

**EASTERN CARIBBEAN SUPREME COURT
BRITISH VIRGIN ISLANDS**

**IN THE HIGH COURT OF JUSTICE
(COMMERCIAL DIVISION)**

CLAIM No: BVIHC (COM) 2018/0172

BETWEEN:

HU LAN

aClaimant

and

- (1) SUNDALE INTERNATIONAL LIMITED**
- (2) BEST LAND INVESTMENTS LIMITED**
- (3) HARNEYS CORPORATE SERVICES LIMITED**
- (4) DAVID GOLDEN**
- (5) GAO JIAREN**

Defendants

Appearances:

Mr. John McCarroll SC and Mr. Richard Parchment of Harneys for the Fourth Defendant
Ms. Tameka Davis and Ms. Jane Fedotova of Conyers for the Claimant

2021 July 8 (Oral Judgment)
July 19 (Written Judgment)

JUDGMENT: COMMITTAL AND STRIKEOUT

[1] **JACK, J [Ag.]**: I have found Hu Lan to be in contempt of Court and I have set out the reasons for my findings to that effect. It does not appear that she has withdrawn the Chinese proceedings which were the subject of the anti-suit injunction. As a result, she is in continuing breach of the court's order.

[2] Unlike the position in England where there is a maximum sentence of two years' imprisonment for Contempt of Court, here in the Virgin Islands the position is

governed by the common law where the normal order where a contemnor is in continuing breach of an injunction is simply that the contemnor be committed to prison indefinitely. Naturally, it is then open to the prisoner to apply to purge her contempt and I shall put a note in the order when it comes in from Mr. McCarroll SC that she does have the right to purge her contempt. Once she makes the application to purge her contempt, then I, or whichever judge is dealing with it, will consider whether the time she has spent in prison is sufficient to purge her contempt or whether there ought to be a fixed term for punishment for breach of the court's orders. But that is not a matter for me today. My order today is simply that she be committed to prison indefinitely and then she will have the right to apply to purge her contempt.

[3] Because the Claimant was in contempt of court, she was given a *locus poenitentiae* to cease to be in contempt of court, but she is still proceeding with the Chinese proceedings which are the subject of the anti-suit injunction and is in continuing contempt of court. The Court therefore has a discretion as to whether it will continue to hear the contemnor.

[4] In this case, it is clear that Ms. Hu Lan has no intention of mending her ways and therefore the appropriate remedy is to strike out her claim and her defence to counterclaim.

Adrian Jack
Commercial Court Judge [Ag.]

By the Court

Registrar