

Precious Shipping Public Co Ltd and Others v OW Bunker Far East (Singapore) Pte Ltd and Others [2015] SGHC 187.

This is a decision by High Court in Singapore. The case was somewhat different, being 13 consolidated “interpleader” actions, with various vessel owners seeking the permission of the court to allow them to pay funds into court, and to compel both OW Bunkers and the physical suppliers to present their competing claims, i.e. so the court could determine which party should be paid, and relieve the vessel owners of the risk of “getting it wrong”.

To be granted interpleader relief, the court had to be satisfied that the physical suppliers had a prima facie case against the suppliers and whether the competing claims had an objective basis in law and fact. The court examined the various bases of the physical suppliers’ claims, whether based in bailment, retention of title, the unlawful conversion of property, collateral contract and unjust enrichment, dismissing such bases as variously “a non-starter” and “plainly unsustainable”. Accordingly, the court refused to grant interpleader relief because the physical suppliers’ claims simply did not raise any prima facie case against the vessel owners.

The judge commented: “This appeal to ‘fairness and justice’ rings hollow. The fact that the OW entities are now insolvent does not extinguish the physical suppliers’ contractual claims since their debts may still be provable in insolvency. What [counsel] is effectively seeking is for the physical suppliers to be allowed to side-step the insolvency process entirely and instead seek recovery of its claim directly from a third party. ... This, it seems to me, is both unfair and unjust.”

In addition to the above decisions, 24 Interpleader actions have been commenced in New York and 11 in the U.S. outside New York. The 24 cases include a successful claim for a Restraining Order whereby, in exchange for a purchaser paying the approximately US\$1m bunker invoice value into court, other creditors/claimants are prevented from arresting the vessel or taking other steps in relation to their claims for unpaid bunkers. Notably, however, US Interpleader actions only prevents arrests in relation to bunker stems supplied in the US because, where the bunker stem is made in another jurisdiction which accepts jurisdiction to hear the claim, that other jurisdiction may not follow the terms of any New York Restraining Order.