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## Contents

- Background
- The Issues
- The Arguments
- The Decision
- Concluding Remarks

*A note on MovingU Pte Ltd v Trans-Cab Services Pte Ltd [2011] SGHC 254*

## Background

MovingU Pte Ltd (“the Plaintiffs”) supplies and operates mobile credit card terminals for use in taxis. Trans-Cab Services Pte Ltd (“the Defendants”) entered into a contract with the Plaintiffs for the rental of mobile credit card reading devices (“the units”) for its taxi fleet.

The Defendants placed an order and accepted delivery of a second batch of the units from the Plaintiffs. The units were found to be unable to function properly. The Defendants returned the units to the Plaintiffs, terminating the contract subsequently.

The Plaintiffs commenced an action against the Defendants for the wrongful termination of the contract. The Defendants counterclaimed against the Plaintiff seeking, *inter alia*, a declaration that the contract had been validly terminated.

## The Issues

The main issue before the court was whether the Defendants had validly terminated the contract. As both parties accepted that the units were not functional, the Defendants should be entitled to terminate the contract pursuant to:

- (i) the contractual clause allowing them to terminate the contract if functional units were not delivered within a stipulated time frame; and
- (ii) Section 9 of the Supply of Goods Act requiring the

units supplied to be of a “satisfactory quality”.

However, there was a dispute as to whether the Defendants had tampered with the units to allow themselves to reject the units and terminate the contract.

## The Arguments

The Plaintiffs’ case was that the Defendants cannot justify rejecting the units and terminating the contract as the Defendants themselves were the ones who tampered with the units. These contentions were supported by:

- (i) two analysis reports of the returned units stating that the units were tampered with;
- (ii) oral evidence that the units had been scattered and sprawled around a room in the Defendants’ premises; and
- (iii) the Plaintiffs’ discovery of three broken pieces of electronic components at the Defendants’ premises.

The Defendants’ position was that they had not tampered with the units.

## The Decision

In short, the Judge found that the Defendants had validly terminated the contract. This was because the Defendants had not tampered with the units.

The Judge found that the Defendants had not tampered with the units for the foregoing reasons:

- (i) As the reports showed that the tampering job was done by someone familiar with the circuit boards of the units, it was doubtful that the Defendants were responsible for the tampering. Further, there was no suggestion that the Defendants received outside help.
- (ii) The Plaintiffs' evidence that the units were scattered and sprawled all over the room was not supported by objective evidence. In addition, the Plaintiffs themselves conceded that the "scattered and sprawled" units were still in the individual packaging. This concession led the Judge to accept the Defendants' explanation that the units were lying around because the latter had taken them out to count them.
- (iii) The possibility that the Plaintiffs themselves may have been the ones that tampered with the units.

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The firm is recommended for its work in Information Technology and Intellectual Property by Legal 500, Asia-Pacific 2005 to 2011 Editions, Chambers, Managing IP and AsiaLaw.

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## Concluding Remarks

This dispute about whether the Defendants had tampered with the units could have been prevented by an inspection of the units by both parties at the point of delivery. Such an inspection would have confirmed the condition of the goods supplied, minimising the risk of either party blaming the other for tampering with the goods.

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