

## **The Straits Times**

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### **Getting contractor to pay up 'will be difficult for Acres'**

by Walter Sim

AN ANIMAL welfare group that has been awarded \$26.5 million in damages over soil pollution at a shelter for rescued wildlife is bracing itself for a potential struggle to recover the money.

Acres' director Louis Ng admitted that it will be "probably quite difficult" to get the full sum from a contractor that caused the damage by filling the earth with toxic woodchips that rotted.

Lawyers warned that it is "not uncommon" for claimants in civil cases to never fully recover the damages awarded to them.

Mr Jason Lim of DeSouza Lim & Goh LLP said there are enforcement measures available. "But after these measures have been exhausted, the matter should end."

Acres (Animal Concerns Research and Education Society) successfully sued ANA Contractor and its then-director Tan Boon Kwee.

It hired the firm in 2006 to level a 2ha plot of land - roughly the size of two football fields - to build a \$650,000 wildlife shelter. But the contractor filled the earth with material believed to contain toxic hydrocarbon and other chemicals.

Mr Tan, 50, was declared bankrupt last July.

Lawyer Suresh Nair of Straits Law Practice LLC, which represented Acres, said: "Going forward, we will consider the most effective ways to execute the judgment." He declined to comment on the specifics of the recovery process.

Mr Ng said he was happy that "justice has been served". He added that he is "still hopeful" that it will not be a "paper judgment" - a legal term for cases where next to nothing can be recovered by the claimant.

"We know ANA Contractor is not a \$1 company, having had several big contracts," he told The Straits Times.

"Mr Tan cannot possibly be a poor guy - he used to own assets such as a resort on Pulau Ubin."

Lawyers told The Straits Times that claimants in such circumstances have several options to pursue.

Whether the claim is made against companies or individuals, these options include a "writ of seizure and sale".

Mr Lawrence Teh, a partner at Rodyk & Davidson LLP, said: "The party who won can apply to the court to seize and sell the property of the other party. Sale proceeds can then go towards satisfying the judgment amount."

He added: "The trick is to identify what property belongs to the party who lost, and what the best way of recovering payment might be."

Meanwhile, the claimant can also apply to have the debtor's bank accounts frozen and the money transferred directly to them.

Mr Tan was declared bankrupt last July after he was unable to repay the legal fees of Acres in the civil case.

In situations like this, a claim should be made to the trustee in a bankruptcy who is in charge of the distribution of all available property to the creditors, said Mr Teh.

Among the damages sought by Acres was about \$23 million, which was spent to clean up the toxic waste, and \$62,000 for the installation of a special tank to stop foul-smelling brackish water that had leaked from the soil from entering the nearby Kranji Reservoir.

A spokesman for the Singapore Land Authority, which leases the site to Acres, told The Straits Times: "There have been no other cases on tenanted State land where woodchips were used to fill the ground."

She added that earthworks are not allowed unless prior permission is obtained.

In 2010, the National Environment Agency pressed criminal charges against ANA Contractor and Mr Tan for polluting the reservoir.

The company - which was awarded the Building and Construction Authority Green Mark Award for an eco-sustainable project in 2007, was fined \$330,000. Mr Tan was jailed for two weeks and fined \$65,000.

At the 2ha Sungei Tengah site, 0.5ha has been used for an office and a wildlife recovery and rehabilitation centre, which has saved 2,700 wild animals since 2009. But Mr Ng said four times as many creatures could have been rescued if not for the teething problems.

The remaining 1.5ha, which is contaminated, remains vacant.

"We don't have \$26.5 million to rectify the problem and rebuild everything," said Mr Ng. He appealed to construction companies to help the non-profit entity. "It has always been our dream to open a rescue centre, but to watch the whole thing collapse..."

Acres' lawyers, Mr Nair and Mr Muralli Rajaram, have said that whatever legal costs they recover will be donated to the animal welfare group.

<http://news.asiaone.com/News/Latest%2BNews/Singapore/Story/A1Story20130608-428501.html>