IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2019] SGHC 278

Suit No 850 of 2017

Between

Neo Aik Soo

… *Plaintiff*

And

(1) Neo Geek Kuan
(2) Neo Aik Siong

… *Defendants*

GROUNDS OF DECISION

[Trusts] — [Resulting trusts] — [Presumed resulting trusts]

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v
Neo Geek Kuan and another

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29 November 2019

Mavis Chionh Sze Chyi JC:

Introduction

1 The Plaintiff and the two Defendants in this case are siblings. The 2nd Defendant (Neo Aik Siong) and the Plaintiff (Neo Aik Soo) are, respectively, the eldest and second eldest of the twelve siblings in their family. Both are septuagenarians. The 1st Defendant (Neo Geek Kuan) is the fourth eldest sibling in the family. The dispute in this case centred on the beneficial ownership of a shophouse at 34 / 34A / 34B Keong Saik Road ("the Property"). It was not disputed that the Property had been registered in the 1st Defendant's name since its purchase in June 1991. It was also common ground that the 1st Defendant was only the legal owner and that she did not have beneficial ownership of the Property. The Plaintiff's case was that he was the beneficial owner of the Property and that the 1st Defendant held it on trust for him, whereas the

Defendants alleged that it was the 2nd Defendant who was the beneficial owner of the Property and that the 1st Defendant held it on trust for him.

2 At the end of the trial, I found in favour of the Plaintiff. As the Defendants have appealed, I set out below the reasons for my decision. I start by summarising the key aspects of the Plaintiff's and the Defendants' cases and the evidence adduced in support of each side's case.

The Plaintiff's case

3 The Plaintiff's case was that he was the beneficial owner of the Property as he had paid for the full purchase price with his own funds. He had asked the 1st Defendant to hold it in her name, on trust for him, because at the point of purchasing the Property, he was working as a broker engaged in "high value trades for high net worth individuals" and had concerns about shielding his assets from creditors in the event any of these trades "went badly" and exposed him to personal liability.[1] The Plaintiff has enjoyed considerable financial success over the years; and the purchase of the Property was one of a number of property investments he has made.

The Plaintiff's personal background

4 The Plaintiff's financial success was derived largely from the "very high fees" he had generated as a broker servicing high net-worth individuals and companies "over many years" since the 1960s,[2] as well as substantial lottery

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1 [21] and [53] of the Plaintiff's affidavit of evidence-in-chief ("AEIC").

2 [19]-[22] of the Plaintiff's AEIC.

winnings ($400,000) in 1973[3] and his own investments.[4] In 1972, the Plaintiff decided to start investing in real estate as a means of "beat[ing] inflation and… multiply[ing] [his] yield".[5] He started with the purchase of a property at 64 Medway Drive, Singapore in 1972. This became his matrimonial home after he and his wife ("Lai Wah") moved out of the home at 446 Upper Paya Lebar Road which he had previously shared with his parents and siblings.[6]

5 As his parents were unhappy with his moving out of the family home, the Plaintiff made a promise to them that he would continue to take care of his siblings even after moving out. According to the Plaintiff's younger brother Neo Aik Kheng ("Aik Kheng"), although the 2nd Defendant was the eldest sibling, it was the Plaintiff who had always been regarded as the head of the family since the death of their father in 1974.[7] *Inter alia*, it was the Plaintiff who provided his siblings with money whenever they needed it. This included, for example, paying for renovations to Aik Keng's flat and financing his (Aik Kheng's) daughter's university education overseas.[8]

6 In 1980, the Plaintiff purchased another property at 20 Lorong K, Telok Kurau, Singapore ("20 Lorong K"). He purchased this property for the use of his mother and siblings, as the family home at 446 Upper Paya Lebar Road had been compulsorily acquired by the Government by then. The Plaintiff paid for

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3 [23] of the Plaintiff's AEIC and exhibit NAS-4 at p 72 of the Vol 1 of the Joint Bundle of AEICs (1 JBAEIC-72).

4 [34] of the Plaintiff's AEIC.

5 [24] of the Plaintiff's AEIC.

6 [24]-[25] of the Plaintiff's AEIC.

7 [7]-[10] of Aik Kheng's AEIC.

8 [9] of Aik Kheng's AEIC.

the purchase price of $320,000 with his own monies.[9] The conveyance of the property was effected on 29 March 1980;[10] and it was registered jointly in his and Aik Kheng's name. The Plaintiff stated that he had included Aik Kheng's name so as to help him in his business by ensuring that he had a property in his name to "prove [his] credit".[11] Aik Kheng too confirmed that he himself did not contribute any funds and that the purchase was made entirely with the Plaintiff's monies.[12] The Plaintiff subsequently sold 20 Lorong K in December 1983 for $2,120,470.[13]

7 It was also in 1983 that the Plaintiff acquired a "'clean shelf' company" which he renamed Medway Investments Pte Ltd ("Medway Investments").[14] This was done with a view to using the company as a vehicle for acquiring and holding properties for his own benefit and that of his wife and children. His wife Lai Wah was the majority shareholder of Medway Investments, with 55% of the shares, while he himself held 20% of the shares. He also gave 20% of the shares to Aik Kheng and 5% to the 2nd Defendant as a token of his thanks to them for "the various things that both of them had done for [him] in the past".[15] Although the 2nd Defendant was formally appointed as Chairman and as a director alongside their youngest brother Neo Chin Chai ("Chin Chai") and Lai Wah, all investment decisions in Medway Investments were made by the

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9 [28] of the Plaintiff's AEIC.

10 1 JBAEIC 75.

11 [31] of the Plaintiff's AEIC.

12 [15]-[17] of Aik Kheng's AEIC.

13 [32] of the Plaintiff's AEIC.

14 [27] of the Plaintiff's AEIC.

15 [27(b)] of the Plaintiff's AEIC.

Plaintiff and Lai Wah:[16] at most, the 2nd Defendant might make recommendations to them on potential investments.

8 Over the years, the Plaintiff continued to trade in shares and to invest in properties.[17] He sold some of the properties purchased within a relatively short time-span; some were redeveloped before being sold; and he also retained some as residences for family members and for himself.

The Plaintiff's relationship with the 2nd Defendant

9 In the course of his investment activities, the Plaintiff got the 2nd Defendant to assist him with various administrative matters such as liaising with tenants, sellers and/or buyers of properties; managing repairs and renovation works at these properties; and collecting rent from tenants.[18] The Plaintiff paid the 2nd Defendant pocket money for helping with these tasks. He also let the 2nd Defendant act as his agent in various property transactions so that the latter would be able to earn commissions.[19]

10 The Plaintiff explained that he got the 2nd Defendant to assist with such tasks as he felt he could trust the 2nd Defendant, who was his older brother, and who was also able to communicate easily with tenants and property owners because of his proficiency in Hokkien and Teochew.[20] In addition, he wanted a

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16 [27(d)] of the Plaintiff's AEIC.

17 [33]- [34] of the Plaintiff's AEIC.

18 [35] of the Plaintiff's AEIC.

19 [69] of the Plaintiff's 2nd affidavit dated 1 December 2017 at p 100 of the Plaintiff's Bundle of Interlocutory Documents ("PBID").

20 [18] of the Plaintiff's AEIC.

way of helping the 2nd Defendant who had not been successful in the businesses he had tried his hand at and who frequently racked up debts.[21]

11 Typically, according to the Plaintiff, the 2nd Defendant would render "statements of account" to him showing the amounts of cash he had taken or drawn from the bank; the amounts expended on various expenses related to his errands for the Plaintiff (for example, stamp fees and postage); and the deductions he had made for personal expenses such as food and transport.[22] The two of them met up almost daily to go through this "accounting" process and to discuss other issues.[23]

The purchase of the Property

12 Sometime in 1991, the 2nd Defendant informed the Plaintiff of the shophouse located at 34 / 34A / 34B Keong Saik Road and suggested that he consider buying the Property. Although the Property was in a dingy area known as a red-light district, it was close to the central business district and had potential to grow in value.[24] The Plaintiff decided to purchase the Property and to hold it for some time.

13 The Plaintiff left it to the 2nd Defendant to negotiate with the vendors of the Property.[25] The purchase price for the Property was agreed at $370,000. At this point, the Plaintiff had "more than enough funds" to purchase the Property

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21 [38]-[40] of the Plaintiff's AEIC.

22 [44(c)] of the Plaintiff's AEIC and exhibit NAS-11 at 1 JBAEIC 101-104.

23 [71] of the Plaintiff's 2nd affidavit dated 1 December 2017 at PBID 101.

24 [49]-[50] of the Plaintiff's AEIC.

25 [52] of the Plaintiff's AEIC.

as he was then enjoying "a fair amount of liquidity".[26] He paid the purchase price of $370,000 from his own funds as follows:

(a) First, he paid the initial 10% deposit of $37,000 on 25 March 1991 with funds from an OCBC account (account number 503-031-494-001).[27] This was an account in the joint names of the Plaintiff, Aik Kheng and the 1st Defendant, which parties referred to as "**OCBC Account 1**" in the course of the trial. Although it was held jointly in the three names, the Plaintiff's evidence was that the monies in the account came from him; and Aik Kheng confirmed that this was so.[28]

(b) Next, the balance of $331,438-13 was also paid by the Plaintiff – this time, via a cashier's order drawn on OCBC Account 1 on 20 June 1991.[29]

(c) Finally, in respect of the sum of $1,497-50 paid to the vendors' solicitors M/s JS Yeh & Co, this was paid by the Plaintiff via a cashier's order dated 20 June 1991 which he gave the 2nd Defendant cash to apply for.[30]

14 It should be noted that while the 2nd Defendant conceded that the funds for the purchase price of $370,000 had come from OCBC Account 1 (the bank account held in the joint names of the Plaintiff, the 1st Defendant and Aik Kheng), he denied that the funds in OCBC Account 1 came from the Plaintiff.

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26 [51] of the Plaintiff's AEIC.

27 [60(a)] of the Plaintiff's AEIC and exhibit NAS-16 at 1 JBAEIC 136-137.

28 [19] of Aik Kheng's AEIC.

29 [60(b)] of the Plaintiff's AEIC and exhibit NAS-17 at 1 JBAEIC 139-141.

30 [60(c)] of the Plaintiff's AEIC and exhibit NAS-18 at 1 JBAEIC 143-144.

Instead, the 2nd Defendant advanced at trial a narrative which depicted their entire family – the Neo family – as having been engaged in making substantial investments in properties and other assets; and he claimed that the monies in OCBC Account 1 came from monies made by the Neo family in one of these property transactions. I will elaborate on the 2nd Defendant's narrative when I deal with the Defendants' evidence in the next section of these written grounds.

15 Although the Plaintiff was paying for the purchase of the Property and intended to hold it as his own investment, he decided to put the Property in the 1st Defendant's name and to ask her to hold it on his behalf. He decided on this course of action[31] because he was concerned that should any of the high-value trades he was carrying out as a broker go badly and expose him to personal liability, he should be able to "shield" some of his assets from creditors. Being able to "shield" some of his assets from creditors was important because at that point in time, he was financially responsible for supporting not just his wife and children but also his mother and siblings. He asked the 1st Defendant to hold the Property on trust for him because he trusted her, was close to her, and believed that her unmarried status would preclude the possibility of a spouse or children trying to lay claim to the Property.[32]

16 Once the sale was agreed, the Plaintiff left it to the 2nd Defendant to arrange for all the documentation. The Plaintiff trusted the 2nd Defendant and did not check up on what he was doing. He did not even ask to see the sale and purchase agreement ("SPA"). It was only in the course of these proceedings that he discovered that the 2nd Defendant had named himself as the purchaser of

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31 [53] of the Plaintiff's AEIC.

32 See transcript of 23 May 2019 at p 131 line 23 to p 132 line 7.

the Property in the Sale and Purchase agreement ("SPA").[33] In cross-examination, the Plaintiff agreed that the SPA was an important conveyancing document, but asserted that to him, the name in which a property was registered would be more important than the SPA.[34] Since he had arranged for the Property to be registered in the 1st Defendant's name, and since he was also collecting rent from the Property,[35] he had not found it necessary to ask for a copy of the SPA in the 27 years following the purchase.

17 Apart from helping the Plaintiff arrange for the purchase, the 2nd Defendant also assisted him in arranging for maintenance and repair works for the Property – just as he had done for other properties owned by the Plaintiff.[36] Just as he had done for the other properties, the 2nd Defendant would report to the Plaintiff the various matters he was arranging for – such as engaging contractors and applying for permits – and would also claim from the Plaintiff reimbursement of expenses incurred in making these arrangements.[37] In this connection, Aik Kheng too testified that he recalled a number of instances when the Plaintiff instructed the 2nd Defendant to collect rent and do other things on his behalf vis-à-vis the Property. According to Aik Keng, the 2nd Defendant would bring the Plaintiff various bills and invoices relating to the Property in order to seek reimbursement. These would generally be bills or invoices for

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33 [57] of the Plaintiff's AEIC and exhibit NAS-14 at 1 JBAEIC 129-132.

34 See transcript of 21 May 2019 at p 166 lines 18 to 22.

35 See transcript of 21 May 2019 at p 175 line 23 to p 176 line 3.

36 [87] of the Plaintiff's AEIC.

37 [87] of the Plaintiff's AEIC.

"things like maintenance and upkeep of the Property"; and Aik Kheng would observe the Plaintiff paying the 2nd Defendant.[38]

18 The Plaintiff testified that the expenses he bore in relation to the Property included the costs of renovations, all of which he recalled paying for to the tune of some $300,000.[39] Subsequently, the Plaintiff left it to the 2nd Defendant to find tenants for the Property. Most of the time the rental was collected by the 2nd Defendant, who was accountable to the Plaintiff for the amounts collected.[40] The Plaintiff himself also collected the rental from time to time.[41]

OCBC Account 2

19 In giving evidence of having paid for the renovations to the Property, the Plaintiff stated that the funds for these renovations came from a bank account referred to as "OCBC Account 2", and that it was he who had given the 2nd Defendant approval to draw the funds from this account for this purpose. According to the Plaintiff, the background to the setting-up of OCBC Account 2 and his use of the funds in it was as follows.

20 Sometime in September or October 1993, the Plaintiff discovered that the 2nd Defendant had obtained overdraft facilities from OCBC by using the Property as security and getting the 1st Defendant to sign the necessary papers.[42]

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38 [24(c)] of Aik Kheng's AEIC.

39 See transcript of 21 May 2019 at p 102 line 2 to p 106 line 4.

40 [54] of the Plaintiff's 4th affidavit dated 16 January 2018 at PBID 205.

41 [83]-[86] of the Plaintiff's AEIC and exhibit NAS-25 at 1 JBAEIC 289-290.

42 [70] of the Plaintiff's AEIC and exhibit NAS-21 at 1 JBAEIC 167-172 .

This was OCBC account number 503-052730-001, which parties referred to during the trial as **OCBC Account 2.** The overdraft limit was $530,000. The 2nd Defendant had obtained the overdraft facilities in March 1993 and had been making use of them without the Plaintiff's knowledge and consent.[43] Indeed, as at 31 August 1993, the overdraft limit had nearly been reached, with the account showing a negative balance of -$$528,013-35.[44]

21 The Plaintiff testified that when he found out the Property had been used to secure these overdraft facilities, he confronted the 1st Defendant and warned her not to do it again without his consent.[45] He was not that angry with her, though, because she was his younger sister after all. The Plaintiff also confronted the 2nd Defendant who apologised, claiming that he had needed the money to buy art pieces and to invest in properties in China.[46] Although the Plaintiff was upset, he also forgave the 2nd Defendant. In any event, the Plaintiff himself realised it would be useful having these overdraft facilities available.[47] By way of "a compromise", therefore, he asked the 2nd Defendant to "give" the overdraft account to him.[48] The 2nd Defendant agreed; and from that point on (September or October 1993), OCBC Account 2 was treated as the Plaintiff's.

22 The Plaintiff explained that he did not bother to get the overdraft facility transferred to his name because it would have taken time to re-apply for the

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43 [70] of the Plaintiff's AEIC.

44 Exhibit NAS-22 at 1 JBAEIC 183.

45 See transcript of 21 May 2019 at p 94 line 22 to p 95 line 14.

46 [73] of the Plaintiff's AEIC.

47 [74] of the Plaintiff's AEIC.

48 [74] of the Plaintiff's AEIC.

bank's approval, and he would also have had to incur lawyers' fees.[49] As far as he was concerned, as OCBC Account 2 belonged to him from sometime in late 1993 onwards, the 2nd Defendant would typically hand over to him the bank statements for this account, as well as the cheque-books containing pre-signed blank cheques[50] and pre-signed blank "transfer forms".[51] Although the account remained in the 2nd Defendant's name, all monies deposited into and withdrawn from this account were treated as the Plaintiff's.[52] According to the Plaintiff, this could be seen from the fact – for example – that between October 1993 and January 1994, he was the one making all the major deposits into OCBC Account 2, amounting to a total sum of $3,231,243-22.[53] By 11 January 1994, the overdraft balance had been reduced to -$25,631-42.[54]

23 The Plaintiff's assertion that he was given pre-signed blank cheques and blank "transfer forms" was not refuted by the 2nd Defendant. Indeed, in his evidence, the 2nd Defendant stated that the Plaintiff had been using OCBC Account 2 since sometime in 1993 and that he himself had pre-signed blank OCBC debit slips at the Plaintiff's request, for use in transferring funds out of OCBC Account 2.[55] It was also not disputed that the 2nd Defendant signed mandates which provided for the Plaintiff to operate the account directly.[56] However, the 2nd Defendant insisted that OCBC Account 2 was his "personal

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49 See transcript of 21 May 2019 at p 129 line 17 to p 130 line 7.

50 See transcript of 21 May 2019 at p 139 lines 19 to 25.

51 See transcript of 21 May 2019 at p 100 line 19 to p 101 line 2.

52 [74] of the Plaintiff's AEIC.

53 [76]-[78] of the Plaintiff's AEIC.

54 [78] of the Plaintiff's AEIC and exhibit NAS-22 at 1 JBAEIC 191.

55 [213]-[214] of the 2nd Defendant's AEIC.

56 Exhibit NAS-24 at 1 JBAEIC 248; also 2 JBAEIC 410-411.

bank account"[57] and remained as such throughout. As stated earlier, it was the 2nd Defendant's position that the monies in OCBC Account 1 were "Neo family monies" and not the Plaintiff's monies. According to the 2nd Defendant, he had taken a loan from these "Neo family monies" to pay for the purchase of the Property.[58] According to the 2nd Defendant, he had repaid this loan on 12 January 1994 by transferring a sum of $400,000 from OCBC Account 2 (which he claimed was his "personal" account) to OCBC Account 1.[59]

24 It will be seen that the 2nd Defendant's narrative was diametrically opposed to the Plaintiff's evidence. Firstly, the Plaintiff rejected entirely the existence of any "Neo family monies" or "Neo family assets"; he was adamant that he had paid for the purchase of the Property with his own funds from OCBC Account 1. The transfer of $400,000 from OCBC Account 2 to OCBC Account 1 on 12 January was a transfer which he had effected and which did not represent any repayment of loan by the 2nd Defendant. He could not recall exactly what he had used the $400,000 for but was sure that it had been "100 per cent… for own use, nothing to do with [the 2nd Defendant]".[60] As he put it in his AEIC:[61]

> Aik Siong [the 2nd Defendant] agrees that the alleged "repayment in January 1994 was in fact a transfer which I made from OCBC Account 2 to OCBC Account 1. Since these were my own monies, this cannot constitute any alleged 'repayment' of any alleged loan taken from me.

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57 [210] of the 2nd Defendant's AEIC.

58 [163]-[166] of the 2nd Defendant's AEIC.

59 [217] of the 2nd Defendant's AEIC.

60 See transcript of 22 May 2019 at p 47 lines 2 to 17.

61 [75] of the Plaintiff's AEIC.

25 Secondly as noted earlier, the Plaintiff's evidence was that he had authorised the 2nd Defendant to use the funds in OCBC Account 2 to pay for the renovations to the Property. The 2nd Defendant, on the other hand, claimed that the overdraft facilities in OCBC Account 2 were obtained by him to pay for these renovations.[62]

26 Thirdly, as noted earlier, the rental for the Property was collected by the Plaintiff and the 2nd Defendant. It was not disputed that most – if not all - of the rental collected from the tenant was deposited into OCBC Account 2.[63] Naturally, the Plaintiff asserted that this was because OCBC Account 2 was really his account, whereas the 2nd Defendant claimed that it was because OCBC Account 2 was his.[64]

27 Finally, while the Plaintiff and the 2nd Defendant were agreed that property tax on the Property had been paid via GIRO from OCBC Account 2 at least since 1996 (after the Property was tenanted out), they disagreed on whether these GIRO payments represented payments by the Plaintiff or by the 2nd Defendant.[65] Each claimed that the OCBC Account 2 was his and that he was the one who had paid for property tax.

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62 [210] of the 2nd Defendant's AEIC.

63 [83] of the Plaintiff's AEIC.

64 [193] of the 2nd Defendant's AEIC.

65 See transcript of 21 May 2019 at p 176 line 4 to p 180 line 3.

The extension of the lease in 2015

28 Sometime in 2015, the Plaintiff began thinking of selling the Property. He told both the 1st and the 2nd Defendants about his intention to sell.[66] Pursuant to that intention, he began negotiations in 2015 with the then tenant (one Ong Geok Hoo, "Ong") for a short 8-month extension to the lease and prepared two versions of a draft lease agreements.[67] When he presented the second draft to Ong, however, he was shocked to discover that around July / August 2015, the 2nd Defendant had already gone behind his back to arrange for the 1st Defendant to extend Ong's lease for another two years from 1 August 2015 to 31 July 2017, and at a rental amount of $10,000 per month.

29 The Plaintiff confronted the 1st Defendant about this lease extension. She claimed that she had simply signed whatever the 2nd Defendant put before her. The Plaintiff confronted the 2nd Defendant – who insisted it was a favourable deal, despite the Plaintiff's view that the rent was too low.[68] As their conversation went nowhere, the Plaintiff decided to drop the matter. However, as he did not want to risk the 2nd Defendant giving Ong further, unauthorised extensions of the lease, he decided to revoke the 2nd Defendant's authority to act in matters concerning the Property. To that end, on 2 August 2016, the Plaintiff wrote a letter for the 1st Defendant to sign and to send to Ong.[69] In gist, this letter told Ong that "with immediate effect", the 2nd Defendant would cease to be the 1st Defendant's legal representative and would have no authority to act on her behalf in respect of the Property: instead, the Plaintiff would be the

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66 [79] of the Plaintiff's 2nd affidavit dated 4 December 2017 at PBID 102.

67 [89] of the Plaintiff's AEIC.

68 [92] of the Plaintiff's AEIC.

69 [93]-[94] of the Plaintiff's AEIC and exhibit NAS-29 at 1 JBAEIC 318-319.

1st Defendant's "only authorised legal representative", with "full power of attorney" to act on her behalf in all matters relating to the Property. The letter also informed Ong that all future rentals were to be paid to or collected by the Plaintiff.

The meeting of 10 December 2016

30 In light of the 2nd Defendant's conduct in granting Ong an unauthorised two-year extension of his lease, the Plaintiff decided around end-2016 to take steps to ensure he would be able to sell the Property with vacant possession once Ong's lease expired. He consulted a lawyer – one Mr Lim Hin Chye of M/s Lim Hin Chye & Co ("Mr Lim"); and having explained that he was the beneficial owner of the Property whereas the 1st Defendant was its legal owner, he sought Mr Lim's assistance in preparing "whatever documents…necessary to facilitate [his] marketing and sale of the Property".[70] An appointment was made for 10 December 2016 (a Saturday) at Mr Lim's office.

31 On the morning of 10 December 2016, the Plaintiff and the 1st Defendant attended at Mr Lim's office, together with two of their siblings, Aik Kheng and Geok Huwe. Mr Lim had prepared two documents.[71] One was a Statutory Declaration intended for signature by the 1st Defendant, in which she was to declare *inter alia* that she was the registered owner of the Property; that she had no beneficial interest in the Property and instead held it "as a bare legal trustee in trust" for the Plaintiff, who had paid the full purchase price of the Property; that she undertook to transfer all right, title and interest in the Property to the Plaintiff and to account to him for all proceeds upon a sale; and that she also

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70 [112] of the Plaintiff's AEIC.

71 [117] of the Plaintiff's AEIC and exhibit NAS-35 at 1 JBAEIC 337-342.

undertook to execute a Power of Attorney in order for him to handle the management, sale or subletting of the Property as he deemed fit. This Power of Attorney was the second document prepared by Mr Lim, in which the 1st Defendant appointed the Plaintiff as her Attorney to act on her behalf in (*inter alia*) the sale of the Property and the receipt of the consideration or purchase monies for such sale.

32 Mr Lim explained both documents to the 1st Defendant, who confirmed that she understood what they were about.[72] The 1st Defendant actively participated in the discussions with Mr Lim. Indeed, according to Aik Kheng who was also present at the discussions:[73]

> [The 1st Defendant] insisted that [the Plaintiff] should pay her S$30,000 on the spot, prior to her signing the documents, to reimburse her for income tax which she had been paying on the rental from the Property over the years.
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> [The Plaintiff] proposed to pay her S$100,000 after the sale of the Property, which she agreed to. However, she wanted to be paid S$30,000 immediately as well. After a discussion, [the Plaintiff] agreed to pay her S$30,000 immediately and S$100,000 after the Property was sold. I also remember [the 1st Defendant] asking Mr Lim to record the S$30,000 to record the S$100,000 payments in the draft.
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> [The 1st Defendant] made sure that [the Plaintiff] wrote out the cheque for S$30,000 and handed it to her at the end of the meeting…

33 The Plaintiff did in fact issue the 1st Defendant a cheque for $30,000 at the meeting in Mr Lim's office;[74] and the payment of this sum in reimbursement of the 1st Defendant's payment of income tax on rental income on the Property

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72 [118] of the Plaintiff's AEIC; [55] of Aik Kheng's AEIC.

73 [56]-[58] of Aik Kheng's AEIC.

74 Exhibit NAS-31 at 1 JBAEIC 323.

was duly recorded in clause 6 of the Statutory Declaration signed by the 1st Defendant.[75] It was also recorded in clause 5 of the Power of Attorney that the Plaintiff "shall make a cheque of $100,000 in [the 1st Defendant's] sole name from the net sale proceeds as consideration for [her] taking care of the said Property since the date of transfer of the said Property to [her]".[76]

34 After finalising these draft documents, Mr Lim also explained to the 1st Defendant that the Statutory Declaration was a sworn statement and that it was an offence to lie in a statutory declaration.[77] The 1st Defendant was asked to read the Statutory Declaration to make sure its contents were true and accurate. The 1st Defendant did so and confirmed to Mr Lim the truth and accuracy of the Statutory Declaration. She also read the Power of Attorney and confirmed that everything was in order before signing the documents.

35 This was not, however, the end of the matter, as the 1st Defendant then queried the Plaintiff about "what would happen if [he] mismanaged the sale of the Property and somehow exposed her to any kind of liability".[78] The Plaintiff replied that he "would indemnify her for any claims or losses". This led to Mr Lim being asked to prepare a Deed of Indemnity.[79]

36 Upon both the 1st Defendant and the Plaintiff confirming that they were satisfied with this draft Deed, Mr Lim brought then to the nearby office of one Mr Raymond Ng ("Mr Ng"), who was a Commissioner for Oaths. Mr Ng read

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75 1 JBAEIC 337.

76 1 JBAEIC 339.

77 [121]-[122] of the Plaintiff's AEIC.

78 [123] of the Plaintiff's AEIC.

79 1 JBAEIC 343-344.

and explained each document to the 1st Defendant, who confirmed that she understood them and also understood the nature of a statutory declaration.[80] Both she and the Plaintiff then proceeded to sign the various documents, with Mr Lim and Mr Ng also signing as witnesses for them on the Deed of Indemnity.

Events post 10 December 2016

37 Some two to three days after the Plaintiff and the 1st Defendant had signed the documents, the 2nd Defendant visited Mr Lim's office with "a bundle of documents" and "claimed that he was the owner of the Property".[81] Mr Lim did not know the 2nd Defendant at that time. As the 2nd Defendant was not his client and as he had been told on 10 December 2016 that the Plaintiff was the beneficial owner of the Property, he declined to entertain the 2nd Defendant. The 2nd Defendant subsequently sent Mr Lim a letter on 13 December 2016, titled "LETTER OF PEOTEST" (*sic*) in which he put forward what Mr Lim described as "wild allegations" – in particular, that the "wicked" Plaintiff had "threaten violently wanted to hit [the 1st Defendant] and broken her two legs", that the Plaintiff had also threatened to break his (the 2nd Defendant's) legs and "wanted to set fire on [his] HDB flat", that the 1st Defendant had signed the documents in the lawyers' office "under heavy pressure", and that he (the 2nd Defendant) was "the actual owner of the said Property".[82] Mr Lim did not respond to the letter but instead forwarded a copy to the Plaintiff.

38 On 16 December 2016, the 1st Defendant went alone to Mr Lim's office to collect the original Power of Attorney. Mr Lim did not attend to her on that

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80 [124]-[125] of the Plaintiff's AEIC.

81 [24] of Lim Hin Chye's AEIC.

82 Exhibit LHC-4 at 1 JBAEIC 401-402.

day but he heard later the 1st Defendant had remarked to his secretary that "her brother had threatened to break her legs".[83] However, when the secretary asked if she had made a police report, the 1st Defendant did not reply. The Plaintiff was unaware of this incident. As far as he was concerned, the 1st Defendant had been cheery and happy throughout the meeting at the lawyers' offices.[84] She did not raise any complaints about the documents signed. After collecting the documents from Mr Lim's office, she had handed them to the Plaintiff and collected reimbursement from him of the fees paid for these documents, without mentioning any disagreement with their contents.[85]

39 On 23 December 2016, the 2nd Defendant lodged a caveat over the Property. This was done without the knowledge of the Plaintiff,[86] who had been marketing the Property as *per* his stated intention to sell it. The Plaintiff only found out about the caveat months later when a buyer he had found for the Property in February 2017 brought the caveat to his attention before pulling out of the deal. When the Plaintiff confronted the 2nd Defendant and asked him to remove the caveat, however, the latter did so – and even went back to helping the Plaintiff with marketing the Property for sale.[87] The Plaintiff thus believed the issue to be closed. He knew that both Defendants were aware not only of the newspaper advertisements he had taken out regarding the sale of the Property, but also of the fact that he had listed his mobile number as the phone number of the owner of the Property. He had even placed a large signboard on

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83 [28] of Lim Hin Chye's AEIC.

84 [132] of the Plaintiff's AEIC.

85 [131] of the Plaintiff's AEIC.

86 [99] of the Plaintiff's AEIC.

87 [100]-[102] of the Plaintiff's AEIC and exhibit NAS-32 at 1 JBAEIC 325-329.

the shopfront of the Property listing his contact details as the owner of the Property. Neither Defendant had raised any objections.[88]

40 In May 2017, the Plaintiff found a buyer for the Property – He Yi Investments Pte Ltd ("He Yi") – to whom he granted an option to purchase on 13 May 2017.[89] This option was exercised by He Yi on 25 May 2017.[90] It came as a shock to the Plaintiff when – in June 2017 – the two Defendants suddenly made a claim to the Property,[91] and when the 1st Defendant purported to disavow the Statutory Declaration and the Power of Attorney on the ground of "duress".[92]

41 It is not disputed that following the exercise by He Yi of the option, completion of the sale of the Property at the price of $8,128,000 has since taken place; and a net amount of $8,029,142-57 has been paid into court pending the resolution of the present dispute.[93]

The Defendants' case

42 The Defendants, for their part, denied that it was the Plaintiff who had purchased the Property using his own funds. Their case, as noted earlier, was that the 2nd Defendant had paid for the Property using a loan taken from "Neo family monies" maintained in OCBC Account 1.[94] The 2nd Defendant was said

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88 [101] of the Plaintiff's AEIC.

89 Exhibit NAS-34 at 1 JBAEIC 334-337.

90 [98] of the 1st Defendant's AEIC.

91 [103] of the Plaintiff's AEIC.

92 [132] and [136] of the Plaintiff's AEIC.

93 [113] of the 1st Defendant's AEIC and 2 JBAEIC 99-112.

94 [163]-[166] of the 2nd Defendant's AEIC.

to have repaid this loan on 12 January 1994 by means by a sum of $400,000 transferred from OCBC Account 2 (which he claimed as his "personal" account) to OCBC Account 1.[95]

The "Neo Family Assets"

43 To explain how there could have been "Neo family monies" sufficient to fund the "loan" to the 2nd Defendant, the Defendants put forward in their AEICs a narrative which depicted their entire family (the Neo family) as having been heavily - and profitably - involved in investing in properties and other assets for many years. In their AEICs, the Defendants alluded to these investments as "the Neo Family Assets".

44 In gist, according to the Defendants, the "growth" of "the Neo Family's Assets" began when sometime in the 1970s, their parents allegedly "struck the 4-D lottery and obtained winnings of about S$200,000".[96] Subsequently, in the late 1970s or early 1980s, the property in which their entire family lived (446 Upper Paya Lebar) was compulsorily acquired by the then Telecommunications Authority of Singapore ("TAS"): in return, the Neo family received compensation totalling $95,000 which was made up of an initial award $62,200, a supplemental award of $27,800 issued after their appeal, and the refund of their $5,000 deposit for the appeal.[97]

45 Pursuant to the compulsory acquisition of 446 Upper Paya Lebar, the Neo family was also given permission by the Government to purchase two 5-

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95 [217] of the 2nd Defendant's AEIC.

96 [19] of the 2nd Defendant's AEIC.

97 [20]-[24] of the 2nd Defendant's AEIC.

room HDB flats. One such HDB flat (at Block 21 St George's Road #20-172) was purchased for one of the younger Neo sisters, Poo Chu; and this was paid for by the parents and by Poo Chu's CPF funds. The other such flat (at Block 23 Eunos Crescent #06-3019) was purchased in the 2nd Defendant's name on 9 July 1979. The 2nd Defendant claimed that the purchase price was paid using "money from [his] own pocket, permitted CPF withdrawals from [his] CPF account and a housing loan from the HDB".[98] The 2nd Defendant continues to reside in this HDB flat up until today; and throughout these proceedings, he has claimed that his ownership of this HDB flat is the reason why the Keong Saik Property – and indeed, all the various properties allegedly forming part of "the Neo Family Assets" – were not registered in his name.

46 According to the Defendants' narrative, in the years which followed the compulsory acquisition of 446 Upper Paya Lebar, the Neo family embarked on a series of property acquisitions and investments. According to the 2nd Defendant, leaving aside the two HDB flats purchased in the 2nd Defendant's and Poo Chu's names, the first property acquired by the Neo family after their departure from 446 Upper Paya Lebar was a property at 20 Lorong K, Telok Kurau ("20 Lorong K"). This was purchased for $320,000 in March 1980. The Defendants claimed that the Neo family paid this purchase price using funds from the following sources:[99]

(a) The compensation of $95,000 received from TAS for the compulsory acquisition of 446 Upper Paya Lebar;

(b) The parents' lottery winnings of $200,000 from the 1970s;

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98 [27] of the 2nd Defendant's AEIC.

99 [34] of the 2nd Defendant's AEIC; [26] of the 1st Defendant's AEIC.

(c) A balance sum of $40,000 said to be made up of "(s)avings and investments in listed shares from the Neo Family".

47 20 Lorong K was actually registered in the Plaintiff's and Aik Kheng's names. However, the Defendants claimed that it was "understood at all material times that the said property belonged to the Neo Family and not any sibling".[100] It was not disputed that 20 Lorong K was used by the Plaintiff in 1980 and in 1983 as collateral for mortgage loans for his "personal use". It was also not disputed that when 20 Lorong K was sold for a sum of $2,120,470 in December 1983, part of the sale proceeds - $1,000,000 - went towards paying off the mortgage loans taken out by the Plaintiff. In his AEIC, the 2nd Defendant claimed that "(s)trictly speaking", he and the other Neo siblings "should not have allowed [the Plaintiff's] Mortgages to be redeemed using funds from the said sale proceeds as these funds also belonged to the Neo Family… However, being family members, [they] did not quibble over such matters then".[101]

48 According to the Defendants, the sale of 20 Lorong K was followed by the Neo family's acquisition of a substantial property on freehold land of 14,000 square feet, at No. 61 Lorong K, Telok Kurau ("61 Lorong K"). The 2nd Defendant alleged that the purchase price of $875,000 was funded by the sale proceeds from 20 Lorong K. Again, it was asserted that although this property was registered in the names of the Plaintiff and the youngest Neo brother Chin Chai, "it is common knowledge and understanding between all members of the

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100 [34] of the 2nd Defendant's AEIC; [27] of the 1st Defendant's AEIC.

101 [38]-[39] of the 2nd Defendant's AEIC.

Neo family that 61 Lorong K belonged to the Neo Family as it was purchased from funds belonging to the Neo Family".[102]

49 In giving his version of events, the 2nd Defendant portrayed himself as the Neo sibling responsible for strategizing and managing the alleged growth of the "Neo Family Assets". It was the 2nd Defendant's evidence that following the purchase of 61 Lorong K, he "consulted" with the other Neo family members; and it was agreed that they should "form a company to look after all the properties and investments belonging to the Neo Family". This company – according to the Defendants – was Medway Investments. They denied that Medway Investments was the Plaintiff's company and asserted instead that:[103]

> The understanding of the Neo Family is that Medway Investments shall be utilised to purchase and invest in properties and securities. Further, it was understood that all assets in Medway Investments belong to the Neo Family and not any individual members of the family.

50 According to the 2nd Defendant, as Chairman of Medway Investments, he was "overall in charge of making sound investments on behalf of the Neo Family". The properties allegedly acquired as "Neo Family Assets" by Medway Investments included No. 25 Lorong M, Telok Kurau ("25 Lorong M"), which was purchased in 1984 for $1,651,550. The purchase price was said by the 2nd Defendant to have been funded with the balance of the sale proceeds from 20 Lorong K as well as an overdraft of $1,000,000.[104] The latter was secured by the lodgement of shares registered in the names of the Plaintiff and other Neo siblings (the 1st Defendant, Aik Kheng, Ah Hoe and Choon Poo).

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102 [43]-[44] of the 2nd Defendant's AEIC.

103 [56] of the 2nd Defendant's AEIC.

104 [63] of the 2nd Defendant's AEIC.

51 25 Lorong M was sold in April 1989 for $2,019,979. Other properties allegedly acquired by Medway Investment as "Neo Family Assets" included No. 35 and No. 41 Oxley Road, which the 2nd Defendant claimed were purchased in 1989 using the sale proceeds from 25 Lorong M as well as various overdraft facilities. No. 35 and No. 41 Oxley Road were later redeveloped into six detached dwelling houses and two semi-detached dwelling houses.[105] All eight houses continue to be held under Medway Investments. It is not disputed that two of these houses are occupied by the Plaintiff and his family: the Plaintiff and his wife live in No. 39 Oxley Road while the Plaintiff's son lives in No. 41A Oxley Road. Notwithstanding this, the Defendants insisted at trial that all eight houses continued to be "Neo Family Assets".[106]

The Plaintiff's own purchase of properties

52 The 2nd Defendant sought to draw a distinction between property acquisitions made by Medway Investments which he claimed were "Neo Family Assets", and acquisitions made in the Plaintiff's name or that of another company, Medway Realty Pte Ltd ("Medway Realty") which he claimed were personal acquisitions by the Plaintiff).[107] Medway Realty was a company set up in 1989 in which Aik Kheng and the Plaintiff's wife Lai Wah were the shareholders and directors. The 2nd Defendant asserted that Medway Realty was different from Medway Investments because it was a vehicle "set up to allow [the Plaintiff] to hold his personal investments".

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105 [73] of the 2nd Defendant's AEIC.

106 [75] of the 2nd Defendant's AEIC; [49] of the 1st Defendant's AEIC.

107 [78] of the 2nd Defendant's AEIC.

53 Property acquisitions which the 2nd Defendant acknowledged as falling into the category of the Plaintiff's personal investments included 5F Tanglin Hill, which was bought in the Plaintiff's name. The 2nd Defendant insisted, though, that it was Medway Investments which had bought and subsequently sold the neighbouring property at 5E Tanglin Hill; and that it was he (the 2nd Defendant) who had "allowed" the Plaintiff to use some of the profits from this transaction to fund his purchase of 5F Tanglin Hill.[108]

54 Other properties which the 2nd Defendant accepted as the Plaintiff's personal investments included a number of shophouses in Smith Street and Tras Street which were purchased in Medway Realty's name. The 2nd Defendant sought to distinguish these shophouse acquisitions from the purchase of the Keong Saik Property. According to the 2nd Defendant, the Plaintiff had sold these shophouses within a relatively short time after purchasing them, and for relatively modest profits:[109] this showed that he had "no interest in long term investments" and was "happy to cash out his investments quickly and collect short term gains".[110]

OCBC Account 1

55 It should be noted that apart from claiming that the sale proceeds from 20 Lorong K were used to purchase 61 Lorong K, the 2nd Defendant also alleged that these sale proceeds were deposited into OCBC Account 1 (the account held in the joint names of the Plaintiff, the 1st Defendant and Aik Kheng).[111] This

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108 [85]-[86] of the 2nd Defendant's AEIC.

109 [100] and [109] of the 2nd Defendant's AEIC.

110 [110] of the 2nd Defendant's AEIC.

111 [164] of the 2nd Defendant's AEIC.

formed the basis of his claims as to having purchased the Property with a loan from "Neo family monies" taken from OCBC Account 1.

The purchase of the Property

56 Insofar as the purchase of the Property was concerned, the 2nd Defendant claimed that he actually had the financial means to pay the purchase price of $370,000 because he had made a considerable amount of money over the years from his "various businesses and trading activities".[112] These included a sole proprietorship called First Vantage Properties which was involved in the retail of artworks and handicrafts, and which continues to operate as of today.[113] Other sources of income were said to include commissions from acting as property agent in the sale and purchase of properties.[114] The 2nd Defendant also exhibited his Income Tax Notices of Assessment for the years 1990 to 1994 which showed annual assessable incomes ranging from $40,556 (in 1992) to $107,716 (in 1991).[115]

57 Despite enjoying what he described as "a substantial income",[116] the 2nd Defendant was reluctant to apply for a mortgage when it came to the purchase of the Property. Instead, he decided to take a loan from the monies held in OCBC Account 1 (the account held in the joint names of the Plaintiff, the 1st Defendant and Aik Kheng). Although he admitted that the Plaintiff was the one

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112 [123] of the 2nd Defendant's AEC.

113 [130] of the 2nd Defendant's AEIC.

114 [141]-[152] of the 2nd Defendant's AEIC.

115 pp 217-221 of the 2nd Defendant's AEIC.

116 [139] of the 2nd Defendant's AEIC.

who operated and controlled OCBC Account 1,[117] the 2nd Defendant claimed that the monies in this account "belonged to the Neo family" because they came from the sale proceeds of 20 Lorong K.[118] In his version of events, therefore, his purchase of the Property was funded by a loan from "Neo family monies" – which he said he later repaid on 12 January 1994 by transferring $400,000 from OCBC Account 2 (which he insisted was *his* account) to OCBC Account 1.

58 Following completion of the purchase, the 2nd Defendant said he asked the 1st Defendant to be the legal owner of the Property and to hold it on trust for him. This was because as the registered owner of an HDB flat, he was not allowed to own the Property concurrently.[119]

OCBC Account 2

59 As to how OCBC Account 2 came to be set up and what it was used for, the 2nd Defendant said that it was opened on 8 February 1993. In 1995 and in 1997, he got the 1st Defendant to pledge the Property as security for overdraft facilities obtained from OCBC, using OCBC Account 2.[120] These overdraft facilities were allegedly for "various improvements and construction works carried out at the Property".[121] However, at the Plaintiff's request, the 2nd Defendant agreed to allow him access to these overdraft facilities "to use the excess funds for trading purposes i.e. for the buying and selling of shares listed

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117 [165] of the 2nd Defendant's AEIC.

118 [164] of the 2nd Defendant's AEIC.

119 [154] of the 2nd Defendant's AEIC.

120 [210] of the 2nd Defendant's AEIC.

121 [210] of the 2nd Defendant's AEIC.

in the Singapore and Malaysia stock markets".[122] At the Plaintiff's further request, the 2nd Defendant even supplied him with pre-signed blank debit slips for use in transferring funds out of the account.[123] He felt that as the Plaintiff's older brother, he could not reject his request.[124]

60 The 2nd Defendant said that it was after he had obtained further overdraft facilities and when the construction works at the Property were halfway completed that he told the Plaintiff he was "in a position" to return the loan taken from OCBC Account 1. It was the Plaintiff who arranged for the sum of $400,000 to be transferred from OCBC Account 2 to OCBC Account 1. It was also the Plaintiff who informed the 2nd Defendant that the difference of $30,000 (between the $370,000 loan and the $400,000 repayment) was "for interests (*sic*) for the past 2 to 3 years".[125] The Plaintiff did not provide any calculations to explain the "interest" amount, and the 2nd Defendant did not argue.[126] Nor did he ask the Plaintiff thereafter what happened to the $400,000 transferred.[127]

A&A works on the Property

61 As noted above, the 2nd Defendant said he obtained the overdraft facilities in 1995, as well as the further overdraft facilities in 1997, for the purpose of funding improvement and construction works on the Property. In fact, according to the 2nd Defendant, the work of arranging for these

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122 [211] of the 2nd Defendant's AEIC.

123 [214] of the 2nd Defendant's AEIC.

124 [213] of the 2nd Defendant's AEIC.

125 [215] of the 2nd Defendant's AEIC.

126 See transcript of 29 May 2019 at p 61 line 19 to p 62 line 6.

127 See transcript of 29 May 2019 at p 37 line 23 to p 38 line 7.

improvements began even earlier in 1992 and was all undertaken by him. He was the one who liaised with the architect, the lawyers and the authorities to obtain official approval for the redevelopment of the Property, to recover possession of the Property from sitting tenants, and to compensate these tenants. Later, he was also the one who engaged various parties to carry out the Addition and Alteration ("A&A") works; and he also supervised the execution of these works.[128] He had such close interaction with the architect – Lim Han Leng ("Mr Lim HL") – that the latter became a good friend.[129]

62 Mr Lim HL gave evidence at the trial as the Defendants' witness. *Inter alia*, he said that when he was working on the A&A works at the Property, the 2nd Defendant had told him that he owned the Property but had chosen to register it in the 1st Defendant's name because of the issues created by his ownership of the HDB flat.[130] Mr Lim HL also said that he only dealt with the two Defendants in relation to the A&A works at the Property; and that he thought it "odd that the owner of the Property would not want to be involved or have a say in the A&A works to be carried out".[131]

Tenancy of the Property

63 Insofar as the tenancy of the Property was concerned, the 2nd Defendant claimed that he was the one who arranged for tenants once the A&A works were completed and the Certificate of Statutory Completion ("CSC") issued. The 2nd Defendant was also the one who collected the rent from these tenants and

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128 [175]-[189] of the 2nd Defendant's AEIC.

129 [182] of the 2nd Defendant's AEIC.

130 [9] of Lim Han Leng's AEIC.

131 [14] of Lim Han Leng's AEIC.

deposited the monies in OCBC Account 2.[132] On the "rare" occasions when the Plaintiff collected the rent, it was only because the 2nd Defendant consented to his doing so.[133]

64 It was also the 2nd Defendant's evidence that prior to the Property being tenanted, he paid the property tax in cash. After the Property was tenanted out, he arranged to have the property tax paid via GIRO from OCBC Account 2. This, he said, showed that he was really the beneficial owner of the Property.[134]

Sale of the Property

65 The 2nd Defendant claimed that despite not being the owner of the Property, the Plaintiff had "decided to market [it] for sale on his own account" because he was in "desperate need for funds" after suffering losses from "poor investment decisions".[135] According to the 2nd Defendant, it was the Plaintiff's desperation for funds that led to his preparing the letter dated 31 July 2016.[136] The 2nd Defendant was very concerned when he saw the letter, because it purported to revoke his authority to represent the 1st Defendant in all matters relating to the Property. However, as the 1st Defendant informed him that she had been "forced" to sign the letter of 31 July 2016 and that it did not reflect her true intention, he decided to treat the letter as being "invalid" and took no steps to respond to it.[137]

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132 [192]-[193] of the 2nd Defendant's AEIC.

133 [199] of the 2nd Defendant's AEIC.

134 [200]-[202] of the 2nd Defendant's AEIC.

135 [235]-[240] of the 2nd Defendant's AEIC.

136 2 JBAEIC 418-419.

137 See transcript of 29 May 2019 at p 82 line 3 to p 83 line 24.

The meeting of 10 December 2016

66 The letter of 31 July 2016 was not the only document the 1st Defendant claimed she had been "forced" to sign. She claimed that the Statutory Declaration and the Power of Attorney signed on 10 December 2016 were also "invalid" because she had signed them under duress. The particulars of duress pleaded in the Defence and Counterclaim[138] may be summarised as follows:

(a) In November 2016, the Plaintiff had "scolded" the 1st Defendant for signing a tenancy agreement to lease out the Property. In the same incident, he had also "physically abused" her by throwing a metal measuring tape at her and pulling her hair. The reason for this abuse was "because the Plaintiff wanted the 1st Defendant to transfer the Property to the Plaintiff with a view to sell the Property and for the Plaintiff to collect the proceeds".

(b) Geok Huwe and Aik Kheng had also "constantly pressured" the 1st Defendant to transfer the Property to the Plaintiff. It should be noted that the 1st Defendant was ordered by the court to give further and better particulars of this allegation, but stated in her response[139] that she was unable to recall any of the particulars requested (time frame during which this "pressure' was applied, frequency, whether the "pressure" was expressed orally or in writing or by conduct).

(c) The 1st Defendant was taken to Mr Lim's office on 10 December 2018 without being told that she was going to a law firm.

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138 [13] of the Defence and Counterclaim (Amendment No. 1), Tab 4 of the Setting Down Bundle at pp 35-39.

139 Tab 7 of the Setting Down Bundle at pp 76-77.

(d) At Mr Lim's office, the 1st Defendant "felt compelled to remain quiet" as she "was in the company of the Plaintiff, Neo Geok Huwe and Neo Aik Kheng".

67 In her AEIC, the 1st Defendant also stated that during the meeting on 10 December 2016, she did *not* ask the Plaintiff to reimburse her for the income tax she had paid on the rental income from the Property: she merely remarked to him at the meeting that she had paid nearly $30,000 in income tax on the rental from the Property.[140] Nor did she ask for the payment of $100,000 from the sale proceeds: it was the Plaintiff himself who instructed Mr Lim Hin Chye to provide for a sum of $100,000 to be paid to her out of the sale proceeds.[141] Indeed, according to the 1st Defendant, she did not even ask for the Deed of Immunity;[142] it was "all prepared by the lawyer".[143]

Events post 10 December 2016

68 As to the events post 10 December 2016, the 1st Defendant stated that she had told the 2nd Defendant about the events at the lawyers' offices. The 2nd Defendant was "furious"; and she was aware that he had written to Mr Lim on 12 December 2016 to "set the record straight".[144] The 1st Defendant insisted that when she herself went to Mr Lim's office to collect the documents a few days later, she *did* speak with Mr Lim and she *did* inform him that she had been "forced to sign" the Statutory Declaration and the Power of Attorney "as the

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140 [78] of the 1st Defendant's AEIC; see also [13(i)] of the Defence and Counterclaim (Amendment No. 1).

141 [79] of the 1st Defendant's AEIC.

142 See transcript of 24 May 2019 at p 82 line 24 to p 83 line 2.

143 See transcript of 24 May 2019 at p 82 line 24 to p 83 line 2.

144 [85] of the 1st Defendant's AEIC.

Plaintiff was a gambler and required funds urgently". Mr Lim allegedly "did not respond" when she told him these things. She left his office with the documents, which she handed over to the Plaintiff.[145]

69 The Plaintiff did not inform the 1st Defendant prior to executing the Option to Purchase in respect of the Property in May 2017, but she became aware of it when the 2nd Defendant – "as the rightful owner of the Property" - brought her to "see lawyers to seek advice on [their] legal rights". It was the 2nd Defendant who told her that "the purchase price was too low and he was not willing to accept that price for the Property".[146] Following this, she filed a Deed of Revocation of the Power of Attorney on 20 June 2017.[147]

Summary of the key issues in contention

70 As I noted at the start of these written grounds, it was common ground that whilst legal title to the Property vested in the 1st Defendant, she was not and had never been the beneficial owner.

71 Having regard to the parties' respective cases as stated in their pleadings and as presented in the evidence adduced at trial, it was clear that the chief bone of contention between the two sides centred on the payment of the purchase price of the Property: whether the Property was paid for by the Plaintiff, or whether it was paid for by the 2nd Defendant. Given that it was agreed the money for the purchase of the Property came from OCBC Account 1, it followed that the key questions to be answered were these:

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145 [86] of the 1st Defendant's AEIC.

146 [99] of the 2nd Defendant's AEIC.

147 pp 86-87 of the 2nd Defendant's AEIC.

(a) Were the monies in OCBC Account 1 the Plaintiff's monies as he claimed, or were these monies "Neo Family monies" as the 2nd Defendant claimed?

(b) If the monies in OCBC Account 1 were "Neo Family monies", was the 2nd Defendant given a loan of these monies as he claimed, with which he paid the purchase price of the Property?

(c) In addition to the issue of payment of the purchase price, it was also relevant to consider whether there was other, objective evidence pointing to one or the other party's beneficial ownership of the Property.

72 Having considered the evidence adduced, I was satisfied that the monies in OCBC Account 1 were the Plaintiff's monies and not "Neo Family monies"; and that it was the Plaintiff who had paid for the Property using his own monies from OCBC Account 1. I was also satisfied that there was no such thing as "Neo Family monies" or, for that matter, "Neo Family Assets". There was no loan of "Neo Family monies" made from OCBC Account 1 to the 2nd Defendant; and the 2nd Defendant did not pay for the Property.

73 I set out below my reasons for these findings.

On whether the monies in OCBC Account 1 were the Plaintiff's monies or "Neo Family monies"

74 At the outset, I noted that the Defendants argued in their closing submissions that "(n)othing turns on whether the monies in OCBC Account 1 belong to the Neo Family or [the Plaintiff] or some other party. If [the 1st Defendant] could demonstrate that the monies from OCBC Account 1 which was used to fund the purchase of the Property was eventually repaid via the

Transfer on 12 Jan 1994 (from OCBC Account 2), then his claim that he was the beneficial owner is made out".[148]

75 With respect, I found this argument both illogical and contrived. Firstly, to postulate that the 2nd Defendant needed only to demonstrate that the monies from OCBC Account 1 which were used to pay for the Property were "repaid" via the $400,000 transfer from OCBC Account 2 on 12 January 1994 was really to put the cart before the horse. The issue of "repayment" could only arise if one rejected the Plaintiff's case that he had paid for the Property with his own monies from OCBC Account 1 – and accepted instead that the 2nd Defendant had taken a loan from that account.

76 Secondly, the argument ignored the case which the Defendants themselves had presented at trial, which was that the monies from OCBC Account 1 were "Neo Family monies" and not the Plaintiff's monies. Indeed, under cross-examination, the 2nd Defendant firmly and repeatedly stated that the loan he took from OCBC Account 1 to purchase the Property was *not* a loan from the Plaintiff, because the Plaintiff "didn't have that amount of money"[149] and in any event would never have agreed to lend the 2nd Defendant money because he was "stingy" and "calculative".[150]

77 Having reviewed the evidence before me, it was clear that the evidence supported the Plaintiff's claim that the monies in OCBC Account 1 were his. It was not disputed that this account was held in the joint names of the Plaintiff,

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148 [36] of the Defendants' Closing Submissions.

149 See transcript of 28 May 2019 at p 97 lines 19 to 25 and at p 100 lines 2 to 9.

150 See transcript of 28 May 2019 at p 99 line 6 to 25,

the 1st Defendant and Aik Kheng: the 2nd Defendant was not and had never been an account-holder.

78 It was also not disputed that the Plaintiff operated and controlled OCBC Account 1. Aik Kheng was clear about this.[151] The 1st Defendant confirmed in cross-examination that when she spoke in her AEIC of the Plaintiff having "control" of the bank accounts he held jointly with his siblings, these included OCBC Account 1.[152] Even the 2nd Defendant himself admitted in his AEIC that OCBC Account 1 "was operated and controlled by [the Plaintiff] and the bank statements were sent to his residence at Oxley Road".[153] In cross-examination, the 2nd Defendant confirmed that although OCBC Account 1 was "held by three account holders", "the person ultimately controlling the account was [the Plaintiff]".[154]

79 Critically, Aik Kheng and even the 1st Defendant gave evidence that the monies in OCBC Account 1 belonged to the Plaintiff. Aik Kheng stated clearly in his AEIC[155] that

> All the monies inside OCBC Account 1 belonged to [the Plaintiff]", and both [the 1st Defendant] and I knew this. The main reason that [the Plaintiff] put [the 1st Defendant] and myself as named joint account holders was for convenience. [The Plaintiff] would often be out of town or unavailable, and would just call and ask [the 1st Defendant] or me to sign cheques or do other things relating to the account for him...

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151 [19] of Aik Kheng's AEIC.

152 [43] of the 1st Defendant's AEIC; see transcript of 24 May 2019 at p 43 line 22 to p 44 line 2, also p 45 lines 15-18.

153 [165] of the 2nd Defendant's AEIC.

154 See transcript of 28 May 2019 at p 97 lines 11 to 15.

155 [19] and [32] of Aik Kheng's AEIC.

> (A)ll the monies in OCBC Account 1 are [the Plaintiff's] hard-earned monies. I recall him working regularly until 3 or 4 in the morning, even skipping meals because he was so focused. He even developed gastric problems because of his hectic work schedule.

80 The 1st Defendant too agreed in cross-examination that OCBC Account 1 was opened with the intention that the Plaintiff "could use it for his sole beneficial purposes without reference to [her]", and that she did not question him about it because she knew the monies in the account "belonged to him and not to [her]".[156]

81 It should be noted that although in her AEIC the 1st Defendant had stated that the balance of the proceeds from the sale of 20 Lorong K was deposited into OCBC Account 1, she admitted in cross-examination that she actually had no personal knowledge of any such deposit being made.[157] When questioned about how she had come to include such a statement in her AEIC, she said that the statement had been "drafted by [her] lawyer" and she had signed off on it because she thought it was "logical". It was then pointed out to her that in signing an affidavit, her responsibility was to ensure the truth of statements of fact made in it rather than to assess their logic – whereupon she agreed that had she been aware of this when making her AEIC, she would have asked that the statement about the deposit of the balance sale proceeds in OCBC Account 1 be deleted.[158]

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156 See transcript of 24 May 2019 at p 45 lines 10 to 18.

157 See transcript of 24 May 2019 at p 49 line 11 to p 50 line 3.

158 See transcript of 24 May 2019 at p 50 line 4 to p 51 line 4.

82 Ranged against the above evidence was the 2nd Defendant's assertion that "the monies in [OCBC Account 1] were from the sale of 20 Lorong K"[159] and that "the monies in [OCBC Account 1] belonged to the Neo Family".[160] The crux of the 2nd Defendant's entire narrative came down to this: firstly, that 20 Lorong K had been purchased with monies from the Neo Family; and secondly, that when this property was sold in December 1983, an amount representing the balance of its sale proceeds was deposited into OCBC Account 1, thereby making the monies in OCBC Account 1 "Neo Family monies". Both parts of the 2nd Defendant's narrative were proven patently false.

83 It will be remembered that in his AEIC, the 2nd Defendant described the funds for the purchase of 20 Lorong K as having come from the following sources:[161]

(a) The compensation monies received from TAS upon the compulsory acquisition of the Neo family's original residence at 446 Upper Paya Lebar (totalling $95,000);

(b) The $200,000 allegedly won by the parents in a 4-D lottery sometime "in the 1970s";

(c) $40,000 of savings and investments in listed shares from the Neo Family.

84 In respect of (a), objective documentary evidence showed that the compensation monies from TAS were received months *after* the purchase of 20

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159 [164] of the 2nd Defendant's AEIC.

160 [163] of the 2nd Defendant's AEIC.

161 [34] of the 2nd Defendant's AEIC.

Lorong K. The records of the Land Registry showed that 20 Lorong K was conveyed to the Plaintiff and Aik Kheng on *29 March 1980*.[162] The initial award of $62,200, on the other hand, was received by the Plaintiff and the 2nd Defendant on *5 May 1980*.[163] The supplemental award of $29,367-46 (issued after their appeal), as well as the refund of their $5,000 appeal deposit, were received on *8 May 1981*.[164] In short, it was simply not possible for the TAS compensation monies to have been used for the purchase of 20 Lorong K. The 2nd Defendant was obliged to concede this – albeit with much reluctance - after being confronted in cross-examination with the documentary evidence.[165]

85 The 1st Defendant – whose AEIC provided the same description as the 2nd Defendant's of the sources of funds for the purchase of 20 Lorong K – also conceded in cross-examination that it was wrong to say the TAS compensation monies had been used for the said purchase.[166]

86 In respect of (b), neither Defendant could produce any documentary evidence of the alleged lottery winnings of $200,000. That such evidence was not impossible to obtain was demonstrated by the fact that the Plaintiff was able, in contrast, to produce documentary evidence of his own lottery winnings of $400,000 in 1973[167]. $200,000 would have been a very substantial sum in the 1970s: the 2nd Defendant himself agreed that such a sum would have formed

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162 2 JBAEIC 88-89.

163 1 JBAEIC 84.

164 1 JBAEIC 85; Vol 1 of the Agreed Bundle of Documents at p 626 ("1 AB 626").

165 See transcript of 29 May 2019 at p 19 line 4 to p 22 line 9.

166 See transcript of 28 May 2019 at p 5 line 4 to p 9 line 7.

167 Exhibit NAS-4 at 1 JBAEIC 72.

"the great majority" of his parents' savings.[168] I found it surprising that no documentary records existed of this allegedly huge win. The Plaintiff denied that their parents had won such a sum in the lottery.[169] Aik Kheng gave evidence that although their parents had won at the lottery in the 1970s, they did not win such a large sum as $200,000: the sum which they won "was at most, a few thousand dollars and definitely less than 10 thousand dollars".[170] As for the 1st Defendant, although she insisted in cross-examination that the amount won was "definitely much more than the 10,000",[171] she admitted that she did not know the exact amount.[172] Indeed, she even appeared to waver over whether the lottery had been won by the *parents* or by the *mother*. In the circumstances, I did not find it believable that there were lottery winnings of $200,000 from the 1970s which went towards making up the purchase price of 20 Lorong K.

87 In respect of (c), the Defendants were also unable to produce any documentary evidence of the "savings and investments in listed shares" which purportedly went towards $40,000 of the purchase price of 20 Lorong K. Neither Defendant was able to pin down exactly what these "savings and investments in listed shares" were. The 1st Defendant said she believed some of the shares in question were registered in her name, but no evidence was produced of any such shares; and as for which other siblings might have had shares registered in their names, she admitted she did not know.[173] Indeed,

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168 See transcript of 29 May 2019 at p 24 line 21 to p 25 line 1.

168 See transcript of 28 May 2019 at p 13 line 20 to p 14 line 2.

169 [30] of the Plaintiff's AEIC.

170 [17] of Aik Kheng's AEIC.

171 See transcript of 28 May 2019 at p 10 lines 14 to 15.

172 See transcript of 28 May 2019 at p 4 lines 10 to 11.

173 See transcript of 28 May 2019 at p 12 line 24 to p 13 line 19.

when asked to confirm if she knew for a fact that there *was* $40,000 from such "listed shares" which were used for the purchase of 20 Lorong K, she confessed that she had "no idea".[174] She admitted that she actually had no personal knowledge of the statements made in her AEIC[175] about the purchase having been funded by compensation monies of $95,000, lottery winnings of $200,000 and savings and share investments of $40,000. Even in making this admission, she vacillated rather confusingly between saying she had simply repeated what she heard from the 2nd Defendant and claiming she had included the statements in her AEIC because she "found it logical".[176]

88 As for the 2nd Defendant, he too was unable to identify what "savings and investments in listed shares" made up the sum of $40,000. When it was pointed out that this figure of $40,000 – when added to the $95,000 compensation figure and the $200,000 lottery winnings figure – would yield a total figure of $335,000 instead of the purchase price of $320,000, the 2nd Defendant was unable to explain the discrepancy. He resorted instead to claiming that "the $40,000 was just a rough calculation" and that the "actual sum could be higher or lower".[177] That he could so glibly shift positions in the blink of an eye, without any apparent basis, clearly showed that he was given to invention, and that his story about the funding for the purchase of 20 Lorong K was really just that – a story concocted from bare allegations and suppositions, for which no objective evidence could be produced.

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174 See transcript of 28 May 2019 at p 13 line 20 to p 14 line 2.

175 [26] of the 1st Defendant's AEIC.

176 See transcript of 28 May 2019 at p 12 line 24 to p 13 line 19.

176 See transcript of 28 May 2019 at p 14 lines 3 to p 15 line 11.

177 See transcript of 29 May 2019 at p 16 line 18 to p 17 line 8.

89 The Plaintiff's evidence was that 20 Lorong K was purchased with his own monies and not with the three sources of "Neo Family monies" described by the Defendants.[178] The Plaintiff asserted that the fact that the property had been purchased with his monies was precisely why it was registered in his name, and he had added Aik Kheng's name in order to help him in getting credit to do business.[179] Aik Kheng too gave evidence that 20 Lorong K was purchased by the Plaintiff with his own monies.[180] I found their combined testimonies credible.

90 Having considered the evidence before me, I rejected the Defendants' story about 20 Lorong K having been purchased with the three sources of "Neo Family monies" as described in their AEICs. I found instead that 20 Lorong K was purchased with the Plaintiff's own monies and that this property belonged to him – not to "the Neo Family" as the Defendants claimed. From this, it followed that the proceeds from any sale of 20 Lorong K belonged to the Plaintiff. This would explain why the Plaintiff was able to take out two mortgages on 20 Lorong K totalling $1 million.[181] When 20 Lorong K was subsequently sold for $2,120,470, a sizeable portion of the sale proceeds were applied towards redeeming the two mortgages. It was not disputed that none of the other Neo siblings raised any objections. The 1st Defendant sought to downplay the absence of objections to the Plaintiff's actions as a matter of "family members" not waiting to "quibble over such matters".[182] This

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178 [30] of the Plaintiff's AEIC.

179 [31] of the Plaintiff's AEIC.

180 [17] of Aik Kheng's AEIC.

181 2 AB 639.

182 [39] of the 2nd Defendant's AEIC.

explanation struck me as being quite unbelievable, considering that the mortgage loans which were redeemed came to nearly half of the sale price of 20 Lorong K. In my view, rather than it being a case of the other siblings choosing not to "quibble", this was a case of their having no say in the mortgages or in the subsequent redemption of the mortgages because 20 Lorong K belonged to the Plaintiff; and he could deal with it – and with any proceeds from its sale - as he saw fit.

91 I should highlight that even leaving aside the issue of the sources of funding for the purchase of 20 Lorong K, it was plain that on the Defendants' own case, there would not have been any balance amount left from the proceeds of its sale in December 1983 which could have been deposited in OCBC Account 1. First of all, it should be noted that neither Defendant was able to point to any documentary record of such balance amount having been deposited in OCBC Account 1. As noted earlier, the 1st Defendant also conceded during cross-examination that she had no personal knowledge of any such deposit having been made.[183] The 2nd Defendant insisted that he knew there had been a balance amount deposited in OCBC Account 1 because he was involved in the sale and purchase of 20 Lorong K[184] – but in cross-examination, he was obliged to concede that he did not deposit the money himself and did not really know about "the details".[185]

92 More fundamentally, however, the 2nd Defendant could not get his own figures to add up. It was not disputed that 20 Lorong K was sold for $2,120,470

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183 See transcript of 24 May 2019 at p 49 line 11 to p 50 line 3.

184 See transcript of 29 May 2019 at p 5 line 23 to p 7 line 6.

185 See transcript of 29 May 2019 at p 7 lines 10 to 17.

and that $1 million of these sale proceeds went towards redeeming the mortgages taken out by the Plaintiff. The 2nd Defendant's evidence was that out of the remaining sale proceeds, another $875,000 was used for the purchase of 61 Lorong K.[186] That would have left a sum of $245,470. According to the 2nd Defendant's case, this remaining balance of $245,470 would have been entirely used up in the purchase of 25 Lorong M by Medway Investments. This was because his evidence was that 25 Lorong M was purchased for $1,651,550[187] using bank overdraft facilities totalling $1 million[188] and the "(b)alance of the sales proceeds from 20 Lorong K".[189] Based on the 2nd Defendant's own evidence, therefore, there would not have been any balance amount left from the sale proceeds of 20 Lorong K which could have been deposited into OCBC Account 1. Indeed, when confronted with these figures in cross-examination, the 2nd Defendant ended up admitting that any balance sum from the sale of 20 Lorong K would – *per* his own case – have been fully used up in the purchase of 61 Lorong K and 25 Lorong M.[190]

93 The 2nd Defendant was obviously discomfited at having to make this concession. First, he refused to admit that given the concessions he had made regarding the expenditure of the sale proceeds of 20 Lorong K, there could have been nothing left from those proceeds to go towards the purchase of the Property in 1991. His response plainly made no sense - and the realisation of his own vexed position appeared to prompt his next astonishing invention in the witness

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186 [42]-[44] of the 2nd Defendant's AEIC.

187 [60] of the 2nd Defendant's AEIC.

188 [63(b)] of the 2nd Defendant's AEIC.

189 [63(a)] of the 2nd Defendant's AEIC.

190 See transcript of 29 May 2019 at p 7 line 19 to p 10 line 24.

stand: namely, the claim that the monies in OCBC Account 1 which were used for the purchase of the Property came from Neo Family monies *transferred from Medway Investments*.[191] This was something which he had never pleaded nor even mentioned in his AEIC. Tellingly, he was unable to put forward any documentary or other objective evidence of any such "internal transfers of money"; and when pressed further in cross-examination, he attempted yet again to prevaricate and backpedal. I reproduce below the relevant extract from the trial transcript,[192] as it demonstrates clearly the shifty quality of the 2nd Defendant's testimony:

> Ct. …counsel's point was that, according to the calculations counsel has walked him through in the last 10 minutes, the sum of 2,120,470 from the sale of 20 Lorong K, after redeeming the mortgage loans he himself spoke of, would have left a balance of 1,120,470 and counsel is saying that he has agreed that of this balance of 1,120,470 from the sale of 20 Lorong K, 875,000 was used to purchase 61 Lorong K and the remaining 245,470 was used towards purchasing 25 Lorong M. Counsel's point is that would mean nothing was left from the balance of sale proceeds from 20 Lorong K, meaning nothing was left from the sale proceeds of 20 Lorong K with which to purchase the Keong Saik property. That's counsel's point. He said he disagreed. Since he says he disagrees, then where does he account for a balance sum from the proceeds of 20 Lorong K even after the purchase of 61 Lorong K and 25 Lorong M?
>
> A. There is still a bank loan.
>
> Q. Mr Neo, are you referring to paragraph 63(b) [of your AEIC]?
>
> A. Yes.
>
> Q. Paragraph 63(b) relates to a bank overdraft for the purchase of 25 Lorong M, correct?
>
> A. Yes.

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191 See transcript of 29 May 2019 at p 12 line 22 to p 13 line 17.

192 See transcript of 29 May 2019 at p 11 line 15 to p 15 line 24.

Q. The overdraft was used for the purchase of 25 Lorong M, correct?

A. Yes.

Q. Do you not agree that this bank loan at 63(b) has nothing whatsoever to do with the purchase of the Keong Saik property?

A. *When we set up the Medway Investments account, we would have deposited some money into the account, for instance, money from my own commission and rental money.*

Q. *Mr Neo, are you now suggesting that the purchase of the Keong Saik property was funded by monies from the Medway Investments account?*

A. *The Medway account is an independent account.*

Ct. *The question is, are you saying that the purchase of the Keong Saik property was funded by money from the Medway Investments account?*

A. *Yeah. Let me explain. The OCBC account 1 I a joint account held in three persons' names but Aik Soo was the one controlling the account. As for the Medway Investments account, it is primarily managed by Aik Soo and myself. There could also be internal transfers of money, so whenever there were bank overdrafts or there were downpayments to be made, Aik Soo would know whether there were sufficient funds in the accounts to lend me to buy the Keong Saik property.*

……..

Q. *In light of your evidence that the purchase of Keong Saik property was funded by this account in Medway Investments, do you now accept that the purchase of the Keong Saik property was not funded from any balance sum from 20 Lorong K?*

A. *I disagree with the phrase "funded by Medway Investments". I think there is some misunderstanding here.*

Ct. You were asked a question just now whether you were saying that the purchase of Keong Saik property was funded by money from Medway Investments account and you said "yes". You went on to elaborate that OCBC account 2 is controlled by Aik Soo; Medway Investments account is managed by Aik Soo and you. There could be internal transfers of money. When there is a bank

> overdraft or a downpayment to be made, Aik Soo would know whether there is sufficient money in the account to lend you to buy Keong Saik. That's what you said just now, so you had agreed, when asked whether you were saying that the purchase of Keong Saik was funded by money from the Medway Investments account.
>
> A. There was a lot of movement between the two accounts, therefore, we…
>
> Ct. Which two accounts, so that we are clear?
>
> A. *There were a lot of movement of money between OCBC account 1 and the Medway Investment account. Therefore, it is very difficult to say entirely that the purchase… had been funded entirely by Medway Investments account.*
>
> [emphasis added]

94 Insofar as the 2nd Defendant appeared to suggest that funding for the purchase of the Property could have come from "internal transfers" from Medway Investments' account to OCBC Account 1, I rejected this suggestion as an obvious fabrication.

Summary of my findings in relation to the source and the utilisation of the monies in OCBC Account 1

95 In summary, I found the Defendants' evidence as to the sources of the monies in OCBC Account 1 wholly unbelievable. I accepted the Plaintiff's evidence that the monies in OCBC Account 1 were his monies and not "Neo Family monies". I accepted that the payments made from OCBC Account 1 on 21 March 1991 ($37,000) and on 20 June 1991 ($331,438-13) were payments made from the Plaintiff's own monies for the purchase of the Property. For the avoidance of doubt, I should add that I also accepted the Plaintiff's evidence that the last small sum of $1,497-50 – which was paid via cashier's order to the vendors' solicitors on the same date as the payment of the $331,438-13 (20 June 1991) – was also made using the Plaintiff's own monies. I was satisfied that the

2nd Defendant did not at any time pay any part of the purchase price of the Property.

On the alleged existence of the "Neo Family Assets"

96 Given that the 2nd Defendant's claim to beneficial ownership was premised on the alleged existence of "Neo Family Assets" which (according to him) yielded the funds for his purchase of the Property, I should make it clear at this juncture that I did not accept that there was such a thing as "Neo Family Assets". In the first place, as pointed out in the Plaintiff's closing submissions,[193] insofar as the Defendants appeared to be claiming that certain properties and other assets were owned by an entity known as "the Neo Family", such a claim was legally unsustainable: there is no concept in Singapore law of "family ownership" of a property. In this connection, I agreed with the Plaintiff's submission that the Defendants' reliance on *Chia Kok Weng v Chia Kwok Yeo and another* [2017] 2 SLR 964[194] was misplaced. The expression "family compact" as employed in that case clearly referred to the trial judge's finding that there was an intention on the part of the Chia family members to secure the home at 37 Jalan Kechubong for the parents and the family members who lived there; and that it was this intention which actuated a series of transfers of ownership interests in the Jalan Kechubong property (at [28] and [33]). The trial judge's finding was one of fact which the Court of Appeal agreed with on appeal (at [34]). Nothing in the judgement could be construed as establishing a legal concept of "family ownership" of assets in the manner advocated by the Defendants in this case.

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193 [71] of the Plaintiff's Closing Submissions, [10]-[14] of the Plaintiff's Reply Submissions.

194 Tab 3 Defendants' Bundle of Authorities ("DBOA").

97 Alternatively, if the Defendants were claiming that each Neo sibling was a beneficial owner of various properties and assets such as 20 Lorong K, 61 Lorong K, the company Medway Investments and the properties registered in Medway Investments' name, then there was simply no objective evidence to support such a claim. According to the narrative advanced by the Defendants, 20 Lorong K was the first property acquired as a "Neo Family's Asset", and it was from this initial property acquisition that the New Family then built up a portfolio of assets. However, as I explained in the preceding paragraphs, my findings – after a review of the evidence – were that 20 Lorong K was purchased with the Plaintiff's monies and belonged to the Plaintiff.

98 I also found the claim that Medway Investments was incorporated as the vehicle for "the Neo Family's" investments frankly incredible. It was not disputed that the majority shareholders of the company - with a total of 75% shareholding – were the Plaintiff's wife Lai Wah and the Plaintiff himself. Lai Wah is not a member of "the Neo Family". As for the Plaintiff, the Defendants have sought throughout these proceedings to paint him as a selfish, covetous individual with a well-known "tendency to use his siblings for his own objectives and purposes".[195] If indeed Medway Investments had been set up as the vehicle for acquiring and holding valuable assets on behalf of "the Neo Family", it was anomalous that the majority ownership of this vehicle should have been vested in the Plaintiff and his wife - of all people.

99 Finally, it should also be noted that when he was pressed to identify specifically those assets he claimed constituted "Neo Family Assets", the 2nd Defendant became extremely evasive. Asked to describe how much the "Neo

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195 See e.g. [37]-[52] of the 1st Defendant's AEIC.

Family monies" would have amounted to as at 1991, the 2nd Defendant said at first that he "did not really calculate the sum", and then asserted in the next breath that it was "a substantial amount" of "around $300,000 to $500,000".[196] He said that the figure of "$300,000 to $500,000" referred only to cash holdings and did not take into account non-cash assets ("properties, jewellery").[197] Asked for more details of what the "Neo Family Assets" comprised, his response morphed to include "everyone's assets".[198] Asked to pin down where the "$300,000 to $500,000" cash was kept as at 1991, he claimed that "the majority of it" was placed in the "12 siblings"' "personal bank accounts".[199] Asked how much of the "$300,000 to $500,000" would have been in his own account, he claimed at first it "ought to be around 100,000" – but then immediately qualified this by saying that "money moves in and out of [his] account very quickly, so [he] cannot be very certain".[200] Asked whom the balance of $200,000 to $400,000 of the Neo Family's cash would have been kept with, he first replied that it was "with the other children" – and then admitted that he would not know how much of this alleged balance would have been with each sibling.[201]

100 In short, it became very apparent to me that the 2nd Defendant was making up his evidence as he went along. In particular, his purported description of the sources of cash which made up the "Neo Family monies" was

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196 See transcript of 28 May 2019 at p 89 lines 15 to 21.

197 See transcript of 28 May 2019 at p 90 line 3 to p 91 line 4.

198 See transcript of 28 May 2019 at p 91 lines 16 to 23.

199 See transcript of 28 May 2019 at p 92 line 21 to p 93 line 2.

200 See transcript of 28 May 2019 at p 94 lines 3 to 12.

201 See transcript of 28 May 2019 at p 94 line 16 to p 95 line 13.

suspiciously vague ("my parents kept a lot of money", "a lot of bank savings").[202] Not a scrap of evidence was produced to substantiate his claims about the existence of "Neo Family monies" amounting to "$300,000 to $500,000" as at 1991, nor could he even specify where these monies would have been kept as at 1991.

101 I concluded, accordingly, that there was no such thing as "Neo Family Assets" or "Neo Family monies". It was clear that the Defendants – and in particular, the 2nd Defendant – came up with the story in a disingenuous attempt to explain how the 2nd Defendant could have paid for the Property in 1991.

On the transfer of $400,000 from OCBC Account 2 to OCBC Account 1 on 12 January 1994

102 As explained earlier, I found that the monies in OCBC Account 1 were the Plaintiff's monies - not "Neo Family monies" – and that he paid for the Property with his own monies from this account. As a corollary of these findings, I was also satisfied that there was no "loan" of "Neo Family monies" from OCBC Account 1 to the 2nd Defendant in 1991. I would also observe that if in fact there had been such a loan to the 2nd Defendant, then it was very odd that Aik Kheng – who was one of the three account-holders and the third eldest Neo brother – should testify that he was never told about it.[203] Tellingly, the 2nd Defendant himself could not keep his story straight when it came to the issue of Aik Kheng's knowledge of the "loan". In his AEIC, he stated that he believed Aik Kheng might not have been aware of the loan.[204] In cross-examination, he

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202 See transcript of 28 May 2019 at p 89 line 22 to p 90 line 2.

203 [23] of Aik Kheng's AEIC.

204 [167] of the 2nd Defendant's AEIC.

changed his position, claiming that Aik Kheng did in fact know about the "loan" and agreed to it.[205] Even then, he was suspiciously vague about the circumstances in which Aik Kheng came to know of and agree to the "loan".[206] It is worth noting that Aik Kheng – who struck me as an honest and sincere witness - stated firmly in his AEIC:[207]

> Insofar as [the 2nd Defendant] is saying that I gave him a loan, this is a lie. [The 2nd Defendant] never asked me for a loan and I certainly did not agree to any such loan.

103 The 2nd Defendant placed much weight on the transfer of $400,000 from OCBC Account 2 to OCBC Account 1 on 12 January 1994 as purported corroboration of his "loan" story. Having considered the evidence, I was satisfied that this transfer was initiated and effected by the Plaintiff himself as a transfer of funds he owned between accounts he controlled.

104 In this connection, I should make it clear that I rejected any suggestion by the Defendants that the Plaintiff had raised the issue of his ownership of the funds in OCBC Account 2 "for the 1st time in his AEIC". In his Reply and Defence to Counterclaim (Amendment No. 1), the Plaintiff had already pleaded that he had "a mandate to operate and withdraw monies from" OCBC Account 2.[208] By 16 January 2018, the Plaintiff had also stated clearly in affidavit evidence that the 2nd Defendant had agreed to "give" him OCBC Account 2 and that he "would have full control" over the account.[209] These assertions were

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205 See transcript of 28 May 2019 at p 104 lines 18 to 20.

206 See transcript of 28 May 2019 at p 103 line 22 to p 104 line 17.

207 [27] of Aik Kheng's AEIC.

208 [22] of the Reply and Defence to Counterclaim (Amendment No. 1), Tab 5 SDB.

209 [61] of the Plaintiff's 4th affidavit of 16 January 2018, PBID 207.

met squarely by the 2nd Defendant in his AEIC, where he expressly disputed the Plaintiff's position as stated in the affidavit of 16 January 2018 and claimed the monies in OCBC Account 2 as "solely" his own monies.[210] In short, it could not be true that the 2nd Defendant had only discovered for the first time on reading the Plaintiff's AEIC that the latter was alleging ownership of the funds in OCBC Account 2.

105 I should add that whilst a fair amount of time was spent by the 2nd Defendant on trying to establish that the Plaintiff had started using OCBC Account 2 in March 1993 (instead of in September / October 1993 as the Plaintiff contended), the bottomline was that by October 1993, the Plaintiff was certainly the one exercising control over the account. Even the 2nd Defendant had to concede that from October 1993 to 11 January 1994 (the day just before the transfer of the $400,000), the Plaintiff had deposited funds totalling more than $3 million into OCBC Account 2,[211] thereby bringing the overdraft balance from -$527,577-94 on 1 October 1993 to -$25,631-42 on 11 January 1994.[212] *Most significantly, while the bank statements for OCBC Account 2 showed clearly deposits and withdrawals made by the Plaintiff and even transactions conducted by his family members,[213] the 2nd Defendant could not point to any transaction which he or his family members had conducted in the said account*. On the evidence, therefore, I was satisfied that by late 1993, the Plaintiff controlled OCBC Account 2, and the monies in the account were his.

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210 [220]-[222] of the 2nd Defendant's AEIC.

211 See transcript of 29 May 2019 at p 68 lines 15 to 25.

212 1 JBAEIC 187-191.

213 See e.g. 1 JBAEIC 251.

106 In addition, I found the 2nd Defendant's evidence as to how he came to "repay" the "loan" from OCBC Account 1 with a transfer of $400,000 from OCBC Account 2 to be wholly lacking in credibility. The 2nd Defendant claimed, for example, that the question of interest was never discussed at the point he asked for the loan. However, he also claimed that the $30,000 difference between the "loan" of $370,000 and the "repayment" of $400,000 represented interest unilaterally charged by the Plaintiff at the point of repayment.[214] Since he claimed that the "loan" was made from "Neo Family monies", it was astonishing that the *Plaintiff* should have been in a position to demand interest from him amounting to a five-figure figure– and apparently without providing any calculations to explain how the figure was derived. The 2nd Defendant's assertion that he had paid this interest without asking any questions was equally astonishing, given that he had sought a "loan" from OCBC Account 1 in the first place because he was "reluctant to get a mortgage as [he] did not wish to pay for interests".[215] His apparent lack of interest in what the Plaintiff did with the $400,000 following the alleged "repayment" was also anomalous if indeed this large sum represented "Neo Family monies" as he claimed.

107 The 2nd Defendant's purported explanation as to why the "repayment" was made in January 1994 did not make sense either. On the 2nd Defendant's own evidence, no specific deadline for repayment was stipulated when he took the "loan": he was the one who told the Plaintiff he was in a position to return the "loan" (a)fter he obtained further overdraft facilities and seeing that the

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214 See transcript of 29 May 2019 at p 61 lines 14 to 25.

215 [162] of the 2nd Defendant's AEIC.

construction works at the Property were halfway completed".[216] Both parts of his account of events turned out to be unfounded. While the initial overdraft facility of $530,000 was granted in March 1993, the further overdraft facilities were clearly obtained on dates well after 12 January 1994: on 2 December 1994 (increase to $900,000);[217] on 24 November 1995 (increase to $1.5 million);[218] and on 22 May 1997 (increase to $1.75 million).[219] As for the construction works at the Property, it was also clear from the undisputed documentary records that construction works could not have even started as at 12 January 1994, given that the letter of award to the main contractors Teo & Liong was issued on July 1994.[220] Eventually, the 2nd Defendant was obliged to concede that the construction works at the Property had not started as at 12 January 1994.[221] The upshot, therefore, was that there was simply no coherent explanation as to why he should have suddenly decided to "repay" the "loan" on 12 January 1994.

108 In the circumstances, I agreed with the Plaintiff's submission – that the Defendants' claims about the "repayment" on 12 January 1994 was simply a piece of reverse-engineering on their part. As the Plaintiff pointed out, the Defendants' pleadings originally made no mention of a "loan". It was only after the disclosure of the Plaintiff's documentary evidence – in the course of the summary judgement application - of his payment of the purchase price from

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216 [215] of the 2nd Defendant's AEIC.

217 p 464 of the Joint Bundle of Supplemental Affidavits of Evidence-in-chief ("JBASEIC 464").

218 1 AB 183.

219 1 AB 184.

220 1 AB 125.

221 See transcript of 29 May 2019 at p 51 line 23 to p 52 line 3.

OCBC Account 1 that the Defendants came up with the story of a "loan" of "Neo Family monies" from OCBC Account 1. Since there was no evidence of a "repayment" of $370,000 made by the 2nd Defendant to OCBC Account 1, the transfer of $400,000 from OCBC Account 2 to OCBC Account 1 on 12 January 1994 was plainly the closest thing he could latch on to as the purported "repayment" – hence the odd mismatch between the "loan" figure and the "repayment" amount, and the absence of any cogent reasons for making "repayment" in January 1994.

109 For the above reasons, I rejected the Defendants' contention that the $400,000 transfer from OCBC Account 2 to OCBC Account 1 on 12 January 1994 represented the 2nd Defendant's repayment of the "loan" taken from OCBC Account 1 in 1991.

The formation of a purchase price resulting trust

110 There was no dispute between the parties on the legal principles applicable, as the Defendants acknowledged that both sides were relying on a purchase price resulting trust.[222] Both sides were also agreed that the Court of Appeal has in *Chan Yuen Lan v See Fong Mun* [2014] 3 SLR 1048[223] set out the applicable legal principles. As the Defendants put it in their closing submissions,[224] the purchase price resulting trust "arises because the law presumes that A, in paying for the purchase of the property, did not intend to

222 [171] of the Defendants' Closing Submissions.

223 Tab 2 DBOA.

224 [173] of the Defendants' Closing Submissions; see also [11]-[13] of the Plaintiff's Closing Submissions.

pass a beneficial interest to B, who gave no or unequal consideration for the property".

111 In the present case, the 1st Defendant – as the legal owner – accepted from the outset that she had no beneficial interest in the Property. The chief issue in contention all along was who had paid for the Property – and thus, who was entitled to a purchase price resulting trust in respect of the Property. For the reasons set out in in these grounds, I was satisfied that the Plaintiff had paid for the Property with his own monies in 1991. I rejected the 2nd Defendant's contention that it was he who had paid for the Property - whether with a "loan" from "Neo Family monies" in OCBC Account 1 as he claimed in his AEIC and through much of his testimony, or with monies from Medway Investment's account as he belatedly alleged in cross-examination. I was satisfied that it was the Plaintiff who was fully the beneficial owner of the Property by virtue of a purchase price resulting trust.

Other objective evidence pointing to the Plaintiff's beneficial ownership of the Property

112 I also found that in addition to the evidence of payment of the purchase price, there was other, objective evidence pointing to the Plaintiff's beneficial ownership of the Property.

Payment of property tax

113 Firstly, insofar as property tax on the Property was concerned, while the Plaintiff and the 2nd Defendant each claimed to have paid the property tax prior to 1996, neither produced any documentary records or other evidence of such payment. From 1996 onwards, however, it was not disputed that the property was paid via GIRO deduction from OCBC Account 2. Having found that

OCBC Account 2 was controlled by the Plaintiff and that the funds in it were his, I was satisfied that the GIRO payments of the property tax from 1996 onwards were made by the Plaintiff. I accepted the Plaintiff's evidence as to the deposits made by him into OCBC Account 2 to meet the deductions for property tax.[225] As the Plaintiff highlighted in closing submissions, the 2nd Defendant failed to identify any deposits he had made into OCBC Account 1 for the purpose of paying property tax. The fact that the Plaintiff was the one paying property tax from 1996 onwards constituted additional evidence of his beneficial ownership of the Property.

114 In this connection, whilst a considerable amount of time was expended in cross-examining the Plaintiff[226] about the handwritten annotations on those copies of the bank statements exhibited in court, I did not find anything sinister about these annotations. Certainly I did not accept the Defendants' allegation that they showed the Plaintiff to be "tampering" with the evidence. In brief, the Defendants claimed that copies of some of the bank statements exhibited in court carried handwritten annotations indicating the payment of property tax by the Plaintiff, whereas these annotations were missing from the originals of the bank statements. The Plaintiff explained, however, that although he had initially erased all markings from the copies of the bank statements submitted to court, he had subsequently decided to add to these copies handwritten words such as "Neo Aik Soo pay property tax" in big bold letters to remind himself what the entries were about, and also because his eyesight was not good.[227] The Plaintiff also testified that in submitting the copies of the bank statements to

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225 See e.g. 1 JBAEIC 255-256. 263, 269, 272, 278.

226 See transcript of 23 May 2019 at p 64 line 18 to p 107 line16.

227 See transcript of 23 May 2019 at p 105 line 1 to p 107 line16; p 143 line 6 to p 147 line 8.

court, he had erased markings in which he had previously recorded shortfalls in the rent collected by the 2nd Defendant on his behalf: as the Plaintiff pointed out, if he had wanted to present a self-serving version of the statements, it would have been to his advantage – and to the 2nd Defendant's disadvantage - to retain such markings.[228]

115 Having seen and heard the Plaintiff in the witness stand, I believed he was telling the truth regarding the handwritten annotations. In my view, if the Plaintiff had wanted to tamper with the bank records in order to mislead the court into accepting his beneficial ownership of the Property, then it made no sense to do so in such a clumsy and limited manner.

116 For the record, I should add that although the Plaintiff tended to be long-winded and given to occasional rambling in the witness stand, on the whole I found him to be a truthful witness whose version of events was supported by objective evidence.

Reimbursement of income tax payments by the 1st Defendant

117 Secondly, it was not disputed that the 1st Defendant had to pay income tax on the rental income derived from the Property because she was its legal owner. It was also not disputed that since the 1st Defendant was not the beneficial owner of the Property, she should not be ultimately liable for the income tax and should be entitled to seek reimbursement. The evidence showed that it was the Plaintiff and not the 2nd Defendant who reimbursed the 1st Defendant for the income tax she paid on rental income from the Property. It was not disputed that the total amount reimbursed came to $50,000. This was

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228 See transcript of 23 May 2019 at p 107 lines 1 to 12.

made up of two payments: $20,000 paid to the 1st Defendant by the Plaintiff sometime around 2013,[229] after she approached him with a note summarising her total tax liability at $43,749-67;[230] and $30,000 paid by the Plaintiff at Mr Lim's office on 10 December 2016.

118 In my view, it was clear that the 1st Defendant sought reimbursement of her income tax payments from the Plaintiff – and not the 2nd Defendant – because she was aware that the Plaintiff was the beneficial owner of the Property.

119 The 1st Defendant's testimony on this issue was quite telling. She admitted in cross-examination that it was the Plaintiff – and not the 2nd Defendant - whom she had asked for reimbursement of her income tax payments.[231] She added that the rental from the Property was deposited into OCBC Account 2 and that it was the Plaintiff who made use of the rental monies so deposited.[232] However, she insisted that all the monies in OCBC Account 2 – including the rental from the Property – belonged to the 2nd Defendant; that it was the 2nd Defendant who was getting the rental from the Property and who could decide what to do with the rental; and that it was the 2nd Defendant who had allowed the Plaintiff to use the monies in OCBC Account 2.[233] It was put to her that following from what she claimed about the ownership of the monies in OCBC Account 2 in general and of the rental in particular, she should have asked the 2nd Defendant to reimburse her for the income tax she paid on the

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229 See transcript of 24 May 2019 at p 52 line 7 to p 54 line 13.

230 1 AB 311.

231 See transcript of 24 May 2019 at p 59 lines 10 to 16.

232 See transcript of 24 May 2019 at p 59 lines 16 to 24.

233 See transcript of 24 May 2019 at p 59 lines 21 to p 65 line 7.

rental.[234] She disagreed. Her explanation was that she had asked the Plaintiff for reimbursement because he had told her he was collecting the rental: in her view, he was the one "who benefited from the rent".[235] This explanation made no sense because she conceded at the same time that *both* the 2nd Defendant and the Plaintiff were collecting the rental from the Property[236] – which meant that according to her narrative, *both* of them were benefiting from the rental. She also conceded that she did not know how much of the rental the Plaintiff collected.

120 It was plain to me that whilst the 1st Defendant could not deny that the Plaintiff was the only person from whom she had sought and obtained reimbursement of her income tax payments, she was desperate to avoid acknowledging that she had asked him for reimbursement because he was the beneficial owner of the Property. This led to her tying herself up in knots by claiming that she had asked him for reimbursement because he was the one who collected and benefited from the rent, and then conceding that the 2nd Defendant too had been collecting the rent.

121 The 2nd Defendant appeared to realise the damage done by the 1st Defendant's testimony, as he sought to claim in the course of cross-examination that *he too* had reimbursed the 1st Defendant for her income tax payments.[237] This was a claim which came out of the blue, since he had given no such evidence in his AEIC and prior affidavits.[238] In fact, he claimed that it was the

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234 See transcript of 24 May 2019 at p 66 line 15 to p 67 line 16.

235 See transcript of 24 May 2019 at p 69 lines 21 to 24.

236 See transcript of 24 May 2019 at p 68 lines 1 to 16.

237 See transcript of 29 May 2019 at p 73 line 1 to p 75 line 14.

238 See transcript of 29 May 2019 at p 75 lines 7 to 14.

1st Defendant who had asked him for reimbursement – which totally contradicted her evidence that she had never sought reimbursement from him. When this contradiction was pointed out to him, he replied that the 1st Defendant must have mistakenly thought that OCBC Account 2 "was a joint account between [the Plaintiff] and [him]". This appeared to me to be an incongruous *non-sequitur* of a response, since it did not explain why the 1st Defendant might have been mistaken about whether she did ask him for reimbursement.

122 The rest of the 2nd Defendant's evidence about his reimbursement of the 1st Defendant's income tax payments was just as absurd. For example, he claimed that the 1st Defendant asked him "four to five years ago" to reimburse her a sum of "(a)round 2,000 to 3,000".[239] Given that the 1st Defendant's total income tax liability apparently came up to the mid- five figures, there seemed to me to be no sensible reason why she would have asked the 2nd Defendant to reimburse her a mere $2,000 to $3,000 – especially when (on the 2nd Defendant's own admission), she would already have been retired by then and presumably no longer earning an income.[240]

123 Finally, whilst there was no documentary record of the 2013 payment of $20,000, I observed that the $30,000 which the 1st Defendant admitted receiving on 10 December 2016 was paid by the Plaintiff via a cheque drawn on a UOB account he held jointly with his wife and sons.[241] In other words, it could not be disputed that the Plaintiff made this payment from his own funds. It was also not disputed that he has never been reimbursed by the 2nd Defendant for the

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239 See transcript of 29 May 2019 at p 74 lines 6 to 10.

240 See transcript of 29 May 2019 at p 74 lines 14 to 21.

241 1 JBAEIC 320.

payment. In my view, it was unbelievable that the Plaintiff would have willingly paid the 1st Defendant from his own funds in reimbursement of her income tax liability if he were not the beneficial owner of the Property – especially since the Defendants have repeatedly described him as a "stingy" and "calculative" individual.

124 In the circumstances, I was satisfied that both Defendants were aware that the reason why the 1st Defendant had sought reimbursement of income tax from the Plaintiff – and the reason why the Plaintiff reimbursed her to the tune of $50,000 – was because *he* was the beneficial owner of the Property.

The 31 July 2016 letter

125 Thirdly, the Defendants' conduct vis-à-vis the letter of 31 July 2016 was also illuminating. This was a letter drafted by the Plaintiff, which the 1st Defendant signed, and which was copied to the 2nd Defendant.[242] It was a letter by which the 2nd Defendant's authority to act as the 1st Defendant's legal representative in managing the Property was terminated, and the Plaintiff was appointed the only authorised legal representative. The letter also provided for the increase in the monthly rental amount and stipulated that all future rental was to be paid into an OCBC account which was actually the Plaintiff's personal account (held jointly with his son). If – as the Defendants alleged – the Plaintiff was not the beneficial owner of the Property, it was unbelievable that the 1st Defendant would have signed it or that she would have refrained from informing the 2nd Defendant after signing.[243]

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242 1 JBAEIC 318-319.

243 See transcript of 28 May 2019 at p 29 line 25 to p 30 line 7.

126 Indeed, the 1st Defendant's evidence about the signing of the 31 July 2016 letter was again riddled with contradictions and absurdities. She claimed that she had been "forced" to sign the letter. When asked to explain what she meant by "forced", she initially stated:[244]

> Because... [the Plaintiff] came to... to my residence, with the letter and tell me to sign. So I was forced to sign.

127 When asked to explain further what she meant, the 1st Defendant stated that if she did not sign the letter, the Plaintiff would "harass" her. She was asked what she meant by "harass". She then claimed that the Plaintiff would enter her house carrying a stick or an umbrella "each time" he visited her, that he would "try to threaten" her, and that he would talk "very furiously" to her.[245] This was a startling claim which was not mentioned at all in her AEIC. In fact, all she had said in her AEIC about being "forced" to sign the 31 July 2016 letter was that the Plaintiff "hastily made [her] sign" the letter "without allowing [her] to read" it.[246] Even this allegation was retracted during the trial. In cross-examination, the 1st Defendant admitted that she had in fact been able to read and understand the letter prior to signing it: that was how she had understood that the 2nd Defendant would be "unhappy" about those portions of the letter which provided for him to cease acting as her legal representative and which gave the Plaintiff "full power of attorney" instead.[247]

128 I concluded that the 1st Defendant's claims about having been "forced" to sign the 31 July 2016 letter were bogus. I was satisfied that she had willingly

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244 See transcript of 28 May 2019 at p 27 lines 17 to 22.

245 See transcript of 28 May 2019 at p 28 lines 2 to 22.

246 [91] of the 1st Defendant's AEIC.

247 See transcript of 28 May 2019 at p 29 lines 7 to 24.

signed the letter, and that she raised no objections to it either when signing it or at any time thereafter, because she was well aware that the Plaintiff was acting within his rights as beneficial owners of the Property in sending the letter.

129 As for the 2nd Defendant, while he was aware of the letter, there was no evidence at all of his having raised any objections – even though he acknowledged that he was "naturally very concerned" when he saw it.[248] In his AEIC, he said that he did nothing because he thought that the Plaintiff merely wanted to "pocket the monthly rent of $10,000 to ease his cash flows". This seemed a most far-fetched explanation. After all, on his own evidence, the 2nd Defendant had on previous occasions allowed the Plaintiff to collect the rent "directly" when he "needed cash urgently":[249] there was no reason why the Plaintiff would have suddenly needed to go to the lengths of drawing up the letter of 31 July 2016 if all he wanted was to collect the rent.

130 The 2nd Defendant also claimed in his AEIC that he did not want to "end up fighting" with the Plaintiff.[250] In cross-examination, however, he gave entirely different reasons. First he said that it was "not necessary" for him to do anything about the letter because the 1st Defendant had already told him it did not reflect her true intention. This was not mentioned in his AEIC. It also conflicted with the 1st Defendant's evidence that she did not tell the 2nd Defendant about the letter after signing it. Next, the 2nd Defendant claimed that he had also spoken to the tenant Mr Ong, that "even the tenant knew that…this letter was not a true reflection of [the 1st Defendant's] intentions", and that the

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248 [241] of the 2nd Defendant's AEIC.

249 [196] of the 2nd Defendant's AEIC.

250 [242] of the 2nd Defendant's AEIC.

tenant already knew anyway that he (the 2nd Defendant) was the "actual owner" of the Property. Again, this was not mentioned in his AEIC; nor was Mr Ong called to give evidence of such a conversation. Finally, and most bizarrely, the 2nd Defendant said he had discussed with the 1st Defendant and understood that the letter was "invalid", but that he had not written to the Plaintiff to point out its invalidity because:[251]

> …[the 2nd Defendant] was my trustee and I am the owner. If I were to write such a letter, wouldn't it be rather conflicting? This would be something very strange.

131 I found the 2nd Defendant's evidence as to why he did nothing to challenge the 31 July 2016 letter as nonsensical as the 1st Defendant's. I was satisfied that like the 1st Defendant, he too raised no objections to the 31 July 2016 letter because he was well aware that the Plaintiff was acting within his rights as beneficial owner of the Property in sending the letter.

The Statutory Declaration, Power of Attorney and Deed of Indemnity signed on 10 December 2016

132 Finally, I found that the Statutory Declaration and the Power of Attorney dated 10 December 2016 were signed by the 1st Defendant freely, willingly, and without any duress being exercised over her. I rejected the Defendants' contention in their closing submissions that the 1st Defendant had been "conditioned to be intimidated" by the Plaintiff through "his pattern of physical (threatened or executed) and non-physical threats".[252] In the first place, it must be pointed out that this formulation of the Defendants' case on duress was very far removed from the manner in which their allegation of duress was pleaded.

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251 See transcript of 29 May 2019 at p 90 lines 7 to 14.

252 [412] of the Defendants' Closing Submissions.

To recap, the particulars of duress pleaded in the Defence and Counterclaim[253] were as follows:

> (a) In November 2016, the Plaintiff had "scolded" the 1st Defendant for signing a tenancy agreement to lease out the Property. In the same incident, he had also "physically abused" her by throwing a metal measuring tape at her and pulling her hair. This incident was also recounted in the 1st Defendant's AEIC.[254]
>
> (b) Geok Huwe and Aik Kheng had also "constantly pressured" the 1st Defendant to transfer the Property to the Plaintiff. The 1st Defendant was taken to Mr Lim's office on 10 December 2018 without being told that she was going to a law firm.
>
> (c) At Mr Lim's office, the 1st Defendant "felt compelled to remain quiet" as she "was in the company of the Plaintiff, Neo Geok Huwe and Neo Aik Kheng".

133 There was no mention in the Defendants' pleadings of a "pattern of physical (threatened or executed) and non-physical threats". With respect, if indeed the duress encountered by the 1st Defendant had consisted of such a "pattern" of physical and non-physical threats, I would have expected this to be clearly pleaded and particularised in the Defence and Counterclaim. Nor were there any details recounted in the 1st Defendant's AEIC of such a "pattern" of physical and non-physical threats.

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253 [13] of the Defence and Counterclaim (Amendment No. 1), Tab 4 of the Setting Down Bundle at pp 35-39.

254 [67] of the 1st Defendant's AEIC.

134 As to the allegation of duress exercised by Geok Huwe and Aik Kheng, the 1st Defendant was wholly unable to give any particular of the alleged acts of "constant pressure" on their part. No such details were given at trial either.

135 I also did not believe the 1st Defendant's contention that she had gone along to Mr Lim's office on 1 December 2016 without knowing the purpose of the visit. On her own evidence, the Plaintiff had brought her to another lawyer (one Mr Leong) "around August, September" 2016 because he was "trying to transfer the [Property] out of [her] name to his name", and it was Mr Leong who had recommended them to see Mr Lim when he was unable to act in the matter[255]. I did not find it credible for the 1st Defendant to claim that when she subsequently went to Mr Lim's office some two months later, she had no idea they would be dealing with the Property.

136 In any event, the 1st Defendant's evidence on the issue of duress simply could not be believed. For example, she claimed that she signed the Statutory Declaration knowing it was untrue, because the Plaintiff had threatened her with a stick or an umbrella each time he visited her home at 40J East Coast Road, and also because she was "scared" that he would evict her from her home if she failed to sign the documents.[256] However, these allegations about the Plaintiff entering her house with a "stick" or an "umbrella" "each time" he visited only surfaced for the first time in the midst of cross-examination. As to her alleged fear of eviction, she herself testified that the Plaintiff had told her in early 2016 he wanted to evict her – and that she had responded by telling him: "*If you give*

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255 See transcript of 28 May 2019 at p 35 line 24 to p 36 line 20.

256 See transcript of 24 May 2019 at p 73 line 11 to p 75 line 14.

me a 5 million money, I will definitely get out".[257] Her own admission that she was capable of such a feisty response gave the lie to the Defendants' submission that she had been "conditioned to be intimidated" by the Plaintiff through "his pattern of physical (threatened or executed) and non-physical threats".

137 Most damning of all was the testimony of the two lawyers, Mr Lim and Mr Ng. Both were clear and firm in testifying that they had explained to the 1st Defendant the contents of the documents to be signed, that she had acknowledged her understanding, that she had appeared to be acting independently and carefully, and that nothing about the signing of these documents of her demeanour raised any red flags or suggested she might have been under duress.[258] In fact, it was Mr Lim's evidence that the 1st Defendant participated freely in the discussion about the documents to be signed – contrary to the 1st Defendant's assertion that she had felt compelled to keep quiet. Whilst the 1st Defendant claimed that she had merely commented on her payment of income tax without asking the Plaintiff for reimbursement, Mr Lim recalled clearly that it was the 1st Defendant who brought up the fact that she had been paying income tax on the rental from the Property and who asked the Plaintiff to reimburse her $30,000.[259] Mr Lim also observed that the Plaintiff had appeared surprised at this request but had agreed to it.

138 Mr Lim also recalled that in response to his query, the 1st Defendant had confirmed that the Plaintiff was to receive the proceeds of sale of the Property – but that before signing the Power of Attorney, she had "interjected" that the

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257 See transcript of 24 May 2019 at p 75 lines 3 to 10.

258 See e.g. [21] of Mr Lim's AEIC and [33] of Mr Ng's AEIC.

259 [9] of Mr Lim's AEIC.

Plaintiff should compensate her for all the years she had taken care of the Property.[260] Again the Plaintiff agreed to this request – and this was how Mr Lim came to include a provision in the Power of Attorney (clause 5) for the payment of $100,000 to the 1st Defendant out of the net sale proceeds.

139 Mr Lim further recalled that the 1st Defendant was also the one who raised the issue of how she would be protected if the Plaintiff should mismanage the Property and expose her to liability.[261] This was how Mr Lim came to be instructed to prepare the Deed of Immunity. Again, this contrasted with the 1st Defendant's evidence that she had never asked for any such protection.

140 Mr Lim was not shaken in cross-examination on his recollection of the above matters. He also had no reason to lie about any of these things. His evidence thus showed that the 1st Defendant was a willing participant in the discussions on 10 December 2016; that far from being cowed and silent, she was well able to stand up for her own rights and to make demands of the Plaintiff; and that her story at trial about being forced to sign the documents under duress was a pack of lies.

141 I also accepted Mr Lim's evidence that he did not meet with the 1st Defendant on the day she collected the original Power of Attorney from his office, nor did she speak to him personally to tell him she had been forced to sign the documents. Again, there was no reason for him to lie about this. Indeed, as an experienced lawyer of several decades' standing, it would have been quite astonishing if – in the face of such allegations – Mr Lim simply made no response (which was what the 1st Defendant claimed).

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260 [13] of Mr Lim's AEIC.

261 [15] of Mr Lim's AEIC; see also transcript of 21 May 2019 at p 36 lines 8 to 18.

142 In summary, therefore, I was satisfied that the 1st Defendant participated voluntarily in the signing of the Statutory Declaration and the Power of Attorney on 10 December 2016; that she knew very well what these documents were about and what the consequences of signing them were; and that she later sought – falsely - to disavow these documents only because she had allied herself by then with the 2nd Defendant in his scheme to lay claim to the Property. In my view, the Statutory Declaration in particular represented the unambiguous acknowledgement by the 1st Defendant of the Plaintiff's beneficial ownership of the Property, a fact further supported by her voluntary and concurrent execution of the Power of Attorney.

143 In the interests of completeness, I should note that while there was a belated attempt on the 1st Defendant's part to suggest that the Deed of Immunity was also executed under duress,[262] I dismissed this suggestion as being wholly incredible. Not only was such an allegation never pleaded in the Defence and Counterclaim, there was no reason at all why the Plaintiff should have forced or coerced the 1st Defendant to sign a document which was obviously in her interests and against his. That the 1st Defendant could come up with such a ridiculous suggestion in cross-examination simply demonstrated that she had no regard for the truth.

Miscellaneous points

144 I make four final points. Firstly, while the 2nd Defendant tried to place weight on the fact that he was the one who had signed the sale and purchase agreement for the Property, I did not consider this fact to be particularly helpful. I certainly did not see this as being probative of beneficial ownership of the

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262 See transcript of 24 May 2019 at p 84 lines 1 to 6.

Property. This was because on the 2nd Defendant's own evidence, the Plaintiff had for many years entrusted him with most of the negotiations and administrative matters relating to the sale and purchase of various properties. Thus, for example, on the 2nd Defendant's own evidence, in respect of 83 Tras Street, it was he who had attended the public auction and bid successfully for this property; and it was also he who had engaged and dealt with the main contractors for A&A works to this property and obtained the Certificate of Statutory Completion.[263] His signing of the sale and purchase agreement for the Keong Saik Property was therefore consistent with the manner in which he had assisted the Plaintiff in the latter's property acquisitions over the years.

145 For the above reasons, I also gave no weight to the opinion expressed by the architect Mr Lim HL that he thought it "odd" that the Plaintiff should not have dealt with him directly on the A&A works for the Property if the Plaintiff had been its true owner. As for Mr Lim HL's evidence about the 2nd Defendant claiming that he was the owner, I also did not find this evidence of any real substantive value. After all, the Plaintiff too had produced witnesses to say that he had made contemporaneous statements about his ownership of the Property.[264] Such statements in themselves had to be assessed against the documentary evidence and other objective evidence available; and as I have explained, the documentary and other objective evidence in this case plainly supported the Plaintiff's case that he was the beneficial owner.

146 Thirdly, the Defendants contended that it was not believable that the Plaintiff should have asked the 1st Defendant to hold the Property on trust for

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263 [103]-[106] of the 2nd Defendant's AEIC.

264 See e.g. [22] and [24(a)] of Aik Kheng's AEIC.

him when he could have put it in the name of his wife, or registered it under either Medway Realty or Medway Investments. However, I did not think anything much turned on the availability of other persons or entities to hold the Property. I saw no reason to doubt the Plaintiff's explanations[265]: he feared that assets registered in his wife's name would still be seized upon by creditors if they came after him; it did not cross his mind to use Medway Realty or Medway Investments as he was thinking of getting someone who could help him look after what was "a unique red-light house"; and anyway his wife would have had wanted a property in a red-light district registered under her name or under a company associated with her. Such concerns did not apply to the 1st Defendant; and since she was his younger sister, he trusted her.

147 Finally, I noted with regret that a not inconsiderable portion of the Defendants' evidence at trial and their closing submissions was devoted to attacks on the Plaintiff's character. For example, Neo Poh Gek was called as a defence witness even though it was apparent from her AEIC and her testimony in cross-examination that she knew nothing about the beneficial ownership of the Property:[266] indeed, she admitted that the whole purpose of her AEIC was to "show [the Plaintiff's] character".[267] Large swathes of the closing submissions were also devoted to describing the Plaintiff's character in unflattering terms ("selfish and greedy", "hot tempered and callous").[268] With respect, these submissions served no purpose other than to vent the collective spleen of the two Defendants. I did not consider them to be of any probative or

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265 See transcript of 22 May 2019 at p 59 line 20 to p 71 line 17, p 75 line 15 to p 76 line 12.

266 See e.g. transcript of 24 May 2019 at p 27 lines 16 to 18.

267 See transcript of 24 May 2019 at p 27 lines 19 to 25.

268 [375]-[398] of the Defendants' Closing Submissions.

persuasive value in the final consideration of the issue of beneficial ownership of the Property.

Conclusion

148 For the reasons I have explained, I was satisfied that the Plaintiff had proven his case and accordingly entered judgment for him in respect of the reliefs prayed for[269]; specifically –

(a) A declaration that the Plaintiff was the owner of the entire beneficial interest in the Property and that the Property was held by the 1st Defendant wholly on trust for him;

(b) An order that the proceeds of sale of the Property – which were held in court pursuant to ORC 6107 - be paid out to the Plaintiff as the beneficial owner of the Property;

(c) An order that interest should run on these sale proceeds at 5.33% per annum from the date of payment into court (28 September 2017).

149 I also dismissed the Counterclaim.

150 As to the costs of the action, it was not disputed that the Defendants had failed to better the terms of an offer to settle served on them on 10 October 2018. The Plaintiff was therefore entitled to costs on an indemnity basis from that date. After hearing submissions from the parties, I fixed the Plaintiff's costs of the action at $200,000 (excluding disbursement). Disbursements were subsequently agreed between the parties.

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269 [235] of the Plaintiff' Closing Submissions.

Mavis Chionh Sze Chyi
Judicial Commissioner

Philip Jeyaretnam SC, Paras Manohar Lalwani and Elias Benyamin Arun (Dentons Rodyk & Davidson LLP) for the plaintiff;
Lim Tahn Lin Alfred, Lye May-Yee Jaime and Lee Tat Weng, Daniel (Fullerton Law Chambers LLC) for the first and second defendants.
