

Siblings lose appeal against BNP Paribas

Court dismisses their argument; bank had accused them of trying to wriggle out of loan obligations

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Two Israeli siblings accused by a French bank of trying to wriggle out of their financial obligations to the lender used a novel argument in their appeal – but they lost.

They had asserted that the bank which extended loans to their companies had not complied with Singapore banking laws.

Israeli-British businessman Jacob Agam, 62, and his sister, Ruth, 65, claimed BNP Paribas' merger last year with its Singapore arm, BNP Paribas Wealth Management, was invalid. The reason, they said, was that the merger occurred without prior consent sought from the High Court and the Finance Minister.

According to BNP Paribas, they tried to “stymie” the bank from seeking repayment of monies loaned to the Agam siblings' companies by claiming the merger – which resulted in the transfer of billions of dollars' worth of rights, obligations, assets and liabilities of BNP Paribas Wealth Management to BNP Paribas under French law – was illegal.

The Agam siblings pressed this argument in their appeal against a ruling by the Singapore International Commercial Court (SICC) that BNP Paribas could, in place of BNP Paribas Wealth Management, continue to take action against them here.

But the Singapore Court of Appeal yesterday found the BNP merger could occur in Singapore without the need for court approval as long as it was done in compliance with applicable foreign laws.

The SICC, in its grounds for decision issued on Feb 17, said the Monetary Authority of Singapore was informed of the merger, and there was no indication it considered that court approval had been required.

Chief Justice Sundaresh Menon yesterday not only dismissed the Agams' appeal, but also found “flaws” in their lawyer Cheong

Yuen Hee's interpretation of Singapore's banking laws.

The Court of Appeal awarded costs of \$24,000 to BNP Paribas.

In 2010, BNP Paribas Wealth Management had advanced about €61.7 million to the Agams' companies, in part to refinance their properties and also to provide a fund for investment. The security for the loans included personal guarantees by the Agams.

The deal was arranged and entered into through the Singapore branch of BNP Paribas Wealth Management, and the documents provided for Singapore law as the governing law and for the jurisdiction of Singapore courts.

As the loans were not fully repaid on maturity in 2015, BNP Paribas Wealth Management sued the Agams, claiming about €30 million (\$46 million) from them as guarantors of the obligations of two of the firms.

The siblings filed defences to the claim, and Mr Agam brought a counterclaim against BNP Paribas Wealth Management. The case was transferred to the SICC in April last year.

Mr Agam's spokesman told The Straits Times that his client will be discussing with his lawyers the next step in this fight against BNP Paribas.

€61.7m

How much BNP Paribas Wealth Management had advanced to the Agams' companies in 2010.

Mr Jacob Agam and his sister Ruth claimed that BNP Paribas' merger last year with its Singapore arm, BNP Paribas Wealth Management, was invalid.
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