Neutral Citation Number: [2020] EWHC 1602 (Ch)

Case No: IL-2018-000101

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
INTELLECTUAL PROPERTY LIST (ChD)

(via Skype for Business)
7 Rolls Buildings
Fetter Lane
London EC4A 1NL

Date: 24 June 2020

Before:

DAVID STONE
Sitting as Deputy Judge of the Chancery Division

- -

B E T W E E N:

INTERNATIONAL PIPELINE PRODUCTS LIMITED — **Claimant**

- and -

(1) IK UK LIMITED
(2) MR IAN SHORT
(3) MR RAYMOND SCHOFIELD
(4) R NEVILLE TEASDALE
(5) MR PETER MAHONEY
(6) MR ROBIN ARNOLD
(7) MR PAUL ROBINSON
(8) MR LEE GALLOWAY
(9) MR CHRISTIAN BULL ERIKSSON
(10) MR GEIR MOLBERG
(11) IK NORWAY AS
(12) IK GROUP AS

Respondents

- -

DR GEOFFREY PRITCHARD and **MS GEORGINA MESSENGER** appeared on behalf of the **Applicant**
MR THOMAS ST QUENTIN appeared on behalf of the **Respondent**

Hearing date: 1 May 2020

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APPROVED JUDGMENT

…….
DAVID STONE
Sitting as Deputy Judge of the Chancery Division

DAVID STONE (sitting as a Deputy Judge of the Chancery Division):

1. On Friday 1 May 2020 I heard via Skype for Business the continuation of the CCMC in this matter and, in particular, the application by a number of the Defendants for security for costs. The hearing overran, and there was not time for me to give full reasons for dismissing the Defendants' application. I therefore gave abbreviated reasons, and said that I would provide more detailed reasons in writing if requested. That request was duly made on 5 May 2020, but for reasons unrelated to the court or the transcribers, the transcript was not provided to me until 4 June 2020. That explains the delay in my providing these, my reasons for dismissing the application for security for costs.

Background

2. The Claimant, International Pipeline Products Limited, and the First Defendant, IK UK Limited, are in the same industry – the provision of products and services for the maintenance and repair of pipelines for oil and gas. This claim arises out of the departure from the Claimant of a number of employees in 2010. Put simply, during 2010, the Twelfth Defendant, IK Group AS, was in negotiations to purchase the Claimant. The purchase did not complete. Instead, the First Defendant was established less than two months later. It is alleged that whilst employed by the Claimant, the Second to Eighth Defendants: created and acted upon a detailed business plan for the First Defendant; secured premises and acquired equipment for the First Defendant; stole equipment from the Claimant; misappropriated valuable confidential information belonging to the Claimant; and acted to conceal their actions and to make them appear legitimate. The creation and implementation of the First Defendant's business plan is said to have been in concert with the Ninth to Twelfth Defendants. It is further alleged that all the Defendants then conspired together to take customers and employees from the Claimant, whilst using the Claimant's confidential information, and copying the Claimant's products, materials and business.

3. The claim is therefore a wide ranging one with claims for:

   (a) breach of contract;

   (b) conspiracy to injure by unlawful means and unlawful means conspiracy;

   (c) breach of confidence; and

   (d) infringement of various intellectual property rights including:

      (i) patents;

      (ii) copyright; and

      (iii) unregistered design rights.

4. The claim was initially against some twelve defendants, which can be listed in two groupings. One comprises the so called "IK Defendants", being the First, Second, Eighth, Ninth, Tenth, Eleventh and Twelfth Defendants. The other comprises the remaining defendants, called the "Non-IK Defendants", being the Third, Fourth, Fifth, Sixth and Seventh Defendants.

5. The CCMC in this matter was originally listed for 5 March 2020. Shortly before that date, without any prior notice to the Claimant, the IK Defendants filed an application for security for costs on 26 February 2020. The Claimant was not ready to respond to that application at the 5 March 2020 hearing, so the CCMC did not proceed on that day. Rather I made a number of orders by consent, including to enable the Claimant to file its evidence in response to the application for security for

costs, and orders enabling the IK Defendants to amend their Defence and Counterclaim and Grounds of Invalidity and for the Claimant to respond.

6. The Non-IK Defendants did not attend on 5 March 2020, nor were they represented. I made orders for various documents to be served on them. In the end, the Claimant settled its dispute with the Non-IK Defendants on 1 April 2020, and *Tomlin* orders were entered. As the Non-IK Defendants play no further role in proceedings, I will henceforth refer to the IK-Defendants simply as "the Defendants".

7. I relisted the CCMC for 23 April 2020 before me. By the time the hearing on 23 April 2020 came around, the Defendants had filed a number of further applications, including an application for a part of the case to be dealt with as a preliminary issue, and an application to strike out part of the breach of confidence claim. Again, the Defendants had given the Claimant no notice at all prior to filing those applications. The Claimant had sought an extension of a deadline set out in my order by consent of 5 March 2020 for the filing of its evidence, and had done so prior to the expiration of the deadline. The extension sought was a week. Unusually, the Defendants declined to consent to an extension of time, such that the Claimant then filed an application for permission to adduce late evidence.

8. In summary, on 23 April 2020, the parties wished the court to deal with four contested applications, as well as directions to prepare the matter for trial, and costs budgeting. In preparation for the hearing, I was asked to read 17 witness statements. The estimated hearing time for the four applications was five and a half hours, not including directions or costs budgeting or the application for permission to file late evidence.

9. It was apparent that it was not going to be possible to deal with all those matters in a day (in the end it took more than two days of hearing time). On 23 April 2020, with the assistance of counsel and those instructing them, I dealt via Skype for Business with as much as was possible. I dismissed the Defendants' application to try a preliminary issue and dismissed the Defendants' application to strike out parts of the breach of confidence claim for the reasons I gave then. I made case management directions to provide for some of the Claimant's claims to be heard by way of exemplars, so as to reduce disclosure and the length of the trial. The Defendants, having not filed any evidence to resist the Claimant's application for permission to adduce late evidence, consented to it but the parties had not reached agreement on the costs of that application. I stood over the CCMC part heard (directions and costs budgeting), along with the application for security for costs, and the Claimant's application for its costs of the application to adduce late evidence.

10. Prior to the matter coming on again before me on 1 May 2020, I was provided with a further three witness statements, and a further three skeleton arguments, as well as a revised set of documents relating to costs budgeting. On 1 May 2020, I dealt with orders to prepare the matter for trial, and was taken through each costs budget in some detail by counsel: it was necessary to set the parties' costs budgets before considering the application for security for costs. It is relevant that the effect of my case management directions on 23 April 2020 was to reduce the Defendants' costs budget by some £500,000. I then heard counsel for both sides on the security for costs application, and dismissed it.

11. To date, the Defendants have made, without the benefit of any pre-filing correspondence with the Claimant, three applications, none of which has been successful. The Claimant's request for an extension of time to file its evidence was resisted until the hearing. Twenty witness statements have been filed and served, along with five skeleton arguments totalling 312 paragraphs. It is to be hoped that, as this litigation progresses, the parties might be able to narrow the issues between them and do all that they can to comply with the Overriding Objective.

Security for costs – the law

12. The Defendants' application for security for costs was made under CPR rule 25.13:

> "(1) The court may make an order for security for costs under rule 25.15 if-
>
> (a) it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order; and
>
> (b)
>
> (i) one or more of the conditions in paragraph (2) applies, or
>
> (ii) an enactment permits the court to require security for costs.
>
> (2) The conditions are –
>
> …
>
> (c) the claimant is a company or other body (whether incorporated inside or outside Great Britain) and there is reason to believe that it will be unable to pay the defendant's costs if ordered to do so.
>
> …"

13. It was common ground between the parties that this was the relevant test for me to apply. It was also common ground that I must proceed through a two stage assessment. First, CPR rule 25.15(2)(c) provides the relevant threshold condition that in this case must first be met: is there reason to believe that the Claimant will be unable to pay the Defendants' costs? Second, I must exercise the court's discretion and be satisfied that it is just to make an order that security be given.

14. I was also referred to the decision of Briggs J (as he then was) in *Chemistree Homecare Limited v Teva Pharmaceuticals Limited* [2011] EWHC 2979 (Ch) at paragraph [3]:

> "Happily there has been no dispute about the law, recently comprehensively restated by the Court of Appeal in *Jirehouse Capital v Beller* [2009] 1 WLR 751. For present purposes the relevant principles are as follows:
>
> (1) the applicant must show that on all the material presently available to the court there is reason to believe that the claimants will be unable to pay the applicant's costs if ordered to do so.
>
> (2) The question is whether the claimant companies will, rather than might, be unable to pay.
>
> (3) Inability to pay means to pay when the costs fall due for payment (see *Re Unisoft Group (No 2)* 1993 BCLC 532 at 534, approved in *Jirehouse Capital* at paragraph 23). This calls for an assessment of what the claimants may be expected to have available for payment at the due date or dates in the form of cash or other readily realisable assets (see *Longstaff International v Baker and McKenzie* [2004] 1 WLR 2917 at paragraphs 17 and 18).
>
> (4) In respect of a costs order made at the end of a two-week trial, where there is no possibility of summary assessment, the relevant due dates, as it seems to me, are (a) the payment date of any order made by the trial judge for a payment on account,

> and (b) the date when an order for the balance is made upon completion of detailed assessment.
>
> (5) If this ability to pay threshold is passed, then the court has a broad discretion whether to order any, and if so how much, to be paid or secured by way of security. The reported cases have identified specific aspects which have to be taken into account (see for example *Sir Lindsay Parkinson and Co v Triplan* [1973] QB 609 per Lord Denning, summarised in the White Book at paragraph 25.13.13).
>
> (6) But overall the question is whether the court is satisfied, having regard to all the circumstances of the case, that it is just to make such an order (see CPR 25.13(1)(a)).”

15. I accept the Defendants’ counsel’s submission that a defendant does not need to show that a claimant will not, on the balance of probabilities, be able to pay: a defendant need only show that there is reason to believe that it will not be able to do so. But the threshold test still requires a reason to believe that the claimant *will* be unable to pay those costs, as noted in *Chemistree*, but also see Sir Donald Nicholls VC in *Re Unisoft Group (No 2)* at 534. In that case, the Vice Chancellor explained the court’s approach to the evidence as follows:

> “Thus the question is, will the company be able to meet the costs order at the time when the order is made and requires to be met? That is a question to be judged and answered as matters stand when the application if heard by the court, although the court will take into account and give appropriate weight to evidence about what is expected to happen in the interval before the costs order would fall to be met.”

16. The Vice Chancellor’s comments are particularly apposite because the hearing before me was conducted in the early days of the Covid-19 lockdown, with evidence on both sides as to the likely impact on the business of the Claimant and several other entities the relevance of which I will shortly explain.

Evidence

17. Ten witness statements were filed in relation to this application.

18. The following people gave evidence on behalf of the Defendants:

    (a) Mr Andrew Marwood, the Managing Director of the First Defendant. He provided evidence as to the Claimant’s financial position, including the Claimant’s “Quick Ratio”, a measure of a company’s ability to pay its immediate debts. He provided his commentary on the Claimant’s financial position on the basis of publicly available documents. His conclusions were based on a claim for security for costs in excess of £1.6 million, being the Defendant’s then claimed costs, which, as I have noted above, were later reduced significantly.

    (b) Mr John Walsh, the Finance Director of the First Defendant and a Fellow of the Chartered Association of Certified Accountants. Mr Walsh commented on the difference between audited and management accounts, and attached various reports on the impact of the Covid-19 pandemic. Mr Walsh also attached to his witness statement an opinion of Mr Paul Taylor, referred to immediately below.

    (c) Mr Paul Taylor, who provided a letter attached to Mr Walsh’s witness statement, and two further witness statements of his own. Mr Taylor is the Managing Partner of the Dubai office of Eversheds-Sutherland (International) LLP. He is an experienced legal practitioner and has worked in the UAE for many years. He gave evidence of the difficulties of enforcing

English judgments in the region. His first witness statement responded to Mr Forrester's fifth witness statement. His second witness statement took further issue with various submissions made by the Claimant.

19. On behalf of the Claimant the following people gave evidence:

    (a) Mr Michael Forrester, a partner at Brandsmiths, the Claimant's solicitors. He provided a total of six witness statements, of which the second, fifth and sixth were relevant to this application. Mr Forrester set out the history of the security for costs application, and noted the various undertakings that have been given to try to assuage the Defendants' concerns. He also provided documents concerning foreign enforcement, and responded to Mr Walsh's witness statement. His sixth witness statement responded to Mr Taylor's second witness statement.

    (b) Mr Simon Bell, the Managing Director of the Claimant. He provided five witness statements, of which the first and fifth were relevant to this application. He gave evidence as to the Claimant's financial position. He criticised Mr Marwood's evidence as "speculation", and instead said that the Claimant has gross assets of over £3.5 million, and that it can call on assets of over £2.4 million to meet any costs order. He also provided some information on the so called Trans Asia Companies, substantial entities, one of which, Dhanekula International PTE Limited ("Dhanekula") has provided a contractual undertaking to pay the Claimant's legal costs, as well as to meet any adverse costs award in favour of the Defendants. Mr Bell also responded to Mr Walsh's witness statement, including rebutting comments about the impact of Covid-19.

    (c) Mr Bashir Ahmed, Managing Partner of Afridi & Angell Legal Consultants a UAE law firm. Mr Ahmed is an experienced legal practitioner in the UAE. He responded to Mr Taylor's evidence.

20. None of the witnesses was presented as an expert (although clearly all are highly experienced). Much of their evidence was argument, and in some cases, conjecture. Whilst none of the witnesses was cross-examined, where they disagree, I have had to reach my own conclusions, to the limited extent it was necessary to do so.

Is there a reason to believe that the Claimant will be unable to pay the Defendant's costs if it is ordered to do so?

21. I turn first to the threshold condition. It seems to me that I must first answer two questions:

    (a) If the Defendants are successful, how much are their costs likely to be?; and

    (b) When would the Claimant be required to pay those costs?

22. On the question of the amount of the Defendant's costs, by the time of the hearing, the parties were not far apart. The Defendants' draft order claimed £1,613,681.54. This figure was reduced prior to the hearing before me to take account of the case management directions I had made. In the end, the Claimant's counsel estimated the amount at approximately £900,000 and the Defendants' counsel at slightly over £1 million.

23. As to the question of when, if the Defendants are successful, the Claimant would be due to pay its costs: the trial window is April to July 2021. Allowing time for a judgment and a form of order hearing, it seems to me that it is likely that an interim payment would be due around October or November 2021. Counsel for the Claimant accepted that approximately £800,000 to £900,000

would be due then on an interim payment, which suggests that little, if anything, would remain to be paid following detailed assessment some six months or more further on.

24. Therefore, I need to answer the question whether there is reason to believe that the Claimant will be unable to pay £800,000 to £900,000 in October/November 2021.

25. I turn first to the current position. What is clear and uncontested is that as at the date of the hearing, the Claimant had at least £900,000 in net assets, so if it were ordered to pay £800,000 to £900,000 it could do so now. I add for completeness that Mr Bell's evidence was that the total assets on which the Claimant could call are over £2,400,000.

26. The next question is "will things deteriorate substantially for the Claimant between now and October/ November 2021?" Counsel for the Defendants asked me to take into account a number of matters.

Covid-19 and an economic downturn

27. Having read the evidence of Mr Bell, the Claimant's Managing Director, it is clear to me that the Claimant's business is a successful one. Although there is evidence that investments were perhaps placed elsewhere over a couple of recent years, it is now trading well. He gave evidence that whilst the Covid-19 pandemic has led to a drop off in inquiries of about 10%, no orders have been cancelled, so he would expect that the Claimant will continue to trade well and will continue to make money.

28. Despite Mr Bell's assurances on oath as to the state of the business, the Defendants asked me to consider the looming economic downturn. I was taken to the evidence on this in some detail. At this point of the Covid-19 epidemic, it is fair to say (and both counsel accepted) that we just cannot know what is going to happen. But I was not taken to any evidence that causes me to doubt Mr Bell's statements. Much of the evidence of economic downturn to which the Defendants pointed was from the oil exploration industry – but that is not the industry in which the Claimant is involved – it is involved in pipe maintenance and repair. The current global energy situation is that there is an oversupply of oil. It is therefore not surprising to me that oil exploration industries are suffering a dip, but that that has not led to a significant dip in the requirements for pipe maintenance and repair. Pipes are needed for moving oil and gas for storage, even if exploration is slowing.

29. In my judgment, having reviewed the evidence before the court, I am unable to conclude at this point in time that the impact of Covid-19, any economic downturn, or the current state of the oil and gas industry are such as to detract from the Claimant's ability to pay the Defendants' costs so as to be satisfied that there is reason to believe that the Claimant will be unable to pay £800,000 to £900,000 in October/November 2021.

Loan from Dhanekula

30. The Defendants also asked me to take into account a loan of £1,500,000 made to the Claimant by Dhanekula, which is said to be due to be paid back in February 2021. Mr Bell's evidence was that the loan can be rolled forward to February 2022 and that it is in any event likely to be converted into equity. February 2022 would be after the date on which the Defendants' costs would be due, such that if the loan is rolled forward, it would not impact the Claimant's ability to pay. Similarly, if the loan is converted to equity, it will not impact the Claimant's ability to pay. The owner of Dhanekula has said that he will stand behind the obligations to the Claimant, so there is certainly no indication that Dhanekula's support will be withdrawn, or the repayment of the loan called for.

31. There was criticism of the provision by the Claimant of a heavily redacted version of the loan documentation, but in my judgment, the point goes nowhere. Mr Bell's evidence clearly establishes

that the value of the loan is money that will remain available to the Claimant as at the date on which any costs would become due to the Defendants and hence it does not detract from the Claimant's ability to pay. Nothing in the Defendants' evidence casts doubt on Mr Bell's position.

Dhanekula's obligation to pay the Claimant's legal costs

32. There was also evidence before me of a contractual indemnity from Dhanekula to pay the Claimant's costs as and when they are incurred, as well as to meet the Defendants' costs if the Claimant is unable to do so. I take this into account in assessing whether there is reason to believe that the Claimant will be unable to pay the Defendants' costs – unusually for litigation of this type, the Claimant's resources will not be depleted by having to pay its own costs as the litigation progresses. As I have found that the Claimant has sufficient money to meet the Defendants' costs, I do not need to make a finding as to the Defendants' costs being met by Dhanekula, but it seems to me that that contract provides a further backup for the Claimant, should it be needed.

Conclusions

33. As counsel for the Defendants submitted, I do not need to reach concluded views on all these factual matters. However, I remind myself of the primary question: is there a reason to believe that the Claimant will be unable to pay the Defendants' costs of £800,000 to £900,000 in October/November 2021? In my judgment, there is not. The Claimant has the money now. It is a substantial and profitable business. Whilst its business may suffer some small dip because of the current situation, its evidence was clear that this has only been 10% of enquiries. It gave cogent reasons why its business of maintenance and repair remains necessary despite a fall in oil and gas exploration. It also enjoys backing from substantial entities in the Trans Asia Companies, including a contractual arrangement for its costs of this litigation to be met by a third party, as well as any costs payable to the Defendants. The Defendants therefore fail to meet the threshold question set out in CPR rule 25.15(2)(c), and their application for security for costs should be dismissed.

Having regard to all the circumstances of the case, is it just to make an order?

34. I therefore do not need to turn to the second part of the test and that is the exercise of my discretion. However, I set out very briefly my findings in relation to that aspect of the application.

35. The Claimant submitted that were I to find that the Defendants had cleared the threshold question, I should not make an order for security for costs because there are undertakings given by third party entities to the Court and to the Defendants that they would meet the Defendants' costs. The third parties are:

    (a) Dhanekula, based in Singapore;

    (b) Trans Asia Energy Services (UK) Limited based in the United Kingdom; and

    (c) Trans Asia Pipeline Services FZC ("TAPS") based in the Emirate of Sharjah, UAE.

36. As noted above, these entities were referred to as the Trans Asia Companies. The Claimant is a long-standing supplier of products used by the Trans Asia Companies for their trading activities. Mr Bell gave uncontested evidence that "the relationship is an important one for the Trans Asia Companies as their interests in the success of this litigation and the success of the Claimant's business in general are completely aligned." The Trans Asia Companies are all under the common ownership and control of the Dhanekula family, including Mr Surendranath Anjhiah Dhanekula, the Chairman of TAPS. Mr Dhanekula was recently appointed a director of the Claimant. So the Claimant and the Trans Asia Companies are interlinked.

37. Further, these three companies offered to guarantee the reasonable additional costs of enforcement action against them outside the EEA (following the approach set out in *Nasser v United Bank of Kuwait* [2002] 1 WLR 1868 CA at [58] to [65]).

38. The focus of submissions was TAPS. Whilst the Defendants submitted that there are reasons to doubt TAPS's ability to pay in the current economic climate, their larger concern, as expressed by their counsel, was enforceability. As set out above, TAPS has offered an undertaking to be jointly and severally liable with the Claimant to pay any costs awarded in favour of the Defendants. It has also offered to guarantee the reasonable additional costs of enforcement action outside the EEA. Additionally, TAPS has offered to submit to the jurisdiction of the courts of the Dubai International Financial Centre ("the DIFC"). But, said the Defendants' counsel, it did not offer to make a payment into a UK escrow account, nor to provide a bank guarantee. Both sides therefore made detailed submissions on the process of enforcement in the Emirate of Sharjah and the DIFC. Mr Taylor said enforcement in Sharjah could take "up to two years or more" but that any positive outcome would be likely to be appealed, taking up to a further three years. On the other hand, Mr Ahmed gave evidence that there are no substantial obstacles to an order of this court being enforced in Sharjah or the DIFC. The Claimant also relied on a judgment of Nicola Davies J refusing an application for security for costs against a member of the Abu Dhabi ruling family in *Sheikh Al Nehayan v Kent* [2016] EWHC 623 (QB).

39. In summary, the Defendants argued that:

    (a) the proposed undertakings to the Defendants and to the court are, in effect, merely contractual agreements, and there is a real risk that there will be obstacles to enforcement of a contract in Sharjah;

    (b) the substantial obstacles to enforcement, including significant delay, create a risk of unenforceability;

    (c) an order of this court would similarly face substantial obstacles to enforcement in Sharjah;

    (d) the Covid-19 pandemic compounds existing instability in the oil market, such that TAPS's financial position may deteriorate; and

    (e) the undertaking to submit to the jurisdiction of the DIFC does not improve the Claimant's position, because that undertaking faces the same enforcement challenges as enforcing the underlying undertaking to pay costs, and, in any event, enforcement before the DIFC will entail delay.

40. Taking all of the evidence together, it does seem to me that TAPS is sufficiently in funds to meet any costs order that this court would make. TAPS is a substantial enterprise with substantial assets. In 2019, it achieved revenues of approximately £20 million, including gross profit of just under £5 million. It has current assets of over £11 million, of which £1.8 million is in cash and cash equivalents. It can pay costs of between £800,000 and £900,000. That position was not seriously contested by the Defendants.

41. In relation to any deterioration of TAPS's financial position (the Defendants' submission set out in paragraph 39(d) above), the evidence relied on by the Defendants was all general market information, rather than anything relating specifically to TAPS. The Defendants' evidence referring to the position in the oil market in the UAE, where TAPS is based, stated that it was "business as usual". There was no evidence before me to enable me to conclude that the position for TAPS will become so dire prior to October/November 2021 that it will not have £900,000 to meet the Defendants' costs.

42. The Defendants' submissions set out in paragraph 39(a), (b) and (c) above all relate to enforcement in the Emirate of Sharjah. As a first point, the Claimant submitted with some force that there is no indication that TAPS will seek to avoid its contractual obligations nor its undertakings to the Defendants and to this court. There is no evidence that the undertakings given to the court have been offered dishonestly or that they will be contemptuously ignored. Further, there was uncontested evidence from Mr Bell that the Trans Asia Companies will stand beside and behind the Claimant - related companies are shareholders in the Claimant and consider the Claimant to be an important part of the linked companies. Mr Dhanekula is Chairman of TAPS and a director of the Claimant. He has said that the obligations of the Trans Asia Companies will be met. All this suggest, and suggests strongly, that the undertakings will not need to be called upon, but if they are, TAPS will not seek to avoid them.

43. If, and to my mind it is a big if, enforcement is required in the Emirate of Sharjah, undertakings have been given to submit to the jurisdiction of the DIFC (the Defendants' submission set out at paragraph 39(e) above). There would undoubtedly be some complications to enforcing in the Emirate of Sharjah and/or the DIFC. That would occasion some additional costs and some delay. The costs are dealt with by the undertaking that has been proffered to pay those additional costs. In my judgment, the delay is not of itself sufficient to create a reason to believe that enforcement will not be possible or otherwise to cause me to exercise the court's discretion in favour of granting security for costs. Mr Ahmed's evidence on this point was cogent and clear, and took into account recent legislative amendments aimed at improving the position of those seeking to enforce foreign judgments. I prefer his evidence on this point to that of Mr Taylor, which in my judgment was in its conclusions over-stated. My finding on this point is consistent with the finding of Nicola Davies J in *Sheikh Al Nehayan v Kent* all though I have reached my conclusion relying only on the facts before me.

44. Therefore, there is, in my judgment, no real risk of substantial obstacles to enforcement: see *Vladimir Anatolevich Chernukhin v Lolita Vladimirovna Danilina* [2018] EWCA Civ 1802 at [51]-[52].

45. In my judgment, in all the circumstances, it would not be just to make an order for security for costs.

46. For those reasons, I dismissed the Defendants' application for security for costs.