

LIMBU & others v DYSON

Friday 13th December 2024

[2024] EWCA Civ 1564

Judgment Summary

NOTE: This summary is provided to help in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: <https://caselaw.nationalarchives.gov.uk/>

The claim

1. In this action 24 impoverished migrant workers from Nepal and Bangladesh allege that they were trafficked to Malaysia and there subjected to conditions of forced labour, exploitative and abusive working and living conditions, and in the case of some of them, detention, torture and beating, in the course of their employment by two Malaysian companies manufacturing components and parts in the supply chain for the Dyson group.
2. They brought claims in the High Court against three companies in the Dyson group. Two are the Dyson UK companies conducting business from the group's operational headquarters in England, whose senior management promulgated the group policies governing treatment of workers in the supply chain ('Dyson UK'). The third is the Malaysian subsidiary ('Dyson Malaysia') which contracted with the manufacturing group which employed and housed the migrant workers. The claims allege that the Dyson companies are responsible for the alleged abuse of the migrant workers under various principles of Malaysian law which closely mirror English law.

The Issue

3. The issue currently before the court is not whether the abuse took place, nor whether the Dyson defendants are liable for it, but rather a jurisdiction dispute about where the proceedings should take place.

The decision

4. Mr Justice Sheldon (then Mr Clive Sheldon KC sitting as a Deputy High Court Judge) held that Malaysia was the more appropriate place for the action, and stayed the High Court proceedings.
5. The Court of Appeal unanimously allows the appeal. The main judgment is given by Lord Justice Popplewell, with whom Lord Justice Warby and Sir Geoffrey Vos, Master of the Rolls, agree. It holds that England is clearly the more appropriate place for the case to be tried, and rules that the proceedings should continue in the High Court, principally for the following reasons.
 - a. In order to pursue these claims in Malaysia there are substantial disbursements which the claimants would have to fund from sources other than Malaysian lawyers prepared to act on their behalf under a partial conditional fee agreement. The claimants are very poor and do not have the means to pay them. The Dyson defendants offered undertakings to fund some of those costs insofar as both reasonable and necessary. Those undertakings are both unworkable and inadequate for a number of reasons (paras 49 to 58). Accordingly the claimants will not be able to bring the claims in Malaysia, or at the lowest there is a serious risk that that is the case: para 63.
 - b. The domicile of the parties favours England. It is the domicile of Dyson UK which is the principal protagonist, with Dyson Malaysia a more minor and ancillary defendant: paras 36 and 65.
 - c. Practical convenience relating to documents, witnesses and the parties favours England: paras 66 to 68.
 - d. The fact that Dyson UK will control and conduct the litigation for all the Dyson defendants, wherever it takes place, favours England: paras 47 and 69.
 - e. Equality of arms favours England: paras 59, 60 and 75.

- f. The location of the issues in the case points more towards England than Malaysia, or is at most neutral: paras 38 to 40 and 70.
- g. The risk of multiplicity of proceedings and the risk of inconsistent judgments were strong factors in favour of England as things stood at the time of the Judgment below because of defamation proceedings commenced by Dyson UK (paras 24, 25, 42 to 46, and 77); but are now relatively neutral as a result of Dyson UK's recent discontinuance of them (paras 43 and 73).
- h. The fact that the claims are governed by Malaysian law is a factor in favour of Malaysia but the differences from English law are narrow. These differences would make it preferable, all other things being equal, for the Malaysian Court to resolve them, but they are nevertheless issues which the English Court is well equipped to deal with: paras 71 to 72.