

## **PRIORITIES BETWEEN MARITIME CLAIMANTS - SINGAPORE HIGH COURT DENIES LEAPFROGGING OF CLAIMS**

Piraeus Bank, one of the largest banks in Greece, commenced two mortgagee actions in Singapore and effected a double arrest on the vessels “Posidon” and “Pegasus”, flowing from the ship-owners’ default of a loan agreement. The vessels were subsequently sold pursuant to a judicial sale.

Subsequently, World Fuel Services, who had (via various companies) supplied bunkers to the vessels on credit, intervened in both actions.

World Fuel Services claimed that the usual order of priorities, in terms of entitlement to the vessels’ sale proceeds, should be altered so as to elevate their claim for unpaid bunkers above the Bank’s claim as mortgagees (the Bank would ordinarily enjoy a higher priority). A number of different grounds were asserted by World Fuel Services in support of their claim.

In a landmark Singapore High Court decision, Justice Belinda Ang in a written Judgment (The “Posidon” [2017] SGHC 138), held that the Court did have the power to alter priorities between maritime claimants provided that exceptional circumstances were shown.

This is the first local decision on the point as prior local cases had only ruled that the Court had the power to allow certain claims to be treated as Sheriff’s expenses and thereby enjoy a higher priority.

Nonetheless, applying the above principle, Justice Belinda Ang declined to alter priorities as World Fuel Services were unable to show exceptional circumstances. Justice Belinda Ang found that World Fuel Services had not even raised a prima facie case to support their claim for an alteration of priorities and further, that the extension of credit by World Fuel Services to the ship-owners was a business risk assumed in the course of business.

World Fuel Services appealed against this decision to the Singapore Court of Appeal. The appeal was heard in January 2018. The Court of Appeal upheld Justice Belinda Ang’s decision and dismissed the appeal.

*Piraeus Bank was represented by K Murali Pany and Ng Lip Kai of Joseph Tan Jude Benny LLP.*



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