HISTORICAL SEMINAR MATERIAL

Interpreting Articles in the Court of Appeal

Syspal Capital Ltd v Truman and another [2025] EWCA Civ 469

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No5 BARRISTERS CHAMBERS

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General Principles

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- *Syspal* concerned **construction** of a company's Articles of Association.
  - There was **no real dispute** between the parties on the governing approach to interpretation.
    - *Sara & Hossein Asset Holdings Ltd v Blacks Outdoor Retail Ltd* [2023] UKSC 2 at [29]
      1) The contract must be interpreted **objectively** by asking what a **reasonable person, with all the background knowledge which would reasonably have been available** to the parties when they entered into the contract, would have understood the language of the contract to mean.
      2) The court must consider the **contract as a whole** and, depending on the nature, formality and quality of its drafting, give more or less weight to elements of the wider context in reaching its view as to its objective meaning.
      3) Interpretation is a **unitary exercise** which involves an **iterative process** by which each suggested interpretation is checked against the provisions of the contract and its implications and consequences investigated.

General Principles

- Articles of Association are a somewhat **special category** when it comes to interpretation.
  - *Re Euro Accessories Ltd* [2021] EWHC 47 (Ch) at [34]
    - ”…the process of interpretation to arrive at the true meaning of a provision in a company’s articles of association **must concentrate on the natural and ordinary meaning of the words used, when viewed in light of the scheme and purpose of the articles in general, any extrinsic facts** about the company or its membership that would reasonably be **ascertainable by any reader of the company’s constitution and public filings at Companies House**, and **commercial common sense**.”

Factual Background

Factual Background

- The dispute centred around the construction of the Articles of Association (“the Articles”) of Syspal Holdings Ltd (“SHL”), the unrepresented Second Respondent.
- SHL was owned 24% by Mr Truman, the First Respondent, and 76% by Syspal Capital Ltd, the Appellant controlled by Mr Roberjot, since the Articles were adopted in December 2015.
- Mr Truman served as a director of SHL until 24 May 2023, when he resigned upon reaching his 65th birthday.

Factual Background

- Mr Truman was also an employee of one of SHL's subsidiaries, Syspal Ltd ("SL"), from 1980 until he was dismissed on 10 October 2022.
- He was also a director of SL until he was removed on 3 November 2022.
- The **core issues** in this case were:
    1. whether the termination of Mr Truman's employment by SL, whilst he retained his position as director of SL, **triggered a deemed Transfer Notice under the Articles**; and
    2. the **appropriate valuation of his shares**.

Factual Background

- Article 1.1
  - "“Employee Member” means a Member who is also an employee, consultant or director of a Group Company (with the exception of Mr A Roberjot)."

- Article 11.3
  - “If any Employee Member shall cease for any reason (including but not limited to death or termination of employment by the Employee Member or Company) to be employed as an employee, director or consultant of a Group Company (and **does not continue in that capacity** in relation to any Group Company) then a Transfer Notice shall be deemed to have been served in accordance with Article 10.1 on the date of such cessation.” (emphasis added)

Opposing Interpretations

Opposing Interpretations

- SCL's Interpretation
  - The wording "in that capacity" in Article 11.3 referred to the **singular capacity** in which the Employee Member ceased to be "employed", in the broader sense of the word used within the Articles.
  - When Mr Truman was dismissed from employment by SL, Article 11.3 was engaged and a **Transfer Notice was deemed to be served.**
  - The price for his shares was the lesser "**Market Value**".

Opposing Interpretations

- Mr Truman's Interpretation
  - The wording "in that capacity" referred back to **any of the three alternative ways** in which an Employee Member might be engaged to work for a Group Company.
  - When Mr Truman's employment with SL ceased, the terms of Article 11.3 did not apply because he continued to be a director of SHL.
  - A Transfer Notice was, therefore, **not** deemed to be served.
  - The sale price for Mr Truman's shares would be the greater "**Fair Value**".

First Instance

First Instance

- Mr Justice Roth ruled in favour of the interpretation I presented on Mr Truman’s behalf.

- He concluded that the relevant provision was **not** triggered by Mr Truman’s dismissal as an employee of SL.

- Mr Truman’s interpretation was the **more natural meaning** of the wording of the Articles and **aligned with commercial common sense** for the following reasons:

First Instance

- The reference in parentheses to not continuing **“in that capacity” related back to the three capacities set out immediately beforehand**, rather than only to the singular capacity which the Employee Member previously held;

- It is **not uncommon for a senior employee to retire from full-time employment but continue as a consultant**, and **commercial common sense** does not suggest that in such circumstances that individual would be required to sell their shares at the lower valuation;

First Instance

- **”Fair Value” was the default basis of valuation i**n the Articles for the shares of one not involved in the conduct of any Group Company;

- SCL’s interpretation **created the potential for an employee to be dismissed for no good reason in order to trigger a forced sale of their shares at the lower price**, a possibility **unlikely to accord with the intention of the shareholders** when adopting the Articles; and

First Instance

- The surrounding circumstances that were publicly ascertainable at the time when the Articles were adopted show that **the Articles were clearly drafted to protect Mr Truman (and his family)’s position as regards the valuation of his shares.**

Mr Justice Roth determined that the deemed Transfer Notice would be effective on Mr Truman’s 65th birthday, coinciding with his resignation as a director and was, consequently, entitled to receive “**Fair Value**” for his shares.

Court of Appeal

Court of Appeal

- SCL appealed on a **single ground**, namely that Mr Justice Roth should have interpreted Article 11.3 as deeming a Transfer Notice served when an Employee Member ceases to be employed in any one of the three capacities identified.

- **The appeal was <u>dismissed</u>** in a judgment by Lord Justice Zacaroli (with whom Lady Justice Asplin and Lord Justice Birss agreed).

Court of Appeal

- In his judgment, Zacaroli LJ identified that the appeal turned on the meaning of the phrase **“does not continue in that capacity”** in Article 11.3.

- His Lordship judged that **Mr Justice Roth reached the right conclusion**, largely for the reasons set out on the previous slides.

- His Lordship provided the following **additional justifications**:

Court of Appeal

- The use of the singular “that capacity” as referring back to the (single) capacity of being “employed” is a better reading of Article 11.3, and **makes more commercial sense**, as opposed to SCL’s submission that it refers back to one of the specific capacities in which an Employee Member might be employed;

- The **ability to sell the shares at Fair Value** is best viewed as a **positive benefit to an outgoing Employee Member**;

Court of Appeal

- SCL’s construction gives rise to outcomes which make little **commercial sense**, particularly given that it was accepted that at least **part of the purpose of Article 11.3 was to provide the option for a clean break with an Employee Member who ceased to be involved in the day-to-day running of the business**;

- The reading of Article 11.3 as applying to circumstances where the Member ceases to be employed altogether by the Group is more **consistent with the repetition of the word “any”** within the provision;

Court of Appeal

- The very fact that Article 11.3 envisaged service of a deemed Transfer Notice upon an Employee Member ceasing to be employed as a "**consultant**" at all supports Mr Truman's interpretation as:
  - When the Articles were adopted, Mr Truman was the only shareholder who could even potentially fulfil the role of Employee Member;
  - The only circumstances in which the "consultant" limb of Article 11.3 could ever apply to Mr Truman was if he changed his status from employee to consultant;
  - On SCL's case, in those circumstances a deemed Transfer Notice would be triggered and, on that basis, there could never be a circumstance when a deemed Transfer Notice could be triggered by Mr Truman ceasing to be a consultant; and
  - The "consultant" part of Article 11.3 would be "**otiose**"

Key Takeaways

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- The Court of Appeal **clarified the relevant considerations in interpreting Articles of Association** relating to the valuation of shares, and the **emphasis to be placed on each**.
- The decision **sets a clear precedent** for how similar provisions should be construed going forward.
- The Court's findings **underscore the protection of minority shareholders** and place an **emphasis on ensuring that the rights of minority shareholders are upheld** in corporate governance.
- The case highlights not only the **importance of using precise language when drafting Articles**, but also the **need for interpretations that align with commercial common sense**.

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