
JUDGMENT

A. Introduction

1. This is my judgment on a winding up petition presented on 20 February 2026. The Respondent resists the petition on the basis that it disputes the debt *bona fide* on substantial grounds.
2. By a summons filed on 23 March 2026 and heard on 16 April 2026, the Respondent applied to vacate the hearing of the petition fixed for 11 May 2026 and sought that it be listed for hearing after 30 June 2026 to give the Respondent further time to adduce evidence in response to the petition. I refused that application: see my judgment with neutral citation number [2026] CIGC (FSD) 30 for my reasons for doing so.
3. The Respondent was able to prepare a substantial body of evidence in response to the petition in the time available. The Petitioner filed evidence in reply, and the Respondent then filed further evidence in response to a number of points in the Petitioner's reply evidence that the Respondent contended were new matters raised by the Petitioner. At the outset of the hearing of the petition, I heard an application by the Respondent for leave to rely on this further evidence, which I granted over the Petitioner's objections. However, the Petitioner did not wish to seek an adjournment of the petition as a result of the admission of this further evidence, which therefore proceeded to a full hearing.

B. Evidence

4. The substantive evidence before the court on the petition comprises:
 - 4.1 the first affirmation of Lei Su and exhibit LS-1 affirmed on 13 February 2026 in support of the petition;

- 4.2 the first affirmation of Pan Yu Tang, an associate employed by King & Wood, the Petitioner's attorneys, in their Beijing office, affirmed on 13 February 2026 to confirm that she prepared English translations of certain Chinese language documents exhibited by Lei Su;
- 4.3 the first affirmation of Dong He and exhibit DH-1 affirmed on 31 March 2026 in opposition to the petition and in support of the Respondent's application to vacate the hearing on 11 May 2026;
- 4.4 the second affirmation of Dong He and exhibit DH-2 affirmed on 21 April 2026 in opposition to the petition – in particular, Ms Dong He's affirmation exhibits expert evidence obtained by the Respondent from Yang Yuan of Shaanxi Jingyan Law Firm, an independent firm of lawyers in the PRC engaged by the Respondent to provide expert evidence on PRC law;
- 4.5 the first affirmation of Ng Pui Shing and exhibit NPS-1, a chartered linguist employed by Conyers Dill & Pearman LLP, the Respondent's attorneys, in their Hong Kong office, affirmed on 21 April 2026 to confirm that she prepared English translations of certain Chinese language documents exhibited by Dong He and to exhibit the same;
- 4.6 the second affirmation of Lei Su and exhibit LS-2 affirmed on 29 April 2026 in support of the petition;
- 4.7 the undated approved signed affirmation of Zhang Mei and exhibit ZM-1, a partner in King & Wood's Beijing office giving evidence on PRC law in support of the petition, contained within exhibit LS-2 – I have since been told that this was affirmed on 29 April 2026, but I have not been provided with the affirmed version and it has still not been filed;
- 4.8 the first affidavit of Bethany McLaughlin and exhibit BM-1 sworn on 10 April 2026 to put certain *inter partes* correspondence into evidence;
- 4.9 the approved signed third affirmation of Dong He and exhibit DH-3 dated 4 May 2026, subsequently affirmed on 11 May 2026;
- 4.10 the first affirmation of Tse Man Lok Denise and exhibit TMLD-1 affirmed on 4 May 2026 to put the approved signed third affirmation of Dong He and exhibit DH-3 into evidence pending its formal affirmation;

- 4.11 the second affirmation of Ng Pui Shing and exhibit NPS-2 affirmed on 4 May 2026 to confirm that she prepared English translations of certain Chinese language documents exhibited by Dong He and to exhibit the same;
- 4.12 the second affirmation of Tse Man Lok Denise and exhibit TMLD-2 affirmed on 5 May 2026 to put into evidence a letter from Shaanxi Jingyan clarifying and correcting certain aspects of their expert evidence on PRC law exhibited by Dong He in response to criticisms of it made by King Wood & Mallesons;
- 4.13 the third affirmation of Ng Pui Shing and exhibit NPS-3 affirmed on 5 May 2026 to confirm that she prepared an English translation of the letter from Shaanxi Jingyan exhibited by Dong He and to exhibit the same.

In addition, there are the usual affidavits from the proposed liquidators providing their consents to act and setting out the matters formally required to be addressed by the Company Winding Up Rules.

C. The factual background

5. On 28 July 2015, Cambodia Fibre Optic Communication Network Co. Ltd, a subsidiary of the Respondent company, entered into three facility agreements with China Development Bank for a total of US \$40 million. Those facility agreements are subject to PRC law and include CIETAC arbitration clauses. On the same day, the Respondent company entered into three guarantees with China Development Bank. Those guarantee agreements are also governed by PRC law and include CIETAC arbitration clauses. On 4 August 2015, China Development Bank obtained insurance policies with the Petitioner in respect of the three facility agreements and the guarantees that it had entered into.
6. In early 2021, Cambodia Fibre Optic defaulted on the repayments due under the facility agreements. There was some suggestion in argument that Cambodia Fibre Optic's difficulties in maintaining payments were due to the knock-on effects on the south-east Asian area of the military coup in Myanmar on 1 February 2021. On 27 February 2021, China Development Bank served notice, both

on Cambodia Fibre Optic and also on the Respondent, that there was a default, and gave notice to the Respondent that it required performance of the guarantees.

7. Neither Cambodia Fibre Optic nor the Respondent made payment to cure the default. On 4 August 2021, China Development Bank served acceleration notices, as it was entitled to do under the facility agreements, making the full amount owed by Cambodia Fibre Optic immediately due and owing and triggering full liability on the part of the Respondent under the guarantee agreements.
8. There was still no payment by Cambodia Fibre Optic or by the Respondent and so on 6 September 2021, China Development Bank started two CIETAC arbitrations against Cambodia Fibre Optic under, first, the facility agreements, and secondly, separate pledge agreements that Cambodia Fibre Optic had entered into contemporaneously with the facility agreements. The CIETAC arbitration tribunal delivered its award in relation to the claims under the facility agreements on 17 November 2022, finding in favour of China Development Bank.
9. Cambodia Fibre Optic sought to set aside the arbitration award. On 31 July 2023, the Beijing Financial Court dismissed the application. There then seems to have been a hiatus for about 26 months until 28 September 2025, when the Petitioner prepared a statutory demand. This was based upon its outlay under the insurance that it had provided to China Development Bank, which it had honoured. The Petitioner served the statutory demand on the Respondent on 6 October 2025. The total amount claimed by that statutory demand, as of 28 September 2025, was just over US \$26 million, comprising US \$17.7 million said to be due under the facility and guarantee agreements and the balance representing accrued interest pursuant to the terms of the credit facility agreements.
10. On 19 October 2025, so within the 21 days for a response to the statutory demand, the PRC lawyers engaged by the Respondent at that time wrote a lengthy letter challenging the Petitioner's standing to serve the statutory demand and asserting various points about rights of subrogation under PRC law.
11. On 17 November 2025, the Petitioner's PRC lawyers, King & Wood, responded with a detailed letter setting out the Petitioner's contentions as to why it was entitled under PRC law to exercise rights of

subrogation and to pursue the debt that it sought from the Respondent. The letter included a summary of what King & Wood asserted was the content of relevant PRC law.

12. There was then a further delay until February 2026 before the Petitioner prepared a draft winding up petition dated 13 February 2026, which it filed on 20 February 2026, along with various supporting affidavits. On 2 March 2026, the Petitioner served the Respondent and its registered office with a copy of the winding up petition and supporting evidence.

D. The issues sought to be raised

13. The Respondent argues that the relevant question is whether there is an undisputed debt owed by the Respondent to the Petitioner, and that the court should be careful to distinguish between the rights of the Petitioner and of China Development Bank, and of the position of the Respondent, as distinct from Cambodia Fibre Optic. More specifically, the Respondent contests that the Petitioner has a right of subrogation and can exercise it against the Respondent. This raises a number of questions of fact and of PRC law. The Respondent says that those issues are all realistically arguable and establish the existence of a *bona fide* basis to dispute the debt on substantial grounds. The Petitioner argues that none of the points raised by the Respondent have any merit at all, and that I should therefore proceed to make a winding up order.
14. If the primary issue of enforceability of the debt against the Respondent is resolved against the Respondent, it seeks to dispute the debt on the ground that at least part of the debt, if not all, is statute barred; and that there is a serious dispute as to quantum as a result. The Petitioner responds that at least part of the debt is indisputably due and so I should make a winding up order and leave the resolution of the precise amount of the recoverable debt for determination within the liquidation.
15. As a final fall-back position, the Respondent seeks a 14-day stay on making any winding up order so that it has an opportunity to pay whatever sum I conclude cannot be disputed as due and to avoid the making of a winding up order as a result, with what it says would be value destructive

consequences for the wider corporate group. The Petitioner's fall-back position, in case I determine that the debt is *bona fide* disputed on substantial grounds, is to adjourn the petition for 14 days so that another creditor might be substituted for the Petitioner. In this regard, two other creditors have expressed support for the petition, albeit neither have formally filed a notice of appearance and neither appeared at the hearing of the petition. The Respondent objects that if they wished to be substituted as creditor then they should have appeared and made their application.

E. The law

16. There is no dispute between the parties as to the proper approach of the court when considering whether a debt is *bona fide* disputed on substantial grounds. In *Parmalat Capital Finance Ltd v Food Holdings Ltd* [2008] CILR 202, Lord Hoffmann said at paragraph 9:

"[...] If a petitioner's debt is bona fide disputed on substantial grounds, the normal practice is for the court to dismiss the petition and leave the creditor first to establish his claim in an action. The main reason for this practice is the danger of abuse of the winding up procedure. A party to a dispute should not be allowed to use the threat of a winding up petition as a means of forcing the company to pay a bona fide disputed debt."

17. Mr Andrew Ayres KC, who appears for the Petitioner, accepts that a creditor's winding-up petition should not be used to enforce disputed debts. However, Mr Ayres says that the court should look for a dispute of real substance and should be astute to recognise matters that are merely a smokescreen, for example technical objections raised late in the day. He argues that the court is entitled to look critically at the reasoning in the opinions on PRC law in evidence and that the court should not accept uncritically every proposition advanced. Where points are unsubstantiated or give rise to illogical results, then the court can take a view as to the credibility and reliability of the evidence as to PRC law. Further, he contends that just because there appears to be conflicting evidence on PRC law does not have the result that I should dismiss the petition and leave the Petitioner to pursue its claim in another forum. He refers to the judgment of Oliver LJ in *Re Claybridge Shipping Co SA* [1997] 1 BCLC 572 (CA) at 578-579, reporting a decision of the Court of Appeal from March 1981, to suggest that even if the court were to conclude that the debt is disputed *bona fide*, the court might still proceed with the petition and fix a trial of the disputed issues, similarly to the position regarding just and equitable winding up petitions, if outright dismissal of the petition would be unjust.

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18. Omitting for present purposes the authorities on which he relies, Mr Richard Fisher KC, who appears for the Respondent, submits that where there is a genuine and substantial dispute, then the applicant cannot demonstrate that they are a creditor so that their ability to present a winding up petition falls away. Moreover, he says that no matter how late in the day the points are raised, nor how strongly the petitioner asserts that the company's position is a smokescreen or delaying tactics, unless the court is satisfied that the defence raised is "*hopeless or fanciful*", to use the words of Doyle J in the recent decision in Re SequoiaDB Software Ltd [2025] CIGC (FSD) 120, then there is a genuine and substantial dispute and the petition should be dismissed.
19. As suggested by Mr Fisher, I adopt the helpful summary of Norris J in the English case of Angel Group Ltd v British Gas Trading Ltd [2013] BCC 265, endorsed and expanded upon by Trower J in the English case of Integral Law Ltd v Jason [2020] EWHC 3698 and with some minor elaboration of my own:
- 19.1 A creditor's petition can only be presented by a creditor. Until a prospective petitioner is established as a creditor, he has no standing and is not entitled to present the petition.
- 19.2 The company can challenge the petitioner's standing as a creditor by advancing in good faith a substantial dispute as to the petition debt, or as to sufficient of the debt as will bring the indisputable part below the applicable financial threshold.
- 19.3 A dispute will not be "*substantial*" if it really has no rational prospect of success.
- 19.4 A dispute will not be put forward in good faith if the company is merely seeking to use the delay to obtain credit to which it is not entitled under the relevant contract.
- 19.5 There is no rule that the petition will be struck out merely because the company alleges that the debt is disputed. The true rule is that a winding up petition should not be used to decide a substantial dispute raised on *bona fide* grounds, because the effect of presenting a winding up petition and advertising that petition is to put the company under pressure to pay, rather than to litigate, which is quite different in nature from the effect of an ordinary action.
- 19.6 However, the court will not allow this rule of practice itself to work injustice and will be alert to the risk that an unwilling debtor is raising a cloud of objections on affidavit in order to claim

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that there is a dispute that cannot be determined without cross-examination, and thereby to avoid having to pay.

19.7 The court will therefore consider the evidence in detail even if, in performing that task, the court may be engaged in much the same exercise as would be required of a court facing an application for summary judgment.

19.8 In assessing whether a debt is disputed on substantial grounds, the threshold is not a particularly high one. Accordingly, even a defence that might only be regarded as shadowy in an application for summary judgment, may be sufficient for the court to dismiss the petition.

19.9 Nonetheless, the court is required to consider the credibility of the evidence, and may reject that evidence where it is simply incredible.

19.10 This reflects the fact that the company against which a petition is presented or threatened must show that the dispute is both *bona fide* and based on substantial grounds as established by credible evidence.

19.11 Adopting and applying the guidance on applications for summary judgment under the old RSC O.14 (see editorial commentary at para 14/4/9 of the *Supreme Court Practice 1999*, citing Glidewell LJ in *National Westminster Bank plc v Daniel* [1993] 1 WLR 1453 at 1457 and *Famous Ltd v Ge Im Ex Italia SRL* (1987) *The Times*, August 3, CA), when assessing credibility, the court does not have to treat every affidavit filed as truthful and take it at face value when every probability points to the contrary. If the evidence is incredible in any material respect, it cannot be said that there is a *bona fide* dispute on substantial grounds.

19.12 This general approach applies also to any cross-claim asserted by the company.

20. Mr Fisher adds that a dispute as to the content of applicable foreign law is sufficient to justify the dismissal of a winding up petition, referring to Parker J's decision in the unreported case of *Primus Investments Fund LP* (16 June 2020) amongst others. I accept his submission that the proper question for the court on a winding up petition is not which side's foreign law evidence is to be preferred, but rather whether the expert evidence is reasonably credible and whether what is said

gives rise to a genuine and substantial dispute as to the respondent's liability for the debt in question.

F. The issues regarding the nature of the Petitioner's insurance and whether the Petitioner can exercise rights of subrogation

21. Mr Ayres advances the Petitioner's case solely on the basis that it is entitled to exercise rights of subrogation against the Respondent, having paid indemnity to China Development Bank under the insurance contracts between them. He does not rely today on the Petitioner's alternative case that it has taken a valid assignment of China Development Bank's rights to repayment by Cambodia Fibre Optic or to enforce the guarantees given by the Respondent.

22. Mr Fisher contends that the following are all properly arguable substantive objections to the enforceability of the debt under a right of subrogation, which have the result that the debt is disputed by the Respondent *bona fide* on substantial grounds, and that King & Wood's disagreement on behalf of the Petitioner with the content of the Respondent's expert evidence does not detract from this:

22.1 As PRC law is not a common law system, there is no presumption of similarity between PRC law and Cayman Islands or English law: see *Dicey, Morris and Collins on the Conflict of Laws (16th ed)*, Rule 2(3) and paragraphs 3-026 and 3-027.

22.2 The PRC law on subrogation is not wholly aligned with Cayman Islands or English law, for example where an insurer pursues a loss recovery claim under a right of subrogation, PRC law requires the insurer to do so in its own name rather than in the name of the insured, the court must therefore be wary about making assumptions as to the content and effect of relevant PRC law.

22.3 The expert evidence on PRC law shows that there is a distinction that must be drawn between guarantee insurance and credit insurance.

22.4 Looking at the substance of the insurance provided by the Petitioner rather than its form, as required by PRC law, it provided guarantee insurance not credit insurance.

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- 22.5 As a result, the Petitioner cannot exercise rights of subrogation or mutual recourse unless it has complied with Article 13 of the Judicial Interpretation of the Guarantee System under the Civil Code, and it is common ground that the Petitioner has not done so.
- 22.6 The Petitioner's indemnification of China Development Bank extinguishes any claim that China Development Bank might have had, so that there is no subsisting right to which the Petitioner can be subrogated.
- 22.7 Even if the Petitioner's insurance is properly to be treated as credit insurance, a proper construction of Article 60 of the PRC Insurance Law is that it only permits an insurer to pursue subrogated claims against the primary obligor, not against third party guarantors.
- 22.8 The insurer is required to give prior notice of the exercise of such right, even for a subrogated claim, which the Petitioner failed to do.
23. To support his arguments, Mr Fisher relies on the independent expert evidence from Yang Yuan of Shaanxi Jingyan. They make a number of assertions as to the content of relevant PRC law and its application in this case in an opinion running to 45 pages in the English translation. So far as relevant, these include:
- 23.1 The PRC introduced a Civil Code in 2021, which now provides a basic standard with which all civil and commercial activities must comply. Subordinate to this is the Insurance Law, effective 1 October 2015, and subordinate to this are the Expert Credit Insurance Regulations, which govern export credit insurance business.
- 23.2 Decisions of the Peoples' Supreme Court have binding effect on all PRC courts and are an authoritative source of law for the interpretation and application of PRC statutes. Guiding cases must be followed by other PRC courts. Otherwise, the PRC does not have a concept of *stare decisis* or precedent, as in common law systems. Different local Courts may legitimately reach different conclusions in factually similar cases. Decisions by lower courts therefore do not have precedential effect and are, at best, illustrative. In addition, cases decided before the introduction of the Civil Code in 2021 should be treated with caution.

- 23.3 The legal nature of a contract must be determined by reference to its substance and purpose, not merely its title. This principle is reinforced by Article 142 of the Civil Code, as well as other guidance in the PRC.
- 23.4 Guarantee insurance is a specific type of insurance available in the PRC to guarantee payment of a borrower's debt. If the insurer has paid out under the policy, it can pursue recovery from the principal debtor but not from any guarantor.
- 23.5 Whilst the Petitioner's normal scope of business is providing export credit insurance, that does not prevent the Petitioner from issuing guarantee insurance as a matter of law.
- 23.6 There are a number of features of the insurance provided by the Petitioner in this case that are inconsistent with the insurance being export credit insurance and are consistent with it being guarantee insurance on a proper analysis, with no right of recourse against the Respondent. These include that:
- (a) It was the Respondent who paid the premium, rather than China Development Bank as beneficiary of the insurance. In other words, the Respondent as a guarantor paid for an additional layer of guarantee protection to provide additional risk coverage for China Development Bank's benefit.
 - (b) The insurance policy was not sought or obtained by China Development Bank to mitigate its risk but was instead provided by the Respondent to satisfy China Development Bank's lending approval requirements, in other words to provide credit enhancement.
 - (c) Given that the Respondent paid the premiums, if the Petitioner's position were correct, it could keep the benefit of the premiums paid by the Respondent whilst at the same time pursuing a recovery claim against the Respondent, which makes no commercial sense and contradicts the basic function of insurance.

Accordingly, whilst the Petitioner may be entitled to pursue recovery from Cambodia Fibre Optic, it cannot do so from the Respondent.

- 23.7 Article 60 of the Insurance Law, which creates an insurer's right of subrogation, does not apply to guarantee insurance because of the inherent nature of guarantee insurance. Further, Article 60 provides as follows (in the agreed translation):

"Where an insurance accident is caused by damage to the insured subject matter by a third party, the insurer, from the date of payment of insurance indemnity to the insured, is subrogated to the insured's right to claim compensation from the third party, within the amount of the indemnity paid."

Accordingly, it only permits recovery from the third party who caused the damage, not from a guarantor. This is consistent with the decision in 2024 in the case of Hu 74 Min Zhong No. 152, where the Shanghai Financial Court stated:

"Furthermore, with respect to the subject of recovery, Article 60 of the Insurance Law limits the subject to 'a third party whose damage to the insured subject matter caused the insurance accident'. Therefore, the insurer's right of subrogation, as a right established by law, cannot be exercised by the insurer against a guarantee provided by a third person for the principal claim.

First, pursuant to Article 60 of the Insurance Law, the insurer's right of subrogation in guarantee insurance contracts arises by operation of law from the date of payment of insurance indemnity to the insured and may only be exercised against the debtor. That is to say, where the Insurance Law has expressly provided that the subject of the insurer's subrogation is limited to the third party that caused damage to the insured subject matter, it cannot naturally extend to a third-party guarantee for the principal claim, nor can it be applied by analogy to the relevant provisions of the Civil Code concerning the effect of a consensual assignment of claims on the subordinate obligor."

Shaanxi Jingyan argue that the Respondent's liability arises solely from the guarantees by which it bears guarantee liability to China Development Bank if Cambodia Fibre Optic defaults, but that the Respondent neither caused the insurance accident nor caused any damage to the insured subject matter and therefore does not fall within the scope of Article 60.

- 23.8 Any statements by the Respondent regarding liability owed to the Petitioner were not acknowledgments of the Petitioner's right to claim against the Respondent but were simply reciting that the Petitioner was asserting the existence of such a right. Accordingly: (a) they do not demonstrate the acceptance of a liability; and (b) they cannot be relied upon by the Petitioner to renew or interrupt the 3-year limitation period for pursuing its claims.
- 23.9 On the assumption that the insurance provided by the Petitioner was guarantee insurance, then payment of indemnity by the Petitioner extinguished China Development Bank's right to pursue claims against others, and the Petitioner cannot bring such claims either.

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23.10 Article 188(1) of the PRC Civil Code prescribes a three-year limitation period, unless the law provides otherwise. The applicable limitation period can be interrupted by the claimant making a demand for performance recognised by PRC law, by the defendant agreeing to perform, or by the claimant starting litigation or arbitration in the PRC. The Petitioner's first demand was no earlier than service of its statutory demand on 6 October 2025, albeit Shaanxi Jingyan do not concede that a statutory demand is properly to be treated as a valid demand under PRC law for the purpose of suspending the limitation period and they assert that the current winding up proceedings also do not satisfy the PRC requirements to interrupt the limitation period because they have not been brought in the PRC.

23.11 Further, Article 16(2) of the Supreme Peoples' Court Judicial Interpretation on the Insurance Law states that the limitation period for a subrogated claim by an insurer shall be calculated from the date the insurer acquires the right of subrogation, i.e. from the date the insurer actually pays the insurance indemnity to the insured.

23.12 In this case, there is a dispute between the parties whether the limitation period starts to run when each indemnity payment was made or only once complete indemnification under the policy has been provided. Depending on the correct answer, the Petitioner may have lost the right to recover a number of indemnity payments that it made before March 2023, or possibly before 6 October 2022, if the Petitioner's statutory demand has the effect of suspending the limitation period. This has the effect of reducing the Petitioner's potential claim to no more than about US \$10.05 million or US \$6.6 million. Moreover, if proceedings in the PRC are required to stop limitation, then that part of the Petitioner's claim that might still be in time is reduced further to about US \$3.15 million.

24. I should record that Mr Fisher and Shaanxi Jingyan raise a number of other points that, in my judgment, have less relevance or significance to my determination of this winding up petition, and I have therefore omitted to summarise them.

25. In response to these points, Mr Ayres relies on lengthy and detailed counter-arguments put forward by King & Wood on behalf of the Petitioner.

- 25.1 Mr Ayres directs my attention to the Petitioner's insurance policies, which are expressly described as "export credit insurance", and to the terms of the insurance, which he says makes clear that they are credit insurance, not guarantee insurance.
- 25.2 Mr Ayres argues that the distinction between the two is that in a borrower / lender situation, credit insurance is taken out by the lender to cover the risk of non-payment by the borrower and/or any guarantor, and leaves the insurer with a subrogated claim against the borrower and/or guarantor to recoup the indemnity it has paid to the lender. On the other hand, guarantee insurance is taken out by the borrower to cover the risk that it is unable to pay and so is the guarantor, leaving the borrower with an unsatisfied liability. In that situation, the insurer's possible target for recovery is the guarantor, since it cannot pursue a claim against its own insured. He says, applying this analysis, that the insurance provided by the Petitioner was clearly credit insurance and not guarantee insurance.
- 25.3 But, he argues, even if the insurance provided was guarantee insurance, then it is still property insurance and so is within the scope of Article 60 of the Insurance Law.
- 25.4 He says that the Respondent's argument that Article 60 does not create a right to recovery against a guarantor is commercially absurd and illogical because it would mean that an insurer could never pursue a claim against a guarantor.
- 25.5 Accordingly, he says it is clear that there is no genuine dispute over the Petitioner's ability to pursue a subrogated claim against the Respondent.
- 25.6 Mr Ayres disputes that a statutory demand cannot stop the limitation period from running under PRC law and argues that at least part of the overall debt is still within time and provides a basis for making a winding up order.
26. Similarly to Mr Fisher and Shaanxi Jingyan, Mr Ayres and King & Wood include a number of other points in their response to the Respondent's case that I do not consider to be material to the outcome of this case, and I have therefore not set them out.

G. Decision

27. Mr Ayres cautions that I should not simply say that it is all too difficult to decide, and he encourages me to look conscientiously through the various points advanced by the Respondent and determine that there really is nothing there that amounts to a *bona fide* dispute on substantial grounds.
28. I reject Mr Ayres' suggestion that I should treat the evidence of Shaanxi Jingyan as less credible than that of King & Wood because they are a small firm of lawyers in the PRC. Similarly, I have not found it appropriate to discount the credibility of the positions asserted by King & Wood because they are not independent, as argued by Mr Fisher. I consider it is appropriate to take the various assertions by Shaanxi Jingyan and by King & Wood as to PRC law and its application to this case at face value and as being genuinely held by them.
29. I have read through the material submitted by both sides critically, as Mr Ayres requests. There are certain aspects of the Respondent's case that I do not consider to be credible, for example that a proper construction of the relevant PRC law requires an insurer to give notice to its target before it is able to pursue a subrogated claim. In my view, this requires a reading of the PRC law provision in question that, even allowing for the potential loss of nuance in translation, strains the meaning of the provision beyond breaking point.
30. However, Mr Fisher and Shaanxi Jingyan raise a number of issues that, whilst I have some doubts as to whether all of them will ultimately succeed, I cannot properly dismiss as being incredible, or hopeless or fanciful. For that reason, in my judgment those points are sufficient to establish that there is a *bona fide* dispute as to the Respondent's liability for the debt in question that is advanced on substantial grounds. These include:
- 30.1 whether, looking at the substance rather than the form, under PRC law the insurance provided by the Petitioner is properly to be characterised as guarantee insurance or credit insurance;
- 30.2 whether Article 60 of the Insurance Law applies to guarantee insurance; and
- 30.3 whether Article 60 of the Insurance Law limits the exercise of rights of subrogation to the primary obligor and excludes claims against guarantors.

31. In addition to these points that go to the overall liability question, I consider that there are also real issues as to the amount of the debt that remains recoverable due to the impact of the PRC law on limitation and which I cannot resolve on the material that is before me.
32. In the circumstances, my decision is that I should dismiss the Petitioner's petition, subject to giving other creditors an opportunity to apply to be substituted. Any such application should be made within 14 days. In the absence of such an application being made, the petition will stand dismissed.
33. In addition, I will hear the parties further on the question of the costs of the petition.

Dated 19 May 2026



THE HONOURABLE JUSTICE JALIL ASIF
JUDGE OF THE GRAND COURT