

Singapore International Commercial Court

\$1.1b dispute is first case heard

Successful resolution of spat between Aussie and Indonesian firms could draw more cases



Justices (clockwise from bottom left) Anselmo Reyes, Quentin Loh and Vivian Ramsey will hear the SICC's first case.

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The Republic's first international commercial court case is under way and has made history with two distinguished international judges sitting with a presiding local judge to hear a US\$800 million (S\$1.1 billion) dispute.

The significance of the first Singapore International Commercial Court (SICC) case, which started on Monday, was not lost on the presiding Justice Quentin Loh, who said: "This court signifies not only the aspirations of Singapore to establish itself as a dispute-resolution hub, but it also reflects the needs of international trade and commerce for different fora, for different kinds of dispute-resolution methodologies to resolve the many different types of disputes that can and unfortunately do arise from time to time."

Industry sources said the case will be keenly watched as its success could draw more parties to Singapore to settle cross-border commercial disputes.

In this case, BCBC Singapore, a wholly owned subsidiary of Australian company Binderless Coal Briquetting Company, is seeking damages from Indonesian company Bayan Resources TBK. The claims and counterclaims arise mainly from alleged breaches of a joint-venture pact for the application of a patented technology to produce and sell upgraded coal from East Kalimantan in Indonesian Borneo.

The spat also relates to joint-venture company Kaltim Supacoal, incorporated in Indonesia, whose shares are held by both parties.

The joint-venture deed is governed by Singapore law and the heads of damages include a claim of about US\$750 million and a counterclaim of about US\$59 million.

The newly minted SICC – first mooted by Chief Justice Sundaresh Menon two years ago – was set up to hear cross-border disputes and is part of Singapore's plan to become Asia's dispute-resolution hub and grow its legal services industry.

A team of Rajah & Tann lawyers, led by Senior Counsel Francis Xavier, is representing BCBC Singapore while Senior Counsel Davinder Singh is helming a Drew & Naper team in defending Bayan and making a counterclaim.

Justice Loh, who is hearing the case with international judges Vivian Ramsey from England and Anselmo Reyes from Hong Kong, lauded SC Xavier and SC Singh and their teams for their "brisk and business-like" approach "reflecting the best traditions of the Bar".

"They concentrated on the issues that really matter" and "cooperated to avoid unnecessary, time-consuming and costly skirmishes over interlocutory matters", added Justice Loh on the court's behalf.

The case has spawned satellite litigation in the Australian courts involving a landmark tussle on whether Bayan's shares in Perth-based company Kangaroo Resources should be frozen pending the outcome of the Singapore hearing.

The case, which wound its way through several tiers of the Australian system, was settled last month by a seven-judge panel of Australia's highest court.

The apex court ruled it had the powers to freeze Bayan's shares despite proceedings having yet to be concluded in an overseas jurisdiction – that is, Singapore.

MEETING NEEDS

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JUSTICE QUENTIN LOH

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