunction against D1.

44. In any event if it is the case, as RBI's Maltese law expert states, that the time likely to get an appeal heard against any refusal to decline jurisdiction in Malta is four to five years, the Cayman proceedings would be heard before then and are likely to be dispositive. The relief sought by way of the ASI is therefore futile and does nothing to protect RBI's interests.

45. If RBI fails in its case in Cayman the Maltese claim will become obsolete and will not need to be pursued by the claimants. If RBI's claim succeeds in Cayman and judgment is satisfied by payment of damages the Maltese claim also falls away. There would be no prejudice to RBI if the court dismissed the application for an ASI.

46. Mr Wardell QC went on to submit that even if an anti-suit injunction against D1 is granted, RBI's expert Maltese law evidence does not say that the two remaining

claimants do not have an arguable case to bring a claim, albeit RBI's expert says that the claim is relatively weak[14].

47. Therefore, he submits an ASI against D1 would not bring the Maltese proceedings to an end and RBI would still need to persuade the Maltese courts that they lacked jurisdiction over those two claimants. In that event, RBI will have obtained no saving of costs or time or advantage from the prior restraint of D1 by this court.

Legal principles

48. The power to grant an order for an anti-suit injunction arises under the Grand Court Law (2015 Revision) s.11 (1), and s.37 of the Senior Courts Act 1981 in England (by cross reference[15]). The grant of the relief is discretionary. The court may restrain a defendant over whom it has personal jurisdiction from instituting or continuing proceedings in a foreign court when it is necessary in the interests of justice to do so[16]. The remedy binds the respondent to the proceedings *in personam.*

49. The general principles as to the exercise of the discretion may be summarized as follows.

a) As the remedy cannot avoid being seen as an indirect interference with the process of the foreign court the jurisdiction also requires regard to be had to the principles of international judicial comity[17]. The court should therefore exercise the jurisdiction with caution[18].

b) The discretion to be exercised is a broad and general one and takes into account all material facts and circumstances which go to the interests of and the ends of justice[19]. The court does not proceed on the same principles as those applied when granting a stay of proceedings on the ground of *forum non conveniens.* Although the question of whether the action is oppressive and/or vexatious is material in determining whether the interests of justice require the restraint, the court has also to consider the injustice to the party being restrained to what is the natural forum for determining the dispute, if that restriction would unjustly deprive him of advantages available in the foreign forum.[20]

c) The authorities indicate that there needs to be some conduct identified (variously described as unconscionable, vexatious or oppressive

[14] See §21.2 Mamo 1
[15] *Al Sadik* [2018 (2) CILR 464]
[16] *Aerospatiale v Lee Kui Jack* and [1987] AC 871 UKPC and *Origami [2012 (2) CILR 191]* per Cresswell J
[17] See *Origami* §98 and *Dicey Morris and Collins on the Conflicts of Laws (15th)at* 12-078.
[18] *Aerospatiale* § 892 E-F, *Star Reefers [2012] EWCA Civ 14*
[19] *Aerospatiale §§ 892-893* per Lord Goff
[20] *§§892e, 895c-f and 896 c-h per Lord Goff*.

without any distinction in meaning) which gives rise to the right to the grant of the remedy. This will include conduct which interferes with the due process of the court.[21]

d) The injunction must be necessary to protect the applicant's legitimate interest in the relevant proceedings. In this regard the fact that the court has found that the Cayman proceedings are the natural forum for this litigation is a necessary but not a sufficient condition[22]. This can however be a factor in finding that parallel proceedings are oppressive[23].

e) The risk of inconsistent judgments and the undesirable consequences of concurrent actions in respect of the same subject matter in two different jurisdictions is also not in itself sufficient to show an ASI ought to be granted, but is a factor that is to be taken into account.[24]

f) Similarly, the mere inconvenience of parallel proceedings is insufficient of itself, unless it amounts to real injustice.

g) Further, it is not inherently vexatious or oppressive to bring a claim to which the foreign court will apply a different substantive law than would be applied in the Cayman Islands even where this would give a significant advantage to the claimant abroad[25] .

h) Whilst there is nothing inherently improper about a litigant tactically preferring a foreign court, where there is no adequate explanation for why competing foreign proceedings have been brought the court may be willing to infer that the foreign proceedings are motivated by a deliberate strategy of harassment and vexation and not for proper purposes[26].

i) The court will not grant an ASI where the order would serve no purpose or where it would be futile to do so[27].

J) The court needs to determine which party has the better case on the material available at an interim stage[28].

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[21] *Glencore[2002] CLC 1090 EWHC and EWCA at § 42 and Re Maxwell Communications (No 2) (Barclays v Homan) per Glidewell LJ at p 773 G-H*
[22] *Glencore* § 42 per Rix LJ
[23] *Aerospatiale* § 894 F-G, *Turner v Grovit* [2002] 1 WLR 107 §25 HL
[24] *Origami § 103,Aerospatiale §894C* and *Raphael 2019,the Anti Suit Injunction (2nd)* 5.03
[25] See *Raphael* at 5.10
[26] See *Glencore v Metro (No 3) [2002] CA CLC §§69-70 per Rix LJ*
[27] *Barclays v Homan[1992] BCC 757 (EWHC) 767 per Hoffmann J.*
[28] *The Magellan Spirit [2016]2 Lloyd's Rep §9-10 and Raphael ,The Anti Suit Injunction 2nd 2019 13.41*

Discussion and Analysis

The expert evidence[29]

50. The law firms engaged to provide expert opinion to assist the court disagreed on the question of whether the Maltese proceedings were flawed on jurisdictional grounds.

51. The law firm engaged by RBI, Mamo TCV Advocates (Mamo), are of the view that the action is flawed and the Maltese court will decline jurisdiction.

52. Ganado Advocates, the law firm engaged by D1, disagrees and says that the claimants have a good arguable case.

53. They also disagree on the time it would take to hear an appeal on the preliminary issue of jurisdiction where Mamo say five years and Ganado says 9 to 12 months.

54. Mr Wardell QC indicated that for the purposes of this application he accepted that Mamo had the better of the argument on both of those issues.

55. Notwithstanding that indication, the court is not in a position to assess, having reviewed the expert opinions in this case, with any certainty how the Maltese proceedings are likely to progress or conclude.

56. Having carefully reviewed the expert Malta law expert evidence it may be that the Malta court would decline jurisdiction over D1 and allow the case by D3 and M Bank to proceed. It is also possible that it would not. There are likely to be appeals either way.

57. There must be a risk that the proceedings could end (allowing for appeals on interlocutory matters, such as jurisdiction) with a trial in Malta and if that were to be the case there is a real risk of inconsistent judgments with the Cayman proceedings in relation to the material subject matter.

58. Even with Mr Wardell QC's indication that he is prepared to accept that RBI has the better case on jurisdiction in Malta, it does not follow therefore that an ASI is futile.

59. If the relief is granted D1 would be prevented from continuing with the Malta proceedings and the remaining two claimants would be left to obtain relief in Malta as to the legitimacy of the relevant transactions, assuming they have a sufficient juridical interest.

[29] Mamo TCV Advocates 18 June 2020 (Mamo 1) 30 July 2020 (Mamo2) 18 September 2020 (Mamo3),Ganado Advocates 13 July 2020(Ganado 1) 11 September 2020 (Ganado 2)

60. However, the Cayman proceedings would be left to continue in respect of the case against D1 and there would not be the potential issue estoppel and chaos that Mr Penny QC alluded to.

61. Nor is it clear that any appeal on that point would not be heard by the Maltese appeal courts before the Cayman proceedings concluded. There are simply too many variables to make a confident determination about that at this stage.

The exercise of discretion

62. Applying the legal principles set out above, and approaching the grant of the relief with caution and with due respect to the courts in Malta, the court is satisfied that it is in the interests of justice to grant the injunction against D1 and that RBI needs such protection.

63. The court recognises that judges of different legal systems could legitimately arrive at different answers and it is not for this court to predict how the Malta court would determine jurisdiction in this matter or to interfere with its processes without good reason.

64. However, the court is satisfied that it is right, in the interests of and for the ends of justice, for this court to intervene to prevent further participation at this relatively early stage by D1 in the Malta proceedings.

65. I therefore reject Mr Wardell QC's submission that RBI should apply in Malta in the interests of comity and because the Malta court is better placed to determine its own jurisdiction.

66. This court has already determined that the Cayman Islands is the proper forum for the trial of all claims including claims in relation to the merchant bank transaction.[30]

67. It would not be in the interests of justice for there to be multiple proceedings in different jurisdictions, particularly in the light of the unlawful means conspiracy case made by RBI, which is an overarching claim and which will involve the analysis of extensive evidence both factual and expert[31]. It will also involve the analysis of contemporaneous documentary material passing between the relevant individuals and entities. It is relevant to note in this regard that there is no obligation of disclosure in Maltese courts and D1 could therefore have its case heard in Malta without having to disclose material adverse to its case[32]. This is clearly a potential disadvantage to RBI given its burden to prove a conspiracy case.

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[30] This Court has also dismissed D4's challenge to the jurisdiction

[31] See *ED&F Man v Straits [2019] EWCA Civ 2073 §§21 and 49 per Flaux LJ. See also Donohue v Armco [2002] CLC 440 per Lord Bingham and Contadora v Chile [1999] CILR 194 CICA*

[32] Mamo 1 §5.3

68. Moreover D1, a Cayman company, is a critical player in relation to that claim and has participated extensively in the Cayman proceedings and advances a substantial counterclaim. There have been substantial pleadings filed. The court has considered very detailed factual evidence on a significant number of issues that will need to be determined at trial. Extensive expert evidence has been submitted on issues of forensic accounting and foreign law including the law of Austria, Canada and the Marshall Islands. The parties have already incurred considerable costs in furtherance of the Cayman proceedings.

69. There are clearly costs and timing disadvantages to RBI of having to litigate in two jurisdictions over the same subject matter. This is not balanced out by any potential prejudice to D1 if the court grants an ASI.

70. The court is entitled to look for an explanation for D1's motivation and conduct in relation to its case in Malta. In the absence of a satisfactory explanation the court may draw such inferences as are appropriate from all circumstances of the case[33]. M Bank, D3 and D1 have or had common directors and officers. Mr Morrow is the CFO of D1 and was the CFO of D2 and is or was a director of M Bank. He has submitted affidavit evidence in this application.

71. Mr Dellemann in his seventh affidavit of 19 June 2020 sets out RBI's case on why it considers that the Malta claim was brought illegitimately and in bad faith[34]. In particular he makes the assertion that the declarations sought in the Malta claim are really for the benefit of D1 alone[35].

72. Whilst Mr Morrow clearly took the view, on advice that a large part of Mr Dellemann's affidavit went beyond what was necessary or appropriate, this is a fairly short point and there is no evidence from Mr Morrow in response.

73. Nor indeed is there any evidence from Mr Morrow as to why D1 needs to participate in the Malta proceedings. Indeed, there is no evidence as to D1's motivation at all.

74. The only relevant evidence on this point that Mr Morrow gives is that at paragraph 24 of his sixth affidavit of 14 July 2020 in which he deals with timing and D3 only:

> "*The third defendant, who is a claimant in the Malta claim, made a commercial decision to wait and see if it was successfully served in these current proceedings. Its intention was always to commence proceedings locally in Malta as it does not view the Cayman Islands to be an appropriate jurisdiction for this claim. However, the third defendant has yet to be served in these proceedings and the Board of Directors determined that it would be in the best interests of the company to commence local proceedings at this time*."

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[33] *Glencore per Rix LJ §§69-70*
[34] §§90-110
[35] §100

75. The inference the court draws is that the Malta proceedings have been brought by D1 in bad faith to harass and vex RBI. In this regard, I accept what is said by Mr Dellemann at §§ 97-110 of his seventh affidavit. I also accept what is said at Mamo 2 at paragraph 7.7 to the effect that the relief sought is unnecessary as a matter of Malta law and is brought to cause damage or create obstacles to RBI enforcing a judgment in Malta.

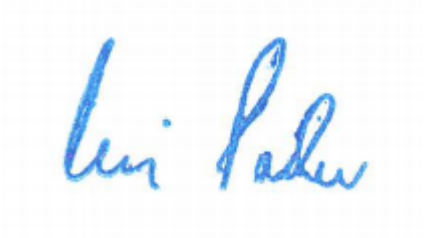
76. In sum the court is not persuaded that D1 has a good claim in Malta, or that it genuinely seeks relief in Malta, or that it would suffer any real prejudice if restrained from proceeding in Malta. D1 has participated extensively in the Cayman proceedings, it is a central party, and should not be permitted to gain any illegitimate advantage by bringing flawed proceedings in Malta.

77. I accept Mr Penny QC's submissions on the potential for issue estoppels and conflicting decisions should D1 continue with its Malta claim, which could lead to great uncertainty and significantly complicate the enforcement of any Cayman judgment in other jurisdictions.

78. RBI has shown a real risk of injustice in the meantime, including material inconvenience, and potentially irrecoverable costs. On the other hand, no legitimate deprivation of advantage has been shown by D1 if restrained from proceeding in Malta.

79. I echo Rix LJ's views in *Glencore* that litigation of this complexity and with multiple differently domiciled parties should be conducted with as much economy and efficiency as is possible and preferably in one forum so as to do justice between the parties[36]. This is particularly so where fraud and conspiracy are alleged.

80. The court therefore is satisfied that the interests of and the ends of justice necessitate an ASI and grants the mandatory relief sought against D1 with the usual cross undertaking in damages from RBI.



HON. JUSTICE RAJ PARKER
JUDGE OF THE GRAND COURT

[36] See § 63 *Glencore per Rix LJ*