

BRITISH VIRGIN ISLANDS COURT OF APPEAL

Sheikh Abdullah Ali Alhamrani -v- Sheikh Mohamed Ali Alhamrani and Others Claim No. BVIHCVAP 2013/005

SHARES - BUY/SELL AGREEMENT MADE IN SAUDI ARABIA RELATING TO ALL JOINTLY HELD ASSETS - BVI COMPANY NOT INCLUDED IN A LIST OF THE JOINTLY HELD ASSETS VALUED - DISPUTE ARISING WHETHER THE SHARES IN THE BVI COMPANY WERE INCLUDED IN THE SOLD ASSETS - EXPERT EVIDENCE ON SHARI'A LAW ACCEPTED BY JUDGE - WHETHER JUDGE RIGHT TO HOLD AGREEMENT WAS NOT AMBIGUOUS - WHETHER ISSUE RES JUDICATA

In a dispute between brothers of a prominent Saudi Arabian family over the ownership of shares in a BVI company known as Chemtrade Limited ("Chemtrade"), the Court of Appeal applied principles of Shari'a law (as they relate to a process of disassociation between the family members (known as "takharuj") and overturned the decision of the High Court to order the Respondents to transfer the shares in Chemtrade to the Appellant.

The main issue on this appeal was whether the Chemtrade shares were included in a Buy/Sell Agreement made in Saudi Arabia relating to all jointly held assets of the family, in circumstances where those shares were not expressly included in the list of assets said to be transferred.

In arriving at its decision, the Court of Appeal held that the Respondents' evidence that they did not intend to include the Chemtrade shares in the transfer was unreliable. The Court of Appeal also concluded that the High Court fell into error in accepting the Sharia law expert evidence of the Respondents, particularly that expert's misinterpretation of the agreement for 'takharuj'. In considering the impact of two judgments from the Kingdom of Saudi Arabia, the Court found that no issue of *res judicata* arose to stifle the Appellant's claim. The Respondents have obtained conditional leave to appeal to the Privy Council.

Founded in 1928, Conyers Dill & Pearman is an international law firm advising on the laws of Bermuda, the British Virgin Islands, the Cayman Islands and Mauritius. With a global network that includes 130 lawyers spanning eight offices worldwide, Conyers provides responsive, sophisticated, solution-driven legal advice to clients seeking specialised expertise on corporate and commercial, litigation, restructuring and insolvency, and private client and trust matters. Conyers is affiliated with the Codan group of companies, which provide a range of trust, corporate secretarial, accounting and management services.

This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.