

Court of Appeal allows firm's move to recover \$21.6m

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A PANAMA-REGISTERED firm that chased a state-owned Serbian company for 15 years through Switzerland and England to get back \$75 million owed to it brought its long-drawn saga to the Singapore courts.

And after several rounds of legal battles here lasting four years, the Republic's highest court, the Court of Appeal, has allowed Westacre Investments to recover US\$14 million (S\$21.6 million) from Serbian-based firm Yugoimport SDPR.

Yugoimport had parked US\$14.8 million in a bank account here through a firm which it held a 49 per cent stake in.

The dispute between the two firms dates back to 1990, when Westacre went into consultancy agreement with Yugoimport for the sale of military equipment to Kuwait.

Yugoimport later cancelled the deal, saying the contract was void as it involved bribing Kuwaiti officials. The dispute then went for arbitration.

Westacre was eventually awarded US\$50 million and £1.02 million (S\$2.2 million) after the arbitration in Switzerland in 1994.

But that was to be the start of 14 years of toil for Westacre, which had to go to the courts in England, Kuwait and elsewhere to try to enforce the arbitrator's award, but with very limited success.

In 2004, Westacre found out that Yugoimport had millions stashed in Singapore and filed a lawsuit here to try to get some of its money back.

The High Court initially dismissed the suit, but the Court of Appeal overturned the decision.

Yugoimport's lawyers here argued that Westacre had busted a one-year deadline to enforce a judgment.

Under the law, a party has a year to seek judgment in other Commonwealth countries for an arbitration order to be enforced. However, the court can extend this deadline if deemed justified.

Although Westacre missed the deadline by over six years, the Court of Appeal held

that the delay was justified because of the difficulties it faced.

The three-judge court, presided by Chief Justice Chan Sek Keong, said it was prepared to allow such claims despite the delay if the applicant had a reasonable explanation and had been diligent in trying to enforce the judgment and where the debtor had tried to block its efforts.

In this case, Westacre's lawyers here, led by Mr Khoo Boo Jin from law firm Wee Swee Teow & Co, argued that the delay was due to factors beyond its control.

Among other things, the court pointed out that the political turmoil in Serbia between 1997 and 2002 made it impractical to search Yugoslav government records for the firm's assets, given its "central role" in the country's national defence.

The Court of Appeal said it was "just and convenient" to allow the suit, despite the delay.

Judge of Appeal V.K. Rajah wrote in the judgment that "it was only by a stroke of luck" that Westacre came to know of the defendant's alleged assets in Singapore.