



LHAG *update*

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Delay No Bar to Application for Directions Following Order for Sale

BANKING & INSOLVENCY

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Mayban Finance Berhad v Golden Rock Sdn Bhd Court of Appeal Civil Appeal No J-02(IM)-1815-10/2016

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In August 2003, the Bank obtained an order for sale in respect of properties that were charged in its favour as securities for a loan granted to the borrower.

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The Bank, however, did not immediately apply for the usual directions for sale of the charged properties until 12 years later. No reasons were offered as an explanation for the delay.

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The High Court dismissed the Bank's application for directions due to, among others, the unexplained inordinate delay in filing the application for directions.

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Upon appeal, the Court of Appeal held that the delay did not prevent the Bank from seeking directions for an auction following an order for sale. It was conceded that the provisions of the Limitation Act 1953 did not apply to an order for sale. Consequently, the Court of Appeal remitted the matter to the High Court for the Bank to obtain the usual directions for an auction.

CONSTRUCTION

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The Bank was represented by Mr [Hoi Jack S'ng](mailto:hjs@lh-ag.com), partner, and Ms Lilian Lee, associate, of Messrs Lee Hishammuddin Allen & Gledhill.

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