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FOREIGN ILLEGALITY AND PUBLIC POLICY

Shaikh Faisal Bin Sultan Al Qassim t/a Gibca v *Swan Hunter Singapore Pte Ltd (formerly known as Vosper Naval Systems Pte Ltd and Vosper-QAF Pte Ltd)*[1]

IT is incontrovertible that a contract may be affected by a foreign element of law which renders the contract illegal. However, controversy rages as to the circumstances under which illegality by a foreign law in the place of contractual performance may result in the contract being unenforceable in Singapore. Judicial and academic opinions are divided[2] as to the exact parameters of the rule established in *Ralli Brothers* v *Compania Naviera*

1 [1995] 1 SLR 394.

2 Writing in 1950, Lord Reid in *Zivnostenska Banka National Corporation* v *Frankman* [1950] AC 57 at 78 observed that "it is settled law that, *whatever be the proper law of the contract*, an English court will not require a party to do an act in performance of a contract which would be an offence under the law in force at the place where the act is to be done." In similar vein, Diplock LJ in *Mackender and Others* v *Feldia AG and Others* [1967] 2 QB 590 at 601 treated the rule in the *Ralli Brothers* case as a true conflict of laws rule when he stated that the "English courts will not enforce performance or give damages for non-performance of an act required to be done under a contract, *whatever be the proper law of the contract*, if the act would be illegal in the country in which it is required to be performed." See also Lord Simonds' judgment in *Zivnostenska Banka National Corporation* v *Frankman* [1950] AC 57 at 71 where, in regard to a contract governed by the law of Czechoslovakia, his Lordship declared: "It is ... clear that the courts of [England] will not enforce ... performance [of a contract which involved the doing of an act in Czechoslovakia, the *locus solutionis*, which is illegal by the law of that place]." See also Lord Normand's judgment in *Kahler* v *Midland Bank Ltd* [1950] AC 24 at 36 where his Lordship stated that the *Ralli Brothers* case was decided on the principle that "the courts of [England] will not compel the fulfillment of an obligation when performance includes the doing in a foreign country of something which the laws of that country make it illegal to do." For other *dicta* which support the view that the rule in the *Ralli Brothers* case is one of conflict of laws, see Cheshire and North, *Private International Law* (12th ed, 1992), at 519, note 20 thereof. However, Professor FMB Reynolds and the editors of Dicey & Morris, *The Conflict of Laws*, (12th ed, 1993), at 1245 take the view that the rule in the *Ralli Brothers* case is merely a rule of English domestic law. See also Dicey & Morris, *The Conflict of Laws* (12th ed, 1993), at 1245, note 33 thereof for the other academicians who support this view. The answer to the debate whether or not the rule in the *Ralli Brothers* case is a conflict of laws rule is of practical significance in a situation where the proper law of the contract

Sota y Aznar[3] (hereinafter referred to as "*the Ralli Brothers* case"). On one view, the rule in the *Ralli Brothers* case is one founded on domestic law and is dependent on the manner in which the proper law of the contract regards illegality in the place where contractual performance is required. The other view is that the rule in the *Ralli Brothers* case is a conflict of laws rule and applies irrespective of the governing law of the contract. Be that as it may, it is clear that the rule in the *Ralli Brothers* case is only applicable where the illegality by the *lex loci solutionis* arises out of written law. Where the foreign illegality arises from the public policy of the *lex loci solutionis*, a different rule applies to determine whether such a contract is enforceable in Singapore.

The discussion of the relevant operating principles to be applied whenever it is alleged that a contract governed by Singapore law cannot be enforced in Singapore by reason of illegality arising out of the *lex loci solutionis* is to be found in the recent case of *Shaikh Faisal Bin Sultan Al Qassim t/a Gibca* v *Swan Hunter Singapore Pte Ltd (formerly known as Vosper Naval Systems Pte Ltd and Vosper-QAF Pte Ltd)* (hereinafter referred to as "the *Shaikh Faisal* case").[4]

The specific issue which fell for decision in the *Shaikh Faisal* case was the impact of a foreign country's public policy on the enforceability of a contract governed by Singapore law and lawful by that law. Turning to the facts of the *Shaikh Faisal* case, the plaintiff made a claim against the defendants for recovery of agency commissions in regard to work done for the defendants in the United Arab Emirates (hereinafter referred to as "the UAE"). As the agency contract between the plaintiff and the defendants did not expressly state the governing law of the contract, the court had to determine objectively which was the system of law which had the closest and most real connection with the contract. Given the many contacts with Singapore, *viz*, that the agency contract was made in Singapore, the defendants, the plaintiff's principals, were a Singapore company and the two crucial letters which evidenced the agency contract were written in Singapore in the English language being an official language of Singapore, the price of the contract with the UAE Armed Forces General Headquarters was expressed in Singapore dollars, the commission payable to the plaintiff was a percentage of the supply contract price expressed in Singapore dollars and the two landing craft which were the subject of the

is not English law but the *lex fori* is English law. For in such a situation, if the view that the rule in the *Ralli Brothers* case is one of domestic English law is correct, then illegality in the place of performance is irrelevant where the contract is enforceable by its proper law.

3 [1920] 2 KB 287.

4 [1995] 1 SLR 394.

tender were to be constructed in Singapore,[5] the court found that Singapore law was the proper law of the agency contract between the plaintiff and defendants.[6] On the face of the agency contract, the contractual performance required of the plaintiff did not infringe any written law in Singapore and did not violate any public policy of Singapore inasmuch as the plaintiff was to perform the contract outside Singapore, *ie*, in the UAE. Thus, the agency contract between the plaintiff and the defendants was lawful by its proper law.

However, in their defence, the defendants contended that the appointment of an agent in the UAE by a foreign arms supplier was unlawful by the law of the UAE which was the place of performance of the contract. In particular, it was contended that both article 24.1 of the UAE Armed Forces General Headquarters standard contract and a directive issued by His Highness Sheikh Khalifa bin Zayed Al Nahyam, the Deputy Supreme Commander of the UAE rendered unlawful the appointment of a local agent. In essence, the contention was that both article 24.1 and the directive embodied a public policy of the UAE and that as under the law of the UAE, a contract may be rendered unenforceable if it is considered to be against the public policy of the UAE, the plaintiffs claim against the defendants was unenforceable.

After hearing the evidence of the legal experts on the law of the UAE, Chao Hick Tin J ruled that article 24.1 and the directive were not written law in the sense that they were not provisions laid down in any Federal law or decree of the lawmaking authorities in the UAE. His Honour also held that article 24.1 and the directive were not regulations having legislative effect as they were not prescribed by an authority under any Federal law or decree. That being the case, the learned judge observed that the rule in the *Ralli Brothers* case was inapplicable inasmuch as the rule does not apply to illegality arising solely from infringement of the public policy of the country of performance. According to his Honour, "Cases like *Ralli Brothers* and *Regazzoni* v *KC Sethia (1944) Ltd*[7] ought to be

5 These factors are listed at [1995] 1 SLR 394 at 403.

6 The proper law of the contract may be expressly provided for by the contracting parties. Where the contracting parties have not expressly provided for the proper law to apply to their contract, their intention is to be inferred or "presumed by the court from the terms of the contract and the relevant surrounding circumstances." *Per* Lord Atkin in *Rex* v *International Trustee for the Protection of Bondholders Aktiengesellschaft* [1937] AC 500 at 529 and see also *Hang Lung Bank Ltd* v *Datuk Tan Kim Chua* [1988] 2 MLJ 567 at 570.

7 [1958] AC 301. This case applied the rule in *Foster* v *Driscoll* [1929] 1 KB 470 which is that a court would not enforce a contract which contemplates (in the sense of conspiring) the doing of an act in a foreign country in violation of the written law of that country.

distinguished as they relate to infringements of the written laws of foreign countries."[8]

According to Chao J, article 24.1 and the directive constituted a "purchasing policy of GHQ [the UAE Armed Forces General Headquarters] in so far as arms procurement are concerned."[9] However, his Honour went on to find that "up to the date of issue of the directive by [the Deputy Supreme Commander], the prohibition in what was article 24.1 was not seriously enforced." Indeed, his Honour stated that the general law of the UAE did not prohibit the use of an agent as a means of securing business. Turning to the legal effect of the directive or prohibition in article 24.1, his Honour held that a breach or violation of the directive or prohibition in article 24.1 would not render the agency agreement between the plaintiff and the defendants void and unenforceable[10] as the directive and the prohibition in article 24.1 did not represent the public policy of the law in the UAE. Instead, his Honour found that the directive and the prohibition in article 24.1 represented the policy of a government department and/or was a contractual term.[11] In this regard, Chao J stated that "policies of a government or its department must be distinguished from what is known as public policy in law. Such governmental or departmental policies do not necessarily represent public policy which would vitiate contracts."[12]

Given the nature of the illegality relied on by the defendants, once the court found that it was not the public policy of the UAE to render unlawful the use of local agents to secure business in the foreign arms trade, the court upheld the plaintiff's claim. It is imperative to note, as the learned judge did, that the defendants did not contend that the plaintiff who was engaged as their local agent was expected to do or had in fact done anything improper.[13] There was no other ground – apart from the purported contravention of article 24.1 and the directive – relied on by the defendants for their contention that the agency contract between them and the plaintiff was against public policy or morals of the UAE. That being the case, Chao J upheld the plaintiff's claim.

There are four points of interest pertaining to conflict of laws covered

8 [1995] 1 SLR 394 at 414C.

9 [1995] 1 SLR 394 at 409.

10 *Ibid*, at 411 where Chao J stated that the appointment of an agent as such cannot be against any public order or morality.

11 *Ibid*.

12 *Ibid* at 410 and 411. Chao J supported this view by relying on *Monkland* v *Jack Barclay Ltd* [1951] 2 KB 252. In *Monkland* v *Jack Barclay Ltd*, Asquith LJ, delivering the judgment of the Court of Appeal stated that public policy was not to be confounded with political policy, see [1951] 2 KB at 266.

13 [1995] 1 SLR 394 at 409 and 411.

by Chao J's judgment in the *Shaikh Faisal* case.

First, Chao J accepted that it "is settled law that where a contract which is governed by Singapore law[14] is to be performed abroad and if the law of the foreign country[15] prohibits the performance thereof, the contract would be invalid and unenforceable."[16] According to the learned judge that was the correct formulation of the principle laid down in *Ralli Brothers* v *Compania Naviera Sota y Aznar* and the principle is relevant only to infringements of the written laws of the country of performance.[17] This view of the ambit of the rule in the *Ralli Brothers* case is not without support for Phillips J in *Lemenda Trading Co Ltd* v *African Middle East Petroleum Co Ltd* (hereinafter referred to as "the *Lemenda* case")[18] had taken the view that the rule in the *Ralli Brothers* case is properly applicable to infringement of the written laws of the country of performance.[19] It is sufficient to say that Chao J's formulation of the rule in the *Ralli Brothers* case is consistent with the view that the rule is one of domestic law only.

Secondly, Chao J stated that a Singapore court would not enforce a contract governed by Singapore law which fell to be performed in

[14] Chao J's formulation of the rule in the *Ralli Brothers* case is consistent with the view that the rule is one founded on Singapore domestic law and thus only applicable in cases where Singapore law is the proper law of the contract.

[15] Where the contract is to be performed.

[16] *Per* Chao Hick Tin J at [1995] 1 SLR 394 at 404. The application of the rule in the *Ralli Brothers* case is dependent on whether the law of the place of performance renders performance of the contract unlawful. Thus, it is germane to determine, first, the place of performance of the contract and, secondly, the contractual obligation as required to be performed by the contract. See *Libyan Arab Foreign Bank* v *Bankers Trust Co* [1989] 1 QB 728 and *Toprak Mahsulleri Ofisi* v *Finagrain Compagnie Commerciale Agricole et Financiere SA* [1979] 2 Lloyd's Rep 98. As originally conceived, the rule in the *Ralli Brothers* case is applicable where illegality supervenes after the making of the contract such that the contemplated performance in the foreign country can no longer be lawfully carried out. However, there have been attempts to apply the rule in cases of initial or existing illegality. See *Toprak Mahsulleri Ofisi* v *Finagrain Compagnie Commerciale Agricole et Financiere SA* [1979] 2 Lloyd's Rep 98 at 107 and Viscount Simonds' approach in *Regazzoni* v *KC Sethia* (1944) Ltd [1958] AC 301 at 322 where his Lordship opined that the rule in the *Ralli Brothers* case applied to the facts at hand which involved initial or existing illegality.

[17] [1995] 1 SLR 394 at 414. For other Singapore cases applying the rule in the *Ralli Brothers* case, see *Abdul Shukor* v *Hood Mohamed* [1968] 1 MLJ 258 and *Overseas Union Bank Ltd* v *Chua Kok Kay* [1993] 1 SLR 686.

[18] [1988] 1 All ER 513.

[19] Phillips J stated that "There is a clear distinction between acts which infringe public policy and acts which violate provisions of law." See [1988] 1 All ER 513 at 519. Consequently, his Lordship went on to enunciate the principle of 'double-barrel' unenforceability by the public policy of the *lex fori* (being also the proper law of the contract) and the public policy of the *lex loci solutionis* as being applicable whenever it is sought to strike down a contract on the ground of illegality by the public policy of the law of the place where the contract is to be performed.

a foreign country where the contract related to an adventure which was contrary to the public policy of the foreign country provided the contract related to an adventure which was contrary to Singapore public policy founded on principles of morality of general application. In enunciating such a rule, his Honour relied on the *Lemenda* case. In the *Lemenda* case, the English Commercial Court accepted that an English court would not enforce a contract governed by English law which fell to be performed in a foreign country where the contract related to an adventure which was contrary to the public policy of the *lex loci solutionis* provided the contract related to an adventure which was contrary to English public policy founded on principles of morality of general application. In the *Lemenda* case, the plaintiffs were engaged under a commission agreement by the defendants to procure the renewal of a supply contract between the defendants and the Government of Qatar. It was agreed between the plaintiffs and the defendants that the commission agreement was governed by English law. The defendants contended that the commission agreement was contrary to English public policy founded on general principles of morality because the plaintiffs in return for a commission to be paid by the defendants had used their personal influence to obtain a benefit for the defendants from a person in public office.[20] The benefit to the defendants was the renewal of the supply contract between the defendants and the Government of Qatar. It was common ground between the parties that the commission agreement was a transaction which was contrary to the public policy of Qatar and consequently, such an agreement was void under the law of Qatar and unenforceable in Qatar.[21]

In the *Lemenda* case, Phillips J observed that there was no rule of law which mandated an English court to refuse to enforce a contract governed by English law where the performance of the contractual obligation would be contrary to the public policy (as opposed to the written law)[22] of the country of performance.[23] However, his Lordship stated that the public policy of Qatar, the country of performance was nonetheless a relevant factor to be considered in the context of whether the English court ought

[20] In the *Lemenda* case, the stand taken by the defendants may be contrasted with the stand taken by defendants in the *Shaikh Faisal* case. While in the latter case, the defendants did not contend that their local agent was expected to do or had in fact done anything improper, in the former case, the defendants successfully contended that the consideration for the payment of commission to their agent was the agent's exercise of his personal influence to ensure that the defendants would be awarded a state contract.

[21] [1988] 1 All ER 513 at 517 and 519.

[22] Where the written law of the place of performance renders the performance of the contract illegal, the English court as well as the Singapore court will not enforce the contract. See *Ralli Brothers* v *Compania Naviera Sota y Aznar* [1920] 2 KB 287.

[23] [1988] 1 All ER 513 at 519.

to refuse to enforce the agreement under principles of English public policy.[24] According to his Lordship where a contract infringes a rule of English public policy, the English court will not enforce the contract, whatever the proper law of the contract and wherever the place of performance. However, in his Lordship's view, an English contract calling for contractual performance in a foreign country would not be enforced in England by reason of contravention of the public policy of the *lex loci solutionis* only if it can be shown that there is an identical or similar public policy in England which militates against enforcement of the contract in England. In his Lordship's view, the applicable conflict of laws rule is as follows:

> "... the English courts should not enforce an English law contract which falls to be performed abroad where: (i) it relates to an adventure which is contrary to a head of English public policy which is founded on general principles of morality, and (ii) the same public policy applies to the country of performance so that the agreement would not be enforceable under the law of that country. In such a situation international comity combines with English domestic public policy to militate against enforcement."[25]

Given that the public policy of English law is not to enforce an agreement whereby one contracting party was to be paid by the other for using personal influence to procure a benefit from a third party especially where that third party represents a public authority,[26] Phillips J held that the commission agreement between the plaintiffs and the defendants was contrary to principles of morality which were of general application. Hence the plaintiffs' claim in the *Lemenda* case was held to be unenforceable.

Thus, the proposition laid down by Phillips J in the *Lemenda* case is a 'double-barrel' rule requiring unenforceability of the contract according to the public policy of the *lex fori* (being also the proper law of the contract) and the public policy of the *lex loci solutionis*. As mentioned earlier, this rule of 'double-barrel' unenforceability was accepted by Chao J in the *Shaikh Faisal* case.[27]

It would be appreciated that the courts in both the *Lemenda* case and the *Shaikh Faisal* case applied the rule of 'double-barrel' unenforceability as the contracts in both cases were lawful by their proper laws and therefore

[24] *Ibid*.
[25] *Ibid*, at 523.
[26] See *Norman* v *Cole* (1800) 3 Esp 253, *Parkinson* v C*ollege of Ambulance Ltd* [1925] 2 KB 1 and *Montefiore* v *Menday Motor Components Co Ltd* [1918] 2 KB 241.
[27] [1995] 1 SLR 394 at 412 and 413.

were not contrary to the law (both the written law and public policy) of the English and Singapore forums respectively. Both the contracts in the *Lemenda* case and the *Shaikh Faisal* case did not require any undue influence or anything improper or immoral to be performed in the English and Singapore forums. That being the case, the contracts would have been enforceable in England and Singapore but for the allegation that the contracts required that the plaintiff in consideration of the commissions was to have performed an act contrary to the public policy of the *lex loci solutionis*. Not to give any weight at all to the public policy of the *lex loci solutionis* would have been to ignore the law of a friendly foreign country and would have been, in a sense, to permit flagrant violations of the law of a friendly foreign country.[28] Hence, the recognition that the *lex loci solutionis* including its public policy is a relevant connecting factor for the purpose of determining the enforceability of the contract.[29] However, to pin, as it were, the enforceability of a contract which is lawful by its proper law and lawful by the domestic law of the forum on the public policy of a friendly foreign country is to tread dangerously close to enforcing the public policy of a foreign friendly country. And courts of one country do not sit to enforce the public policy of a foreign country albeit a friendly one.[30] Hence, the first requirement that the contract must, if the facts were to occur in the forum, be contrary to the public policy of the forum. This requirement in fact involves the fictional transposition of the facts alleged to have offended the public policy of the *lex loci solutionis* to the forum. In other words, the additional requirement may only be satisfied on the supposition that the forum is the *lex loci solutionis*. That this is the way in which the first limb of the rule of 'double-barrel' unenforceability operates is evident from the existence of the second limb of the rule of

[28] The rule in *Foster* v *Driscoll* [1929] 1 KB 470 applies only to contracts made in contemplated (in the sense of a conspiracy) breach of the written law of the *lex loci solutionis*.

[29] It is pertinent to state that in the field of conflict of laws, the identification of the connecting factor or factors relevant to the legal topic under consideration is of prime importance. See Staughton J (as he then was) in *Euro-Diam Ltd* v *Bathurst* [1987] 1 Lloyd's Rep 178 at 190 where his Lordship stated that "in every case involving a foreign element it is necessary to consider three preliminary matters. First, what is the legal topic with which the claim is concerned? Secondly, what is the connecting factor prescribed by the rules of conflict of laws, for assigning cases on that topic to a particular system of law? Thirdly, what system of law does the connecting factor point to in the case before the court?" It suffices to say that the approach taken in *Euro-Diam Ltd* v *Bathurst* was applied by KS Rajah JC in the Singapore case of *Overseas Union Bank Ltd* v *Chua Kok Kay* [1993] 1 SLR 686 at 698 and 699.

[30] See *Bhagwandas* v *Brooks Exim Pte Ltd* [1994] 2 SLR 431 at 436B *per* Lai Siu Chiu JC (as she then was).

double-barrel unenforceability for otherwise it would have been altogether simple for the *Lemenda* case to be decided on the ground that the contract offended the domestic public policy of the *lex fori, viz*, English law.

Thus, aside from international comity of nations, the other consideration which impelled the court in the *Lemenda* case to introduce the rule of 'double-barrel' unenforceability is the domestic public policy of the *lex fori*. The latter consideration comes into play as the facts offending the public policy of the foreign country which is the place of contractual performance are to be perceived in the light of the domestic public policy of the forum on the supposition that those facts occur in the forum.

The third point of interest pertaining to conflict of laws in the *Shaikh Faisal* case is that a party alleging that a contract is unenforceable by reason of being contrary to public policy bears the burden of proving the existence of the public policy which he relies on. Where the public policy of a foreign law is relied on, the foreign law and the public policy which is alleged to render the contract unenforceable must be pleaded and proved as foreign law is a question of fact.[31] Where foreign law is not proved, then the Singapore court as the forum will assume that the foreign law is the same as the law of the forum.[32] In the words of Willes J in *Lloyd* v *Guibert*,[33] where one party to a contract relies on a right or an exemption by foreign law excusing him from liability, he must "bring such law properly before the court and to establish it in proof ... Otherwise the court is not entitled to notice such law without judicial proof and the court must proceed according to the law of England."[34]

It will be recalled that in the *Shaikh Faisal* case, the defendants failed to satisfy the rule of 'double-barrel' unenforceability because the defendants had not adduced evidence to show that the public policy of Singapore prohibited a foreign arms supplier from appointing a local agent in relation to a tender. Thus, on the supposition that the agency commissions agreement was against the public policy of the UAE,[35] the defendants failed to show that enforcement of the plaintiffs claim arising out of the agency commissions agreement was against the public interest of Singapore. That being the case, Chao J, following the *Lemenda* case, held that the illegality

[31] See *Singapore Finance Ltd* v *Soetanto & Ors* [1992] 2 SLR 407 at 410 and the *Shaikh Faisal* case [1995] 1 SLR 394.

[32] It would appear from *National Shipping Corporation* v *Arab* [1971] 2 Lloyd's Rep 363 that the presumption that foreign law is the same as the *lex fori* will not apply where the plaintiff seeks summary judgment. This limitation to the presumption that foreign law is the same as the law of the forum has not met with universal acceptance.

[33] (1865) 1 LRQB 115, a decision of the Court of Exchequer Chamber.

[34] *Ibid*, at 129.

[35] Which was not the finding of the court as the court found that the directive and the prohibition in article 24.1 did not reflect the public policy of the law of the UAE.

by the public policy of the place of performance (the UAE) was irrelevant to the question of enforcement of the plaintiffs claim in Singapore as there was no public policy in Singapore prohibiting the appointment of a local agent in relation to a tender in connection with public works.

The fourth point of interest in the *Shaikh Faisal* case is the acknowledgement by the court that there exists certain universal principles of morality which would nullify contracts.[36] This acknowledgment is no more than an affirmation of the view espoused by Lord Halsbury LC in *Re Missouri Steamship Co*[37] where his Lordship declared that if "a contract is void on the ground of immorality ... then the contract would be void all over the world, and no civilised country would be called on to enforce it."[38]

The *Shaikh Faisal* case is authority for the proposition that the rule of 'double-barrel' unenforceability laid down in the *Lemenda* case is applicable whenever it is sought to show that a contract is not enforceable in Singapore as being contrary to the public policy of a foreign country which is the *locus solutionis*. At this juncture, it is apposite to state that the rule of 'double-barrel' unenforceability by the public policy of the forum (being also the proper law of the contract) and that of the *locus solutionis* laid down in the *Lemenda* case is not to be applied whenever it is sought to strike down a contract governed by Singapore law as being contrary to the public policy of Singapore as the forum. In such a case, the contract is unenforceable in Singapore and it matters not that the contract may lawfully be performed in the foreign country which is the *locus solutionis*. Indeed, in the *Lemenda* case, Phillips J declared that a contract which infringes a rule of English public policy will not be enforced by an English court, whatever the proper law of the contract and wherever the place of performance.[39]

Thus, it is clear from the *Shaikh Faisal* case that a Singapore court is not to refrain from enforcing a contract governed by Singapore law where the only illegality said to afflict that contract is that its enforcement would be contrary to the public policy of the *locus solutionis*.[40] The case demonstrates that the rule of 'double-barrel' unenforceability requires that it be shown that the contract which is contrary to the public policy of the *locus solutionis* is also in contravention of the public policy of the forum,

[36] See [1995] 1 SLR 394 at 410, 413 and 414.
[37] (1889) 42 Ch D 321.
[38] *Ibid*, at 336.
[39] [1988] 1 All ER 513 at 521.
[40] [1995] 1 SLR 394 at 413 and 414.

ie, Singapore.

It remains to be seen whether an appellate court in Singapore will endorse the approach taken in the *Shaikh Faisal* case of fusing the public policy of the *locus solutionis* and the public policy of the forum to determine whether a contract, lawful by its proper law, is nevertheless unenforceable as it is contrary to the public policy of the *locus solutionis*.

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