ABSTRACT

The law governing construction insolvency in Singapore has always been based on statutory provisions having little or no regards for the unique nature of the construction industry. Construction insolvency has always been discussed in depth within contractual terms but when a party goes insolvent, statutory provisions take precedent. When a foreign entity is included within the insolvency proceedings, the problem is indeed aggravated.

The relevant problems that surface in the light of three cross border insolvency scenarios are identified. Current stands were put forth through examining the common law principles and statutes which were reviewed and analysed in detail.

The Model Law on Cross Border Insolvency was also introduced and relevant articles pertaining to addressing the problems highlighted were discussed in more detail.

An application was proposed to the construction industry through identifying the recourse available to the employer upon the insolvency of the foreign main contractor. Construction specific problems were identified and the various statutory provisions, common law principles and Model Law articles were extracted and applied to address the recourse available to the employer.
Through an analysis of the recourse put forth, the author has attempted to ultimately determine the adequacy of statutory provisions, common law principles and the Model Law on Cross Border Insolvency.

Keywords:
Cross border insolvency
Construction industry
Model Law on Cross Border Insolvency
Recourse to employers