



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

CAUSE NO: FSD 235 OF 2021 (DDJ)

**IN THE MATTER OF THE SECTIONS 14 TO 16 AND SECTION 86 OF THE COMPANIES ACT
(2021 REVISION)**

**AND IN THE MATTER OF NATURE HOME HOLDING COMPANY LIMITED 大自然家居控股有限公司
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IN OPEN COURT

Appearances: Ms Fiona MacAdam and Mr Will Waldron of Walkers on behalf of the
Company

Before: The Hon. Justice David Doyle

Heard: 12 October 2021

**Ex Tempore Judgment
Delivered:** 12 October 2021

**Draft Transcript of Judgment
Circulated:** 15 October 2021

**Transcript of Judgment
Approved:** 19 October 2021

HEADNOTE

*Application to sanction a scheme of arrangement with shareholders – basis for sanctioning the
scheme – basis for confirming the reduction of share capital – importance of strong and independent
local legal profession*



JUDGMENT

Introduction

1. I shall now deliver a judgment in the proceedings under reference FSD 235 of 2021 (DDJ).

The relief sought

2. Nature Home Holding Company Limited (the "**Company**") is an exempted company incorporated with limited liability under the laws of the Cayman Islands. The Company seeks, pursuant to section 86 of the Companies Act (2021 Revision) (the "**Companies Act**"), an order from this Court sanctioning a scheme of arrangement between the Company and the holders of the Scheme Shares (as defined in the Scheme attached to the draft Order helpfully filed in advance of the hearing)(the "**Scheme**"). Further the Company seeks, pursuant to section 16 of the Companies Act, the confirmation of this Court of the resolution of the Company's shareholders to reduce the Company's share capital to give effect to the Scheme (the "**Capital Reduction**").

Appearances

3. Fiona MacAdam and Will Waldron of Walkers appear on behalf of the Company. I am grateful to them for their valuable assistance to the Court in respect of this matter. It is most appreciated.
4. Over the last 4 months or so, since I stepped foot on Grand Cayman, I have been greatly assisted by first class attorneys. The local legal profession is a real jurisdictional advantage of the Cayman Islands. The resource of specialist attorneys with regular practical experience and great advocacy skills puts the Cayman Islands out at the front of the international finance centres worldwide. The importance of a strong and independent local legal profession should not be underestimated. It is a real privilege and pleasure to be sitting as a Financial Services Division Judge in this jurisdiction. I reiterate my appreciation of the assistance provided to the Court by the local Bar and those overseas advocates fortunate enough to benefit from limited admission and to appear remotely until circumstances facilitate their attendance in person.

Documentation and submissions considered

5. I have considered all the documents in the bundles presented to the Court including the Petition, the evidence in support, the draft Order and the written submissions. I have also considered the oral submissions so eloquently presented by Ms. MacAdam.

The resolutions

6. The Scheme was duly approved by an overwhelming majority of the Qualifying Shareholders at the Court Meeting (by 92.1% in number and 98.77% in value) convened and held on 6 October 2021 (Hong Kong time), substantially in accordance with the terms of the Order I made on 7 September 2021 (the "**Convening Order**").
7. The resolutions pertaining to the Capital Reduction were also passed by an overwhelming majority of the shareholders at the extraordinary general meeting held immediately after the conclusion of the Court Meeting on 6 October 2021.



The Scheme

8. I agree that the practical purpose of the Scheme is simple: to effect a privatization of the Company.
9. In short summary, the object of the Scheme and the connected Capital Reduction is for the Offeror namely New Modern Home Limited, a company incorporated in Hong Kong with limited liability and the Offeror Concert Parties (as defined in the Petition) to hold, in aggregate, the entire issued capital of the Company and thereby become the owners of the Company and its subsidiaries (the "**Group**").
10. The way in which this is intended to be achieved is set out with refreshing simplicity and clarity at paragraph 8 of the 17 page written submissions dated 8 October 2021, namely:
 - (1) the Company reducing its share capital by the cancellation and extinguishment of all of the Scheme Shares;
 - (2) the Company, forthwith upon the Capital Reduction taking effect, increasing its share capital to its former amount by the issue of the same number of new shares to the Offeror as the number of Scheme Shares cancelled and extinguished;
 - (3) the Company applying the credit arising in its books of account as a result of the Capital Reduction in treating as fully paid up those new shares, newly issued to the Offeror. This immediate recapitalisation will achieve the objective of maintaining the Company's former share capital;
 - (4) in consideration for the cancellation and extinguishment of the Scheme Shares, each holder of the Scheme Shares as at Scheme Record Date (each a "**Scheme Shareholder**") will receive Hong Kong \$1.70 for each Scheme Share so cancelled from the Offeror; and
 - (5) the listing of the Shares of the Company on the Hong Kong Stock Exchange being withdrawn.
11. The Scheme is as simple as that, but this is all subject to this Court sanctioning the Scheme and confirming the Capital Reduction as required by law.
12. I should record that regulatory approval from the Hong Kong Stock Exchange to the listing withdrawal application has already been obtained subject to this Court sanctioning the Scheme and confirming the Capital Reduction.
13. The principal activities of the Company and the Group are the manufacturing and sale of flooring products and customised home decoration products including wooden doors, wardrobes and cabinets. The Group is one of the largest wood flooring brands in China in terms of market share by sales value of branded wood flooring products. The Company's head office is situated in the People's Republic of China (the "**PCR**") and its principal place of business is in Harbour City, Tsim Sha Tsui, Kowloon, Hong Kong SAR.
14. It is anticipated that the implementation of the Scheme will result in significant benefits for the Group in addition to various costs savings which could be used for the Company's business operations and development. The Scheme also provides an attractive opportunity for Scheme Shareholders to realise their investments in the Company for cash at a premium to recent trading price levels. The Company's trading price performance has not been satisfactory and the Shares have been trading at a price below the NAV per Share for a considerable period of



time. There are only a few companies listed on the Stock Exchange of Hong Kong (which I had the pleasure of visiting some years ago now) that are engaged in similar businesses and industries such as the Group leading to a lower recognition by the market. This limits the ability of the Group to attract investors and enhance its market image. In such circumstances the share options scheme is also less effective in retaining and recruiting staff. Moreover, the continued listing of the Shares requires the Company to bear administrative and other listing related costs and expenses. Having read the composite Scheme Document and the other evidence in this case, it is easy to understand the commercial rationale for the privatisation of the Company.

The legal requirements

15. I turn now to the various legal requirements in respect of the scheme sanction application. I have considered the requirements of section 86 of the Companies Act and the relevant case law including Parker J's judgment in *Re Ocean Rig UDW 2017 (2) CILR 495*.
16. In respect of the application seeking court confirmation of the Capital Reduction, I have considered the requirements of section 16 of the Companies Act and the relevant case law including Jones J's judgment in *Re Santiago Pipelines Co 2012 (2) CILR 343* and Segal J's judgment in *China Agrotech Holdings Limited (in Liquidation) 2019 (2) CILR 356* at paragraphs 15 and 16.
17. In respect of the scheme sanction application, I am satisfied that:
 - (1) the Convening Order made on 7 September 2021, has been substantially complied with subject to only two minor issues, set out as follows:

First, in relation to the advertisement, it has transpired that an advertisement could not be placed in the China Securities Journal pursuant to paragraph 11 of the Convening Order. This is satisfactorily explained at paragraph 25 of Mr Chan's first affirmation made on 8 October 2021 (Mr Chan having acted as the chairman of the Court Meeting). I note also the email from Chelsa Wong dated Friday, 10 September 2021. Instead, the advertisement appeared in the China Business Herald (in Chinese) and such publication has a general circulation in the PRC. In the circumstances I am content to formally dispense with the requirement to advertise in the China Securities Journal as it has proved impossible to comply with such requirement. In addition, I note that the notice of the Court Meeting and the date of the Sanction Hearing was advertised in the South China Morning Post (in English) on 16 September 2021; the Cayman Compass (in English) on 17 September 2021; the Sing Tao Daily (in Chinese) on 17 September 2021; the Chinese Business Herald (in Chinese) on 15 September 2021; and an announcement was made on the Hong Kong Stock Exchange website on 13 September 2021.

Secondly, the Scheme Document and Proxy Forms were sent out to the holders of the Scheme Shares appearing at the register of shareholders on 7 September 2021 and not 14 September 2021 pursuant to paragraph 8(a) and 9 of the Convening Order. This minor issue is helpfully addressed at paragraph 16(b) of the written submissions, in the oral submissions of Ms. MacAdam who also handed up an email exchange with Computershare on 11 and 12 October 2021 (Hong Kong time) which explains the reason why Computershare despatched the Scheme Documents to those shareholders on the register of members of the Company as at 7 September 2021, rather than 14 September 2021. That email was subsequently exhibited to the First Affidavit of William Waldron sworn and filed on 13 October 2021. I have also noted, at paragraph 20 of Mr Chan's first affidavit dated 8 October 2021, the additional 13 shareholders that appeared on the register of members of the Company between 7 September and 14 September 2021 had sufficient information to vote in favour of the



Scheme and the Capital Reduction and no major issue arises in that respect. I am content for paragraphs 8(a) and 9 of the Convening Order to be amended in effect to delete 14 September 2021 and insert 7 September 2021;

- (2) the Court Meeting was properly held and the requisites statutory majorities were achieved. The Scheme was approved by an overwhelming majority both in number and by value;
 - (3) the results of the Court Meeting fairly reflected the views of the Qualifying Shareholders and the beneficial shareholders of the Company as a whole. In this respect, I have considered the comments of Lord Millet albeit in respect of creditors schemes in *UDL Argos Engineering & Heavy Industries Co Ltd* and *Lai Ory Lin 2001 Hong Kong Court of Final Appeal Reports 358 at 359* cited by Smellie CJ *Re The Sphinx Group of Companies* 2014 (2) CILR 131. At the previous hearing, I also considered *Re Little Sheep Group Limited* 2012 (1) CILR 34, Practice Direction 2 of 2010 paragraph 4 "Looking Through the Register" and Order 102, Rule 20(6) of the Grand Court Rules;
 - (4) there is no reason to believe that the Shareholders were not acting *bona fide* and nor is there reason to believe that there was any coercion;
 - (5) all holders of the Scheme Shares are being treated the same way under the Scheme. No Shareholder has given any notice of intention to appear at this hearing and no opposition to the sanction of the Scheme has been put before the Court;
 - (6) an intelligent and honest person being a member of the class concerned and acting in respect of his interest might reasonably approve the Scheme. It is well established that the Court should be slow to differ from the vote recognising that it is the shareholders who are normally the best judges of what is in their commercial interest. Being fully and properly informed the voting shareholders have overwhelmingly approved the Scheme; and
 - (7) there is no reason for this Court to exercise its residual discretion to refuse to sanction the Scheme. There is no reason why this Court should not proceed to give effect to the wishes of the voting shareholders and sanction the Scheme.
18. In respect of the application for this Court to confirm the Capital Reduction, I am satisfied that:
- (1) the Company has the power to reduce its share capital pursuant to article 6 of the Company's articles of association and the requisite special resolution has been validly passed;
 - (2) the proposed Capital Reduction involves equal treatment for all of the Company's shareholders other than the Offeror Concert Parties who will remain as shareholders of the Company after the Scheme becomes effected. The Offeror Concert Parties have agreed to the Scheme so there is no unfairness in that respect;
 - (3) the proposed Capital Reduction does not involve:
 - (i) an alteration or variation to the rights attached to the Company's shares; or
 - (ii) a diminution of the liability of the shareholders in respect of the amounts unpaid on the issued share capital,
 - (4) the proposed Capital Reduction has been properly explained to the Company's shareholders;

- (5) the Capital Reduction does not prejudice any of the Company's creditors as it goes hand in hand with an immediate recapitalisation such that the Capital Reduction will have no adverse impact on the Company's financial position or its balance sheet; and
 - (6) the purpose of the Capital Reduction is discernable in that it is an integral part of the Scheme and the proposed privatisation and is designed to facilitate the cancellation of the Scheme Shares and reissue of an equivalent number of New Shares to the Offeror.
19. In such circumstances, I am content to sanction the Scheme and confirm the Capital Reduction.

Order

20. I make orders in terms of the draft filed in advance and helpfully appended at appendix 1 of the written submissions, such orders to incorporate the amendments as specified during exchanges with counsel this morning.
21. That is my judgment in respect of this matter.

THE HON. JUSTICE DAVID DOYLE
JUDGE OF THE GRAND COURT