INDUSTRIAL COURT OF MALAYSIA
CASE NO. : 6(14)/4 – 2187/21
BETWEEN
TAN CHIN SENG
AND
PAN-ASIA PROPERTY MANAGEMENT SDN BHD
AWARD NO: 1476 OF 2025

This Industrial Court award concerns the dismissal of **Tan Chin Seng** (the Claimant) by **Pan-Asia Property Management Sdn Bhd** (the Company). The Court found the dismissal to be **with just cause and excuse** and dismissed the Claimant's case.

Key Background:

- **Position:** The Claimant was initially employed as a **Senior Project Manager - Construction (SPMC)** in 2010. In 2019, he was seconded to the role of **Senior Resident Engineer (SRE)** due to the Company's belief he was not performing adequately as SPMC. He did not object to this change.

- **Dismissal:** Following deterioration in his working relationship with superiors and several disciplinary issues, the Claimant was suspended and subsequently terminated on **21 September 2020** for misconduct. He was paid one month's salary in lieu of notice.

The Court's Analysis & Findings on the Allegations:

The Company levelled seven allegations of misconduct. The Court's findings on each were as follows:

1. **Blocking Superior's WhatsApp: PROVEN.** The Claimant blocked his direct superior's (Sean Khaw, COW 5) personal WhatsApp, hindering communication. The Court found this to be a deliberate refusal to acknowledge his duty to remain accessible, especially as the Company used WhatsApp as a primary communication tool.

2. **Failure to Report Work Progress: PROVEN.** The Claimant failed to report work progress and site matters to his superior from January 2020 onwards. His defence that he updated his superior through clerks of work was unsupported by evidence and was not raised in his initial reply to the show-cause letter.

3. **Unprofessional Attitude (Pointing Finger & Slamming Door): PROVEN but RESOLVED.** The Court accepted that the incident occurred (the Claimant had even apologised for it). However, testimony showed the matter was discussed and resolved with the Claimant in a meeting on 19 August 2020. The Court held it was unfair to later use this resolved incident as a basis for dismissal.

4. **Failure to Monitor Work Progress (Missing Structures): PROVEN.** The Claimant failed in his duty as Resident Engineer to monitor work, resulting in missing critical structures: a lift opening on the "necking floor" and a reinforced concrete (RC) parapet wall near the level 12

swimming pool. The Court rejected the Claimant's argument that the wall never existed, finding the Company's evidence (drawings, testimony) more credible.

5. **Unauthorised Signing of JKKP (DOSH) Documents: PROVEN.** The Claimant signed safety inspection documents he was not authorised to sign. The Court rejected his later claim that a contractor had forged his signature, as he failed to call that contractor as a witness. His own admission under cross-examination confirmed he knew he was not authorised to sign them and had not carried out the required inspections.

6. **Unauthorised Absence on Saturdays: PROVEN.** The Court preferred the testimony of the Company's witnesses (COW 1, COW 3, COW 4), who stated the Claimant was rarely seen on site on Saturdays, over the Claimant's own unconvincing explanation about his parking habits.

7. **Failure to Comply with Instruction to Report: PROVEN.** The Claimant admitted that after being explicitly instructed in a meeting on 19 August 2020 to report to his superior daily, he failed to do so on the very next two working days (24th & 25th August).

Court's Final Decision:

- The burden of proof was on the Company to show the dismissal was with just cause.

- **Save for Allegation 3,** the Company successfully proved **six serious acts of misconduct**.

- The Claimant's actions constituted a **serious dereliction of duty, breach of trust, and defiant behaviour**.

- The Court held that these proven allegations, taken together, provided **just cause and excuse** for the Claimant's dismissal.

- Accordingly, the Claimant's case was **dismissed**.

Award No: 1476 of 2025
Date: Handed down on 18 September 2025
Chairman: Y.A. Tuan Amrik Singh