

# **Harcus Sinclair LLP (Respondent) v Your Lawyers Ltd (Appellant)**

**Case ID: UKSC 2019/0098**

## **Case summary**

### **Issue**

- (1) Does the court have inherent jurisdiction to supervise the conduct of an authorised body through which a solicitor practises?
- (2) Can the court's inherent supervisory jurisdiction in respect of a solicitor be engaged if a solicitor gives an undertaking on behalf of an authorised body through which he or she practises and fails to ensure that the undertaking is performed?
- (3) If an undertaking given by a solicitor or authorised body restrains its trade, is its construction, validity and enforcement under the court's inherent jurisdiction to be determined in accordance with contractual principles?
- (4) Where an undertaking given by a solicitor is alleged to be contrary to public policy under the doctrine of restraint of trade, is the fact that it is a solicitor's undertaking relevant to the question whether its enforcement in contract is contrary to public policy?
- (5) Is the undertaking given by Mr Parker on behalf of HSLLP unenforceable on the ground of public policy under the doctrine of restraint of trade?

### **Facts**

Mr Parker is a solicitor and former member of HSLLP. In January 2016, YLL issued a claim on behalf of five claimants against an entity in the Volkswagen group. The claim concerned the emissions of Volkswagen diesel vehicles. HSLLP and YLL entered into a non-disclosure agreement in April 2016 regarding the sharing of confidential information. That agreement contained a non-compete clause which was also a solicitor's undertaking requiring HSLLP "not to accept instructions for or to act on behalf of any other group of Claimants in the contemplated Group Action without the express permission of [YLL]." Mr Parker signed the agreement "for and on behalf of" HSLLP, without reading it. YLL then shared confidential information with HSLLP and Mr Parker. HSLLP accepted instructions for and acted on behalf of a group of claimants and issued a group action concerning the emissions of Volkswagen diesel vehicles without obtaining YLL's express permission. Mr Parker shared confidential information with Slater and Gordon, another firm of solicitors, in breach of the agreement of April 2016. HSLLP then applied for a court order to consolidate different claims against Volkswagen about this subject matter (the "Emissions Litigation"). Harcus Sinclair UK Limited ("HSUK"), an entity connected to HSLLP, entered into an agreement to work with Slater and Gordon in the Emissions Litigation without YLL's permission. HSLLP and HSUK issued proceedings in August 2017 seeking declaratory relief in relation to the above non-compete clause and solicitor's undertaking. YLL contended at trial, among other things, that the non-compete clause is a solicitor's undertaking enforceable by the Court under its inherent jurisdiction and that HSLLP, HSUK and/or Mr Parker had breached that undertaking. YLL sought and obtained an injunction restraining them from acting in the Emissions Litigation on the basis of the contractual obligation, but the High Court concluded that it had no jurisdiction to enforce the solicitor's undertaking notwithstanding that HSLLP breached the solicitor's undertaking that it had given to YLL. The Court of Appeal discharged the injunction on the basis that the non-compete clause was unenforceable as it was an unreasonable restraint of trade.

## **Judgment appealed**

[\[2019\] EWCA Civ 335](#)

### **Parties**

#### **Appellant(s)**

Your Lawyers Ltd

#### **Respondent(s)**

Harcus Sinclair LLP

### **Appeal**

#### **Justices**

Lord Lloyd-Jones, Lord Briggs, Lady Arden, Lord Hamblen, Lord Burrows

#### **Hearing start date**

24 March 2021

#### **Hearing finish date**

25 March 2021

#### **Watch hearing**

24 Mar 2021 [Morning session](#) [Afternoon session](#)

25 Mar 2021 [Morning session](#) [Afternoon session](#)