



# In The Supreme Court of Bermuda

## CIVIL JURISDICTION COMMERCIAL COURT 2018: 44

BETWEEN:-

WONG, WEN-YOUNG

Plaintiff/Applicant

- and -

- (1) GRAND VIEW PRIVATE TRUST COMPANY LIMITED
- (2) TRANSGLOBE PRIVATE TRUST COMPANY LIMITED
- (3) VANTURA PRIVATE TRUST COMPANY LIMITED
- (4) UNIVERSAL LINK PRIVATE TRUST COMPANY LIMITED
- (5) THE ESTATE OF HUNG WEN-HSIUNG, DECEASED
- (6) OCEAN VIEW PRIVATE TRUST COMPANY LIMITED
- (7) WANG, RUEY HWA (aka "Susan Wang")

Defendants/Respondents

- (8) WANG, VEN-JIAO (aka "Tony Wang")  
(as joint administrator of the Bermudian estate of YT Wang)
- (9) WANG, HSUEH-MIN (aka "Jennifer Wang")  
(as joint administrator of the Bermudian estate of YT Wang)

Defendants

## **IN COURT -VIA VIDEOCONFERENCE**

Date of hearing: April 16, 2021

Draft Ruling circulated: April 16, 2021

Ruling delivered: April 16, 2021

**Elsbeth Talbot Rice QC, Rod Attride-Stirling and Dakis Hagen QC** (instructed by **Baker & McKenzie LLP**) for the **Claimant**

**Richard Wilson QC, Fozeia Rana-Fahy, James Weale** (instructed by **MJM Limited**) for the **Defendants**

**Mark Howard QC and Jonathan Adkin** (instructed by **Conyers Dill & Pearman LLP**) for the **Defendants**

### **HEADNOTE**

*Application for open justice.*

### **RULING**

1. Having heard all of the interesting submissions on a somewhat unusual case of open justice in relation to a remote hearing, I am assisted by referring to section 6(9) and (10) of the Bermuda Constitution, which provide in broad terms that the starting assumption is that every civil hearing will take place in public and that the public will have a right to attend. They then permit the Court to depart from that starting position where good cause is shown in some other countervailing public interest.
2. In this case, it seems to me, the Court having given directions for a remote hearing in circumstances of the global pandemic which makes an in-person hearing at this point in Bermuda altogether

impossible -- the position may of course change in the course of the trial -- two categories of participation arise to be considered.

3. The first category is the parties and witnesses. As far as those persons are concerned, it seems to me to be clear that they should be given access to the Opus protected password on the terms that are set out in the standard email that Opus currently send out and that they should be able to listen to and observe the trial in full at whatever location they choose.
4. As far as the public is concerned, it is, in my judgment clear having regard to the Constitution, that the public in Bermuda is entitled to apply for similar access, although, as a practical matter, it is likely that the local media will be most likely to gain access on behalf of the public alongside interested members of the local legal and trust community.
5. Those persons resident in Bermuda should, I find, be entitled to, in accordance with the April 2020 Circular modified by this ruling, apply to the Registrar to access the link not less than 30 minutes before the commencement of the hearing; although one would hope that they would actually do so further in advance than that. But having regard to the likely small numbers, I think the 30minute period is a sufficient one. So that is the public in Bermuda, broadly defined.
6. As far as persons overseas are concerned, it seems to me that the Court is entitled to take a more restrictive approach because I accept that, in broad terms, what the Court is seeking to do in providing remote access to persons overseas is to replicate what would happen in a traditional trial.

7. In a traditional trial, the general world/ global public would not likely have an interest in travelling to Bermuda to sit in on this trial. If that were to be a likelihood, then one would perhaps have already received some intimations from a huge assembly of people who might well have been inviting the Court to set up some special premises where the trial could be live-streamed to in Bermuda, if a traditional trial was taking place.
8. In reality, there is a hypothetical and not unrealistic prospect that members of certain overseas media, in particular in Taiwan where this case really originates from in terms of the parties involved in the dispute, foreign media houses are likely to be interested in attending and might quite well have sent one or more representatives to Bermuda to watch a physical trial.
9. In these circumstances, I find that the interests of open justice will be adequately met by permitting members of foreign media agencies to apply to the Registrar, in accordance with the Circular, for access to the stream of the hearing through Opus.
10. However, in terms of the time before the hearing that they should apply for permission to access the hearing, the 30-minute period is, in my view, too short, because there should be the opportunity to verify that the persons seeking access are not just random members of the public but indeed representatives of some reasonably identifiable media house. So those persons should apply within not less than 24 hours before the hearing to the Registrar.
11. That will enable the Registrar, in consultation with the trial judge, to carry out at least some superficial vetting of the applications and hopefully identify the presence or absence of any red flags.

[After hearing Counsel, directions were given for notice to be given of the above attendance rights to placed on the Cause List next to the listing of the present case]

Dated this 16<sup>th</sup> day of April, 2021

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IAN RC KAWALEY  
ASSISTANT JUSTICE