IN THE APPELLATE DIVISION OF THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2026] SGHC(A) 12

Appellate Division / Civil Appeal No 89 of 2025

Between

Ka Shin Technologies (S) Pte Ltd

… *Appellant*

And

The Estate of Tan Kiat Lan

… *Respondent*

In the matter of Suit No 737 of 2019

Between

Ka Shin Technologies (S) Pte Ltd

… *Plaintiff*

And

The Estate of Tan Kiat Lan

… *Defendant*

And

(1) Integrated Power Solutions Pte Ltd
(2) Kok Wai Ling
(3) Chua Kwee Choo

… *Third Parties*

GROUNDS OF DECISION

[Damages — Proof of Damages]

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v
The Estate of Tan Kiat Lan, deceased

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Woo Bih Li JAD, Kannan Ramesh JAD and Debbie Ong Siew Ling JAD
6 March 2026

24 April 2026

Woo Bih Li JAD (delivering the grounds of decision of the court):

1 Where the payment that is received by an employer from a customer for goods that have yet to be delivered is siphoned by an employee, can the employer claim damages for the sum siphoned despite there being no demonstrable loss? On the claim for the specific head of loss as it was presented to us, we answered in the negative, reaffirming the fundamental principle that a claimant must sufficiently prove the existence and quantum of its loss to succeed in its claim.

2 The present appeal was brought against the decision of the judge ("Judge") in *Ka Shin Technologies (S) Pte Ltd v The estate of Tan Kiat Lan, deceased* [2025] SGHC 160 ("Judgment") in HC/S 737/2019 ("S 737"). The suit involved a claim by Ka Shin Technologies (S) Pte Ltd ("KST") against the defendant, Ms Tan Kiat Lan ("Doreen"), its former Marketing Manager. KST alleged that Doreen had orchestrated a fraudulent scheme to siphon moneys

from KST ("Scheme") in collusion with one its suppliers, Integrated Power Solutions Pte Ltd ("IPS"). The specific loss claimed was the moneys that were siphoned by Doreen from KST through IPS.

3 The Judge found that the Scheme existed but determined that KST had suffered loss on only 27 of the 236 fraudulent transactions pleaded, for which it had already been compensated through a settlement agreement with IPS. As KST had not proved its loss in respect of the remaining 209 transactions, the claim failed. KST appealed against the Judge's decision in AD/CA 89/2025.

4 On 6 March 2026, having heard the parties' submissions, we saw no reason to disturb the Judge's findings and dismissed the appeal. We now provide our full grounds.

Facts

5 The facts are set out comprehensively in the Judgment. We summarise them here.

Parties to the dispute

6 The appellant, KST, is a Singapore-incorporated precision engineering company which manufactures and produces component parts for various industries. As Doreen passed away a few days after the writ of summons for S 737 was filed and served on her by KST, her estate ("Estate") was substituted as the first defendant.

7 Following the commencement of S 737, the Estate brought third party proceedings against IPS, Ms Kok Wai Ling ("Ms Kok") and Ms Chua Kwee Choo ("Sheena") for an indemnity or contribution should KST succeed in its

claim. At the material time, Ms Kok was a Manager of IPS and was personally involved in the Scheme whilst Sheena was a Senior Sales Coordinator in the sales team led by Doreen at KST.

8 KST had also initially sued another party, Classic Precision Tooling Pte Ltd, but discontinued that action. It also discontinued its suit against IPS in view of a settlement agreement.

The Scheme

9 The existence and operation of the Scheme is undisputed, as established by Ms Kok's evidence and accepted by the Estate. According to Ms Kok, Doreen proposed the Scheme to her in 2012, claiming that a representative from one of KST's customers had suggested it as a method to generate additional revenue. Although Ms Kok doubted the legality of the Scheme, Doreen assured her that her superiors at KST had approved it. Ms Kok eventually agreed to participate in the Scheme when Doreen confided in her that she was struggling to meet her sales targets.

10 Doreen held the position of Marketing Manager, having worked with KST for over two decades since beginning her employment on 1 April 2001. Her duties included generating sales, managing customers assigned to her by KST (including liaising directly with customer representatives), and managing KST's suppliers and vendors (including purchasing component parts on behalf of KST for resale to customers). As will be explained shortly, this role enabled her to manipulate the usual sales processes and procedures to create the Scheme.

11 The usual sales process at KST operated as follows:

(a) **Quotation stage:** KST's customer would request a quotation. As far as possible, customer orders were fulfilled by KST's in-house production facility and subsidiary, Ka Shin Industries Pte Ltd ("KSI"). Where KSI could not fulfil the customer orders, quotations were obtained from third-party suppliers, such as IPS, before KST issued its quotation to the customer.

(b) **Purchase order:** If KST's quotations were accepted by the customer, the customer would issue a purchase order ("Customer PO") to KST.

(c) **Order processing:** Upon receiving the Customer PO, KST would input its details into a Systems Applications and Products ("SAP") system to generate a corresponding Sales Order ("SO"). The SO was an internal document tagged to the Customer PO. The Sales Team would instruct the Purchasing Department whether to fulfil the Customer PO through KSI or third-party suppliers. KST would then issue purchase orders ("KST POs") to the designated suppliers, occasionally using multiple suppliers for a single Customer PO item.

(d) **Delivery arrangements:** For KSI-fulfilled orders, delivery would be made to the customer by either KST or KSI. For third party supplier-fulfilled orders, delivery would be made by the supplier to KST, after which KST would deliver to the customer. In some instances, the Sales Manager would collect the goods directly from the supplier and deliver it to the customer as part of KST's close working relationship with its customers.

(e) **Invoicing:** Once the goods were delivered to the customer, KST's Finance Department would issue a tax invoice to the customer and make payment to the supplier.

12 The Scheme exploited KST's normal sales processes and involved three of KST's customers: SMC Manufacturing (Singapore) Pte Ltd ("SMC"), Singapore Kobe Pte Ltd ("Kobe"), and Becton Dickinson Medical (S) Pte Ltd ("BD"). The Scheme involved the following steps:

(a) **Generation of purchase orders:** Customer representatives generated purchase orders in favour of KST. By way of background, the Estate argues that kickbacks were paid by Doreen to customer representatives to induce them to do so. KST disputes this allegation and there is no finding of complicity by any customer. In any event, this allegation is not material to the present proceedings.

(b) **Creation of fraudulent KST purchase orders:** Doreen then caused corresponding fraudulent KST POs to be issued to IPS (instead of KSI or any other supplier), which she tagged to the Customer POs. Doreen would deduct a margin for KST from the purchase price stated in the Customer PO when creating the KST PO, which prevented KST's finance department from being alerted to any loss.

(c) **Avoidance of system detection:** The SAP system did not alert the Finance Department that the orders to IPS were questionable. Since customer orders are sometimes fulfilled by more than one supplier, and KST's profit margin remained positive, none of the transactions were flagged as suspicious.

(d) **Non-performance and fabricated documentation:** IPS did not perform any of the supply or the works and services specified in the fraudulent KST POs. We note that the nature of the fraudulent KST POs remains unclear. Whilst parties referred to "works and services", it is unclear whether these orders actually involved the performance of works and services or simply the supply of goods. For present purposes, it is immaterial whether the fraudulent KST POs involved works and services and for ease of reference, we refer to the scope of the fraudulent KST POs as "Specified Supply". IPS issued invoices and delivery orders to charge KST for the Specified Supply, notwithstanding that no goods were supplied by IPS. In some cases, either KSI or another external third-party supplier had actually performed the Specified Supply to fulfil the Customer PO, that is to say, the customer received the goods but KST paid twice – once to IPS and once to the actual supplier.

(e) **Authorisation of delivery and payments:** Leveraging her authority as Marketing Manager, Doreen authorised KST to pay IPS for the Specified Supply by acknowledging (or instructing KST's employees to acknowledge) the invoices and delivery orders from IPS, thereby indicating that KST had received goods from IPS. Doreen did this by collecting the parts from IPS and "delivering" them to the customer, and forwarding the IPS delivery orders to Sheena with her signature confirming "delivery" to the customer.

(f) **Payment and kickbacks:** KST would then make payment to IPS and Doreen would request that IPS pay her 90% of the payment received from KST. Throughout this process, KST received payment from the three customers in respect of all the transactions in question.

Decision below

13 To recapitulate, the Judge dismissed KST's claim against the Estate and, consequently, the Estate's contribution claims against all third parties. Although KST successfully proved the existence of the Scheme and established that it had suffered losses in relation to 27 out of 236 transactions, the Judge found that KST had already been compensated for these losses through its settlement agreement with IPS because such losses were computed at $27,955 and it had received $60,000 from IPS pursuant to the settlement agreement.

Critical distinction: Genuine vs non-genuine supply transactions

14 The Judge established that the Scheme existed and was perpetrated by Doreen and IPS, based primarily on Ms Kok's comprehensive admission in her evidence which was accepted by the Estate (Judgment at [32]–[35]). The Judge rejected the Estate's defence that KST's management and/or Sheena were aware of, consented to and participated in the Scheme (Judgment at [36]–[39] and [69]–[72]).

15 The Judge came to the view that the Scheme consisted of two legs (Judgment at [35]):

(a) the first leg operated between KST and its customers (*eg*, SMC, Kobe and BD); and

(b) the second leg operated between KST and IPS.

16 In particular, the Judge made a crucial distinction between two types of fraudulent transactions perpetrated under the Scheme (Judgment at [17]):

(a) Genuine supply transactions: where the Specified Supply was fulfilled by another supplier (other than IPS), resulting in KST being double-billed for the same goods which was delivered to KST's customers. Based on the evidence, it was undisputed that there were 27 genuine supply transactions; and

(b) Non-genuine supply transactions: where no goods were fulfilled by any supplier at all, *ie*, the 209 transactions.

17 This distinction was fundamental to determining actual loss as claimed. In genuine supply transactions, KST suffered real loss through double payment – *ie*, being billed once by a genuine supplier (which was not IPS) and once by IPS for the same goods. However, in non-genuine supply transactions, KST was only billed once by IPS and KST's customers paid for goods never delivered, hence the loss fell on KST's customers rather than KST.

18 For non-genuine supply transactions, the Judge found that KST actually profited as Doreen had ensured that the amounts paid by KST to IPS were less than customer payments, using KST as a conduit to defraud customers whilst leaving small profits to KST to avoid detection. Therefore, the Judge reasoned that in order for KST to prove that it had suffered loss in respect of the 209 transactions, KST would have to show that there was also double billing and therefore double payment by KST for each of these transactions. To do this, KST would have to show a genuine supply to KST by a supplier who was not IPS as that would mean that KST had paid both that supplier and IPS for the same goods (Judgment at [42]–[47]).

KST had not discharged its burden of proof

19 The Judge found that KST failed to prove genuine supply and hence double billing for the 209 transactions despite being given multiple opportunities to do so. Instead, KST focused its submissions on whether the fraud in relation to the second leg had been perpetrated by Doreen and IPS against KST. However, this was not controversial. The real controversy was whether KST could establish genuine supply such that it could prove loss on account of the Scheme (Judgment at [41]).

20 The Judge reasoned that KST could have demonstrated genuine supply through documentation such as purchase orders to genuine suppliers for the Specified Supply, delivery orders and invoices issued by genuine suppliers to KST to bill for the Specified Supply, and payment records showing payments made by KST to genuine suppliers for the said invoices (Judgment at [48]). However, KST was not able to do so and this was the case even after it had been given additional time to do so (Judgment at [51]).

21 A detailed analysis of 30 sample transactions from KST's SAP system, revealed only one supplier (*ie*, IPS) per line item for 27 of the sample transactions, but two suppliers for the remaining three sample transactions, which were already part of the 27 genuine supply transactions. As there was no other source of information available and no alternative supplier recorded in the SAP system, the inference was that there was no genuine supply for the 209 transactions (Judgment at [52]–[59]). Additionally, the Judge was not inclined to accept the evidence from two of KST's customers, *ie*, SMC and Kobe that they had received the goods in relation to the remaining transactions, as their representatives did not obtain personal confirmation from relevant staff within their companies as to whether goods had actually been received from KST

(Judgment at [57]–[58]). The Judge also reasoned that KST could not shift the burden of proof to the Estate by arguing that the Estate had not proved the goods were not delivered as the burden of proof was on KST to prove genuine supply and hence loss from double billing in respect of the pleaded transactions (Judgment at [59]).

22 Even when granted a final opportunity during the second tranche of trial ten months later, KST produced only five exemplar transactions which also failed to demonstrate genuine supply (Judgment at [60]–[62]). Accordingly, the Judge concluded that there was no genuine supply and double billing in relation to the 209 transactions and KST had not suffered loss in respect of these transactions.

Assessment of legal claims

23 Based on the above factual findings, the Judge proceeded to analyse the legal claims brought by KST which included breach of employment duties, conspiracy by unlawful means, breach of confidence, unjust enrichment and unlawful means conspiracy.

24 The Judge wholly rejected the breach of confidence claim due to insufficient particularisation (Judgment at [110]–[115]) and the conversion claim on the basis that it was legally unsustainable (Judgment at [124]–[126]). However, regarding the 27 non-genuine supply transactions, the Judge found that Doreen had (a) breached her employment duties owed to KST, (b) been unjustly enriched through the Scheme, and (c) engaged in a conspiracy by unlawful means with IPS (Judgment at [127]), establishing a proven loss of $27,955. As mentioned, despite these successful claims, KST was unable to recover this sum from the Estate because it had already received $60,000

through its settlement agreement with IPS, and further recovery would constitute impermissible double recovery (Judgment at [135]–[139]). Consequently, the Judge did not need to address the Estate's third-party claims and he dismissed them (Judgment at [140]).

Parties' submissions on appeal

KST's arguments

25 KST appealed against the Judge's decision on two grounds:

(a) first, that the Judge erred in finding that KST had not proven its losses resulting from the 236 transactions pleaded; and

(b) second, that the Judge erred in finding that KST had not suffered any loss in consequence of the fraud.

26 In particular, KST submitted that the distinction between "genuine" and "non-genuine" transactions, and the consequent issue of whether KST was double-billed in respect of these transactions was a "red herring", "artificial", "plainly wrong and manifestly against the weight of the evidence". In this regard, KST argued that the only "non-genuine transactions" were the fraudulent transactions concocted by Doreen with IPS and Ms Kok. In any case, KST argued that representatives of its customers, SMC and Kobe, had given evidence in court that the orders placed with KST were delivered, paid for and used over the six-year period, and thus there was genuine supply by KST to its customers.

27 KST further argued that even if it was mistakenly paid by its customers, this would be a matter of restitution between KST and its customers, and the Estate could not be permitted to benefit from this situation. KST contended that

the Judge was wrong to allow the Estate to retain the illegal and fraudulent gains from Doreen's fraud while depriving KST of recovery, and equally wrong in setting off KST's losses against the settlement reached with IPS.

28 Finally, KST argued that it suffered loss through payments made to IPS, which in turn paid 90% of those amounts to Doreen, resulting in Doreen receiving a substantial sum. On the issue of the actual quantum paid by IPS to Doreen, different figures were mentioned. In its Appellant's Case, KST alleged that Doreen had received $874,179.42. In its Reply, it alleged that Doreen had received $923,650.63. On the other hand, the Estate contended that the sum should be $851,550.95. However, as will be discussed later, the differences were not material given our finding that, based on the claim as presented by KST, its claim in respect of the 209 transactions failed.

The Estate's arguments

29 The Estate maintained that the Judge correctly distinguished between genuine supply transactions and non-genuine supply transactions.

30 The Estate emphasised that the burden of proving loss and in particular, double billing by KST rested with KST and not the Estate. In this regard, the Estate contended that KST had failed to discharge its burden of proof. The Estate argued that the evidence by KST's customer representatives did not assist KST in proving loss as it was inadmissible hearsay, given that they lacked personal knowledge of the deliveries. Further, they were not entitled to rely on the business records exception under s 32(1)(*b*)(*i*) of the Evidence Act 1893 (2020 Rev Ed) ("EA") as no business records from SMC or Kobe were placed before the court during the trial. Moreover, the Estate argued that even taking the customer representatives' evidence at its highest and assuming that SMC

and Kobe had received goods under the 209 transactions, this did not assist KST in proving that it suffered loss as there was simply no evidence of the genuine suppliers or that KST had in fact paid for the genuine supply.

31 Finally, the Estate submitted that the Judge was correct in holding that KST could not recover an amount exceeding its proven loss.

Issues to be determined

32 The sole issue before the court was whether KST had proven its loss as claimed in respect of the 209 transactions.

KST failed to discharge its burden of proof

33 In our judgment, the Judge did not err in finding that KST had failed to prove that it had paid a genuine supplier (in addition to IPS) and been double-billed in respect of the 209 transactions.

KST had failed to provide adequate documentary evidence

34 It was clear to us that KST had failed to adduce any corroborating evidence that it had been double-billed in respect of the 209 transactions.

35 The absence of documentary evidence to establish this was particularly telling given that KST had no trouble proving that it had received a genuine supply and been double-billed in respect of the 27 transactions. In respect of these 27 transactions, Mr Lee exhibited in his affidavit the fraudulent KST purchase orders to IPS, and the corresponding KST purchase orders issued to KSI (*ie*, the genuine supplier), together with comprehensive supporting documentation including invoices and delivery orders. This was accepted even

by the Estate. These transactions served as a stark contrast to the 209 transactions, demonstrating that when genuine supply existed, KST was capable of producing the necessary documentary evidence.

36 In fact, KST's sophisticated accounting infrastructure, which utilises the SAP system, confirmed that KST was not double-billed for the 209 transactions, as there was no evidence of genuine supply even within a sample of transactions. Mr Soh Seng Min ("Mr Soh"), a Manager from AFON Technologies Pte Ltd which supplied KST's SAP software, conducted a detailed check of 30 sample Customer POs in the SAP system. His findings were revealing: for three samples which were already accounted for as part of the 27 genuine supply transactions, the SAP system records showed that two orders to suppliers were generated to fulfil the same Customer PO – one to KSI and one to IPS. In contrast, for the remaining sampled transactions, there was only one supplier (*ie*, IPS) for each line item. This pattern strongly supported the inference that there was no genuine supply for the 209 transactions, as any genuine supply would have been reflected in the system.

37 Further, despite being given more than eight months (*ie*, December 2023 to September 2024) to search for and produce documentation proving double billing for the 209 transactions, KST still could not produce a single shred of cogent evidence. In Mr Lee's supplemental affidavit filed for the second tranche of trial, KST produced documents relating to five sample transactions involving SMC and urged the court to take these five transactions as exemplars for the rest of the fraudulent transactions.

38 Not only was this sample size inadequate, the five sample transactions failed to demonstrate evidence of genuine supply and double billing, as

eventually acknowledged by Mr Lee during trial. When the Estate's counsel compared the items purportedly supplied by IPS with those supplied by other named genuine suppliers (as alleged by KST in Mr Lee's affidavit), it became apparent that the items purportedly supplied by IPS did not match those supplied by the other suppliers in the five transactions.

39 We agree with the Estate that genuine supply and double billing in respect of the 209 transactions would have left a paper trail. In fact, based on evidence from KST's own employees:

(a) Where a Customer PO was fulfilled by KSI, there would have been a work order, and KSI would have invoiced KST for the work done. However, KSI's records did not show that it supplied and billed KST for those transactions, despite sharing a common SAP system with KST.

(b) Where a Customer PO was fulfilled by an external third-party supplier, the Purchasing Department would issue a KST PO to the supplier and make the input into the SAP system. When the component parts were produced by the designated supplier, the designated supplier would furnish a delivery order and its tax invoice. However, none of these documents were adduced by KST.

40 Moreover, KST's own payment process would have provided additional evidence of genuine supply and double billing. According to Mr Lee's evidence, the Finance Department would check the supplier's invoice, ensure proper stamping and signing, and prepare a payment voucher for his approval. He would then review the payment voucher before approving the online bank transfer to the supplier. Given that KST's payment procedure was triggered by supplier invoices, it was highly improbable that any payment for genuine supply

would be made without genuine supplier invoices or supporting documents. The presence of these workflows, which require multiple levels of documentation, makes the complete absence of documentation for genuine suppliers and double billing all the more inexplicable if such suppliers truly existed.

41 Even witnesses from KST appeared to acknowledge that they did not have personal knowledge as to whether KST had either received a genuine supply and been double-billed. Ms Maslindah Kasman, KST's Finance Manager, confirmed from her checks on the SAP system that for most of the transactions with IPS, there was no record of another supplier. Tellingly, Ms Maslindah admitted in her affidavit that KST incurred no loss on the transactions to explain why none of the transactions triggered the SAP system's automatic flags for negative profit margins. Further, when asked directly by the Judge whether the 209 transactions involved genuine supply, Mr Lee replied that he ultimately did not know and that all he knew was that "IPS didn't do any work".

42 On appeal, KST attempted to explain that the Judge placed undue reliance on the SAP system, contending that he expected the system to capture information on third-party suppliers if they existed. KST further argued that the Judge did not consider evidence that the SAP system was not designed to prevent fraud, and that Doreen was able to manipulate it, explaining the information gaps.

43 However, in our view, this argument was a misconceived attempt to explain away KST's own failures to discharge its burden of proof. First, we find it hard to believe that the SAP system could be manipulated to such an extent, especially since there was clear proof of genuine supply and double billing in

relation to the 27 transactions. Second, even if Doreen had manipulated the system to such an extent, it was incumbent on KST to explain how she did so rather than make a bare assertion. In this regard, while we acknowledged that the SAP system could theoretically be manipulated given Doreen's role in directing the Purchasing Department as to the particulars to be inputted, we were nonetheless of the view that even in the absence of genuine purchase orders to genuine suppliers, there would at the very least have been documentary evidence of payments effected through bank transfers or cheques to the purported genuine suppliers. However, no such evidence was adduced.

SMC and Kobe's evidence failed to establish genuine supply to KST and double billing

44 Instead, both on appeal and at trial, KST's arguments focused on how KST's witnesses, who were customer representatives of SMC and Kobe, had testified that they had received genuine supply in respect of the 209 transactions. In particular, KST called Mr Chow Tat Foong ("Mr Chow"), SMC's Director and General Manager, and Mr Masatoshi Ando ("Mr Ando"), Kobe's Managing Director, to testify in the second tranche of trial that their companies had received genuine supply.

45 In their AEICs, both witnesses confirmed that their respective companies received the goods from KST based on their computer records and accounting systems. As evidence, both witnesses adduced Excel tables showing the date of purchase order, purchase order number, receipt date, cost and payment date for the fraudulent transactions. However, they did not adduce any source documents.

46 At trial, both witnesses acknowledged they were not personally involved in receiving and checking goods from suppliers, including KST. Mr Ando confirmed that he had not verified whether the goods were actually received, instead relying on computer records. He further admitted that the table was prepared by his lawyers and not by him personally. Similarly, Mr Chow acknowledged that he did not interview anyone regarding each of SMC's invoices, did not pull out physical purchase orders and invoices to check, and did not personally approve the purchase orders. He further confirmed that he did not check the information personally but asked his staff to verify it based on computer records.

47 On appeal, KST contended that SMC and Kobe's representatives gave credible evidence that orders placed with KST were delivered, paid for and used over the six-year period when the Scheme was in operation. According to KST, these witnesses testified that the components supplied were crucial to their production processes and that they could not have fulfilled their manufacturing obligations without them. KST further argued that the absence of any complaints regarding non-delivery from either SMC or Kobe during this extended period demonstrated that they received genuine supply from KST.

48 In our view, the evidence of Mr Chow and Mr Ando was not good enough to establish KST's claim for two reasons. First, as they did not personally witness receipt of goods, their evidence constituted hearsay. Further, as they did not rely on any business records in giving their testimony, they could not avail themselves of the business records exception under s 32(1)(*b*) of the EA.

49 Second, even if their evidence was admissible, the weight accorded to it would be limited because the point was whether KST suffered any loss for these transactions as claimed. Based on SMC and Kobe's evidence, KST's focus was to establish that the customers had received the supply ordered. At first blush, it appeared that what KST was saying was that the supply to its customers would lead to the inference that KST had in turn paid genuine suppliers for the goods which it eventually supplied to its customers. Since KST had also paid for the same goods to IPS which IPS did not supply, there would have been double billing and consequent loss to KST. However, KST intentionally steered away from specifically alleging that it had been double-billed for the 209 transactions. Instead, as mentioned at [26] above, KST's argument was that the issue of genuine and non-genuine supply transactions and the consequent issue of double billing was a red herring. Despite making this allegation, KST did not explain how it could be said to have suffered a loss if there was no double billing.

50 It appeared that KST's argument on the loss it suffered was premised solely on the fact that it had paid moneys to IPS on account of the fraudulent transactions. However, this missed the point that in return, KST had been paid by its customers (in excess of what it had paid to IPS) such that, in the round, it had not suffered loss in respect of the 209 transactions. Thus, as explained above, KST had to prove that it had been double-billed in respect of the 209 transactions. Having failed to do so, its claim necessarily failed.

KST's liability to its customers

51 If, as the Judge had found, there was no delivery of goods to KST's customers in respect of the 209 transactions, KST would be in breach of its contracts with customers and exposed to potential liability to these customers.

In that case, one possibility would be a claim by KST for an indemnity from the Estate, subject to the point discussed below at [53].

52 However, that was not the basis of KST's claim against the Estate. Indeed, KST was not suggesting that it might be liable to its customers for non-delivery. This was because it was asserting that it had supplied the goods for the 209 transactions. This position meant that the loss claimed was the moneys that were siphoned by Doreen. Notably, it did not run an alternative case below on the basis that the customers were in fact not supplied. Given the case that was run, the Judge found that KST had failed to prove its loss. But this did not mean that any liability of KST to its customers was not a loss or damage to KST. We need not elaborate on this potential liability as that was not the basis of KST's claim at the trial or on appeal and no arguments were made thereon.

53 Nevertheless, and for completeness, we note that at the time when KST filed its action and even up to the hearing of the trial, there was no claim by any of KST's customers. In that respect, any claim by KST for an indemnity against any potential liability might have been premature. In *Freight Connect (S) Pte Ltd v Paragon Shipping Pte Ltd* [2015] 5 SLR 178, the Court of Appeal held at [55] that where a plaintiff faces a possible claim by a third party who has not yet made such a claim, it would not be appropriate to order the defendant to indemnify the plaintiff against any loss it may suffer *vis-à-vis* the third party. The court cited *Trans Trust SPRL v Danubian Trading Co Ltd* [1952] 2 QB 297 with apparent approval at [52], where the English Court of Appeal refused to grant a declaration of indemnity in favour of a plaintiff for potential liability to third parties that could not be quantified at the time of hearing (at 303):

> … The problem can be shortly stated. B sues C for breach of contract. The court holds that B is entitled as against C to recover damages in respect of B's liability to A arising out of C's breach of contract. At the time of the hearing B is not in a position to call evidence to quantify this damage. There may be some cases in which the court can state a principle which makes the subsequent quantification of this damage simple. On the other hand, difficult questions may arise, depending, for example, ***(1) on any variation of the terms of the contract between B and C as between B and A, (2) on the question whether A took the steps which should have been taken to mitigate damage.*** No declarations ought to prejudice or preclude a proper determination of these issues, on which the defendants should be entitled to be heard. It might, as it seems to me, be more satisfactory if there were ***liberty to apply for directions as to the determination of these issues, if any, and quantification of damages under this head as between plaintiffs and defendants, should disputes arise***. Some order in this form, at any rate, in some cases, might be ***more satisfactory than a declaration in the form ordered***.
>
> [emphasis added in bold italics]

KST was not entitled to double recovery

54 Finally, KST argued against double recovery by contending that the Judge was wrong to offset KST's loss through the sums received from the settlement agreement with IPS, arguing that the settlement was only between KST and IPS and did not purport to release any third party from any liability that it may independently have. On this basis, KST asserted that it had a separate cause of action against both IPS and Doreen. While we agree that the settlement agreement did not release Doreen from liability, it did preclude KST from recovering losses from her in respect of the 27 transactions due to the rule against double recovery since it had received $60,000 from IPS. KST had thus conflated the distinct concepts of liability and damages.

55 In this regard, it is trite that a claimant cannot recover in the aggregate from one or more defendants an amount in excess of his loss. In *Lim Teck Cheng v Wyno Marine Pte Ltd* [1999] 3 SLR(R) 543, the Court of Appeal at [29] cited with approval the Privy Council's statement in *Personal Representatives of Tang Man Sit v Capacious Investments Ltd* [1996] AC 514 ("*Tang Man Sit*") at 522:

> … Part satisfaction of a judgment against one person does not operate as a bar to the plaintiff thereafter bringing an action against another who is also liable, ***but it does operate to reduce the amount recoverable in the second action***. …
>
> [emphasis added in bold italics]

56 In *Heaton v AXA Equity and Law Life Assurance Society plc* [2002] 2 AC 329, the House of Lords, after affirming *Tang Man Sit* at [64], stated at [65] that if a tortfeasor settles the claimant's claim by paying him a sum which fully satisfies his right to damages for loss and injury, the victim cannot then sue any concurrent tortfeasor for damages for the *same* loss and injury. This principle applies equally to contractual claims where multiple defendants are sued for the same harm caused to the claimant.

57 The applicable legal principles against double recovery are well-established. In *Lo Kok Jong v Eng Beng* [2024] 1 SLR 964, the Court of Appeal upheld the general rule against double recovery, reasoning that damages are compensatory in nature and are intended to compensate a plaintiff for the actual loss he has suffered and no further (at [14]). The court recognised two established exceptions to the rule against double recovery: first, under the "Insurance Exception", where a plaintiff received an insurance payout for which he or she had paid the premiums, such payouts were not deductible from the damages payable; and second, under the "Benevolence Exception", where a

plaintiff received money from the benevolence of third parties, the money received was similarly not deductible from the damages payable. However, the court noted that the list of exceptions remained open (at [17]).

58 In the present case, KST did not rely on either exception or seek to establish a new exception. The settlement payment from IPS was neither an insurance payout nor a benevolent gift, but rather compensation for the very losses KST now sought to recover from Doreen. Therefore, the rule against double recovery applied.

Conclusion

59 For the foregoing reasons, we dismissed the appeal with costs to the Estate fixed at $35,000 inclusive of disbursements, with the usual consequential orders to apply.

Woo Bih Li
Judge of the Appellate Division

Kannan Ramesh
Judge of the Appellate Division

Debbie Ong Siew Ling
Judge of the Appellate Division

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