



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

CAUSE NO: FSD 255 OF 2021 (DDJ)

**BETWEEN: JIAN YING OURGAME HIGH GROWTH INVESTMENT FUND (IN
PROVISIONAL LIQUIDATION)**

PLAINTIFF

**AND: (1) XIONG HUI
(2) ZHANG JIAN
(3) POWERFUL WARRIOR LIMITED
(4) SHI KAIYI
(5) HU JING
(6) YANG DONGMEI
(7) OURGAME INTERNATIONAL HOLDINGS LIMITED**

DEFENDANTS

CAUSE NO: FSD 258 OF 2021 (DDJ)

IN THE MATTER OF THE GRAND COURT RULES 1995 (AS AMENDED)

**AND IN THE MATTER OF JIAN YING OURGAME HIGH GROWTH INVESTMENT FUND (IN
PROVISIONAL LIQUIDATION)**

**BETWEEN: JIAN YING OURGAME HIGH GROWTH INVESTMENT FUND (IN
PROVISIONAL LIQUIDATION)**

PLAINTIFF

**AND: (1) POWERFUL WARRIOR LIMITED FIRST RESPONDENT
(2) SHI KAIYI SECOND RESPONDENT
(3) HU JING THIRD RESPONDENT
(4) YANG DONGMEI FOURTH RESPONDENT**



Appearances: Mr Matthew Goucke and Miss Harriet Ter-Berg, Walkers (Cayman) LLP, on behalf of the Plaintiff

Before: The Hon. Justice David Doyle

Heard: 2 September 2021

Ex Tempore Judgment Delivered: 2 September 2021

Draft transcript of Judgment Circulated: 15 September 2021

Transcript of Judgment Approved: 21 September 2021

HEADNOTE

Ex parte application for service of documents out of the jurisdiction in the People's Republic of China and the British Virgin Islands

JUDGMENT

1. I will now proceed with a judgment in connection with the application for leave to serve out. This is in cause number 255 of 2021, and also in whatever cause number is allocated to the receivership proceedings.
2. There is before me an application to serve various pleadings and connected documents out of the jurisdiction on various individuals resident in the People's Republic of China (“PRC”) and a company in the British Virgin Islands (“BVI”). I have considered the sixth affidavit of Christopher Kennedy dated 31 August 2021 and the first affidavit of Victoria Catherine Raymond dated 2 September 2021 and the draft Order helpfully filed in advance of today's hearing.
3. I have also considered the skeleton argument of the Plaintiff and the documents and the law and procedure referred to in it, in particular, the judgment of Lord Collins in *AK Investment CJSC v*

Kyrgyz Mobil Tel Ltd [2011] UKPC 7.

4. I am satisfied that there is a serious issue to be tried against each of the overseas defendants on the merits.
5. I accept that the case against the Individual Recipients may be further developed in due course, but there are serious issues to be tried against them, even as things presently stand. The Individual Recipients are the Fourth to Sixth Defendants. The claim against them appears to be on a constructive trust basis and they are also necessary and proper parties to claims against others that will be duly served. The Individual Recipients may deny any relevant knowledge and say that they are *bona fide* purchasers for value. Those issues can be determined at trial if necessary.
6. I am satisfied that the Plaintiff has a good arguable case on one or more of the Order 11, rule 1(1) grounds. In my judgment, the Cayman Islands is clearly the appropriate forum. I agree that at the heart of the dispute is a claim by the Fund, which is in provisional liquidation in the Cayman Islands, against the directors in respect of their duties as directors of the Fund, a company incorporated under the laws of the Cayman Islands. I also note the position in respect of service in the PRC and the BVI.
7. In all the circumstances of this case, I have concluded that it is appropriate to exercise the Court's discretion to permit service out of the jurisdiction. I am satisfied that this is a proper case for service out, and I am content to make an Order substantially in terms of the draft helpfully filed in advance of today's hearing.
8. The Order, I think, will be styled in two cause numbers, 255 and whatever number is allocated to the receivership proceedings, and it will also refer to the first affidavit of Victoria Catherine Raymond. That is the Order I make and that concludes my judgment in respect of the application for leave to serve out.

THE HON. JUSTICE DAVID DOYLE
JUDGE OF THE GRAND COURT