

**CICFH Dragonstone Master SPC v Yango Justice  
Intl. Ltd.**

2023 NY Slip Op 30365(U)

February 3, 2023

Supreme Court, New York County

Docket Number: Index No. 654616/2022

Judge: Joel M. Cohen

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

-----X

CICFH DRAGONSTONE MASTER SPC, ORIENT  
DRAGONSTONE INVESTMENT SPC, ORIENT FINANCE  
HOLDINGS (HONG KONG) LIMITED

Plaintiffs,

- v -

YANGO JUSTICE INTERNATIONAL LIMITED, YANGO  
GROUP CO., LTD.,

Defendants.

-----X

INDEX NO. 654616/2022

MOTION DATE 12/22/2022

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 20, 21  
were read on this motion for SUMMARY JUDGMENT IN LIEU OF COMPLAINT.

Plaintiffs CICFH Dragonstone Master SPC, Orient Dragonstone Investment SPC, and  
Orient Finance Holdings (HONG KONG) Limited (“Plaintiffs”) seek an award of summary  
judgment in lieu of complaint under CPLR § 3213, to recover \$4.37 million in principal plus  
accrued and unpaid interest on certain notes issued by Defendant Yango Justice International  
Limited (“Yango Justice”) and guaranteed by Defendant Yango Group Co., Ltd. (“Yango  
Group”) (collectively, “Defendants”). Defendants have failed to appear in this action or respond  
to Plaintiffs’ motion. Plaintiffs’ unopposed motion is granted.

Pursuant to CPLR 3213, a party may commence an action by motion for summary  
judgment in lieu of complaint when the action is “based upon an instrument for the payment of  
money only or upon any judgment” (*Oak Rock Fin., LLC v Rodriguez*, 148 AD3d 1036, 1039 [2d  
Dept 2017]). An “instrument for the payment of money only” is one that “requires the  
defendant to make a certain payment or payments and nothing else” (*Seaman-Andwall Corp. v*

*Wright Mach. Corp.*, 31 AD2d 136, 137 [1st Dept 1968]; *Weissman v Sinorm Deli, Inc.*, 88 NY2d 437, 444 [1996]). “It is well settled that a promissory note, as an instrument for the payment of money only, is entitled to the expedited procedure detailed in CPLR 3213” (*R-H-D Const. Corp. v Miller*, 222 AD2d 802, 803 [3d Dept 1995]).

As an initial matter, plaintiff has provided evidence indicating that the defendants were properly served with the summons and motion (*TCA Glob. Credit Master Fund, L.P. v Puresafe Water Sys., Inc.*, 151 AD3d 1098, 1100 [2d Dept 2017]). Plaintiffs submitted affidavits of proof of service of the Summons, along with notice of this motion and all the supporting papers and exhibits upon Yango Group and Yango Justice at their Registered Agent in New York (NYSCEF 20, 21).<sup>1</sup>

Plaintiffs have established a *prima facie* case for summary judgment. Pursuant to a November 12, 2019, Indenture and the accompanying Yango Justice International Limited Global Note (collectively, the “Notes”), Yango Justice issued and Yango Group guaranteed US \$250 million aggregate principal in senior notes (Indenture § 11.01). CICFH is the beneficial owner of US \$2 million of the principal balance of the Notes (*see* NYSCEF 8), Dragonstone is the beneficial owner of US \$500,000 of the principal balance of the Notes (*see* NYSCEF 9), and

---

<sup>1</sup> Although Plaintiffs were not required to demonstrate personal jurisdiction over Defendants (*see Buckeye Retirement Co., L.L.C., Ltd. v Lee*, 41 AD3d 183, 184 [1st Dept 2007] [“[L]ack of personal jurisdiction and the statute of limitations are affirmative defenses that are waived unless raised by the aggrieved party”]; *Fishman v Pocono Ski Rental Inc.*, 82 AD2d 906, 907 [2d Dept 1981] [“[L]ack of personal jurisdiction is an affirmative defense, which must be asserted by the defendant either in a CPLR 3211 motion, or in the answer”]), Plaintiffs have made a showing that the Court has jurisdiction and venue over Defendants pursuant to the transaction documents, which provide that New York law governs the Notes, the Global Note, and the Indenture (NYSCEF 5 § 12.07(a) [“Indenture”]), that the parties agreed to litigate disputes in this Court, and that the parties waived any objections to venue (Indenture § 12.07(b)).

Orient Finance is the beneficial owner of US \$1.87 million of the principal balance of the Notes (*see* NYSCEF 12).

Pursuant to the Indenture, on November 12, 2021, holders of the Notes had the right “to require the Issuer or the Parent Guarantor to repurchase for cash all of their Notes, or any portion of the principal thereof that is equal to US \$200,000 or integral multiples of US \$1,000 in excess thereof” (“Put Option”) (Indenture § 3.04(a)). Also pursuant to the Indenture, in order to require the issuer, Yango Justice, or the parent guarantor, Yango Group, to repurchase any outstanding Notes, the holder of the Notes must exercise this right between September 27 and October 13, 2021 (*see id.*).

The Indenture further provides that “[t]he repurchase price the Issuer or the Parent Guarantor is required to pay will be equal to 102% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest, if any, to (but not including) the Put Option Date, subject to the rights of Holders on the relevant Record Date to receive interest on the relevant Interest Payment Date.” (*id.* § 3.04(b)).<sup>2</sup> CICFH and Dragonstone exercised the Put Option on September 27, 2021 (NYSCEF 10). Orient Finance exercised the Put Option on October 11, 2021 (NYSCEF 13).

Under Section 6.02 of the Indenture, “failure by the Issuer or the Parent Guarantor to make or consummate an Offer to Purchase in the manner described under . . . Section 3.04” constitutes an Event of Default under the Indenture (Indenture § 6.02(c)). CICFH, Dragonstone, and Orient Finance exercised their Put Options under Section 3.04 of the Indenture and, according to Plaintiffs, the Defendants have refused to honor the Put Options and repurchase

---

<sup>2</sup> Plaintiffs submit that they are not due any accrued and unpaid interest through November 12, 2021 under § 3.04(b) of the Indenture (*see* Liang Aff. ¶ 20; Xuan Aff. ¶ 20).

Plaintiffs' notes, thus triggering an Event of Default under the Indenture (*see* NYSCEF 7 ¶17 ["Liang Aff."]; *see also* NYSCEF 14–17; NYSCEF 11 ¶13 ["Xuan Aff."]). Defendants have not sought to rebut Plaintiffs' prima facie case.

Accordingly, Plaintiffs are entitled to a money judgment against Defendants to recover the repurchase price and interest due under their Put Options. Under Section 3.04 of the Indenture, the repurchase price is 102% of the principal amount of the notes beneficially owned by Plaintiffs (\$2 million by CICFH; \$500,000 by Dragonstone; and \$1.87 million by Orient Finance), which totals US \$4,457,400 (\$2,040,000 to CICFH; \$510,000 to Dragonstone; and \$1,907,400 to Orient Finance).

Accordingly, it is:

**ORDERED** that Plaintiffs' motion for summary judgment in lieu of complaint is **GRANTED**; it is further

**ORDERED** that the Plaintiffs are entitled to judgment against Defendants in the following amounts:

(1) in favor of Plaintiff CICFH and against Defendants for US \$2,040,000, plus prejudgment interest at the statutory rate from November 12, 2021 until entry of judgment; costs and expenses, including attorney's fees and expenses; together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs; and

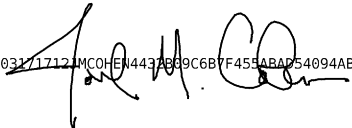
(2) in favor of Plaintiff Dragonstone and against Defendants for US \$510,000; plus prejudgment interest at the statutory rate from November 12, 2021 until entry of judgment; costs and expenses, including attorney's fees and expenses; together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs; and

(3) in favor of Plaintiff Orient Finance and against Defendants for US \$1,907,400 plus prejudgment interest at the statutory rate from November 12, 2021 until entry of judgment; costs and expenses, including attorney’s fees and expenses; together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs; it is further

**ORDERED** that Plaintiffs submit a proposed judgment to the Court within 21 days of this decision and order, providing evidentiary support for any award of attorneys’ fees and expenses; and it is further

**ORDERED** that Plaintiffs shall serve this Order with Notice of Entry on Defendants within seven (7) days of the date of this Order.

This constitutes the Decision and Order of the Court.

20230203171712MCOHEN4437809C6B7F455ABAD54094AB4D4D77  
  
\_\_\_\_\_  
JOEL M. COHEN, J.S.C.

2/3/2023  
DATE

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE