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

[2025] SGHCR 38

Originating Claim No 585 of 2025 (Summons No 2515 of 2025)

Between

Nasrat Lucas Muzayyin

… *Claimant*

And

(1) The Tyrell Solution Private Limited
(2) Tyrell Offshore Solutions Private Limited
(3) Peter James Bartlett

… *Defendants*

GROUNDS OF DECISION

[Limitation of actions — Declarations — Whether claim involves a cause of action]
[Limitation of actions — Particular causes of action — Contract — Whether claim is founded on a contract]
[Limitation of actions — Particular causes of action — Contract — When cause of action accrued]

TABLE OF CONTENTS

INTRODUCTION **1**

BACKGROUND **2**

ACQUISITION OF RUBICON AND THE ALLEGED BROKERING FEE AGREEMENT 3

DISPUTED LOAN AGREEMENT 5

ATTEMPTED ENFORCEMENT OF THE DISPUTED LOAN AGREEMENT 7

PRESENT PROCEEDINGS 8

APPLICATION TO STRIKE OUT THE CLAIMS **10**

ANALYSIS **13**

LIMITATION ARGUMENTS 13

Claim for a declaration that the Disputed Loan Agreement is unenforceable *13*

Claim for a declaration that TSPL is estopped from enforcing the Disputed Loan Agreement *25*

Alternative claim for TOSPL to pay the Claimant USD 700,000 under the Alleged Brokering Fee Agreement, in the event the court finds that the Disputed Loan Agreement is effective *26*

OTHER ARGUMENTS 28

CONCLUSION **30**

Version No 1: 10 Dec 2025 (09:39 hrs)

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Nasrat Lucas Muzayyin
v
The Tyrell Solution Pte Ltd and others

[2025] SGHCR 38

General Division of the High Court — Originating Claim No 585 of 2025
(Summons No 2515 of 2025)
AR Elton Tan Xue Yang
1 October, 21 November 2025

10 December 2025

AR Elton Tan Xue Yang:

Introduction

1 This was an application by the first and second defendants to strike out the claims against them on the principal basis that the claims were time-barred. The claims involved declarations that a loan agreement entered into by the claimant as borrower and the first defendant as lender was unenforceable, because the agreement was a sham and parties had no intention to enter into legal relations, and that the first defendant was estopped from enforcing the agreement against the claimant. The claimant also brought an alternative claim, applicable only in the event that the court found the loan agreement to be enforceable, for the second defendant to pay the claimant his share of a brokering fee under a separate agreement. The claimant had believed certain sums he received to be his agreed share of the brokering fee, and if those sums

had in fact been a loan extended to him under the loan agreement, then it must follow that he had not received his share of the brokering fee.

2 The defendants' application raised the question of whether these claims fell within the scope of s 6 of the Limitation Act 1959 (the "Limitation Act"); specifically, whether they were actions "founded on a contract" and involved a "cause of action" within the meaning of s 6, and if so, when the cause of action arose. This in turn required consideration of the relevance of particular features of declarations, which are "formal statement[s] by a court pronouncing upon the existence or non-existence of a legal state of affairs" (Jeremy Woolf, *Zamir & Woolf: The Declaratory Judgment* (Sweet & Maxwell, 4th Ed, 2011) ("*Zamir & Woolf*") at para 1-02), in the context of limitation.

Background

3 The claimant, Mr Nasrat Lucas Muzayyin (the "Claimant"), is a shareholder and director of Sebrina Holdings Pte Ltd ("SHPL").[1]

4 The first defendant, The Tyrell Solution Private Limited ("TSPL"), is the sole shareholder of the second defendant, Tyrell Offshore Solutions Private Limited ("TOSPL").[2] The third defendant is Mr Peter James Bartlett ("Mr Bartlett"). Mr Bartlett has not participated in this litigation so far. For convenience, and fully recognising that Mr Bartlett is formally a defendant, I will refer to TSPL and TOSPL as the "Defendants".

---

1 Statement of Claim dated 25 July 2025 ("SOC"), para 1; Defence dated 20 August 2025 ("Defence"), para 2.

2 SOC, para 2; Defence, para 3.

Version No 1: 10 Dec 2025 (09:39 hrs)

5 According to the Claimant, he has had a long relationship and many business dealings with Mr Bartlett over the years. The Claimant believed Mr Bartlett to be the representative, controlling mind and ultimate beneficial owner of the Defendants, and all times Mr Bartlett represented to the Claimant that he was in such a position. While one Ms Thiam Xiu Min, Audrey ("Ms Thiam") was the sole shareholder and director of TSPL and a director of TOSPL, Ms Thiam was at all material times a nominee director of the Defendants and was not the beneficial owner of the shares in TSPL.[3] The Defendants denied all of this. Their position was that neither of the Defendants had any beneficial owner or undisclosed principal and that all material decisions for the Defendants could only be made with the concurrence of Ms Thiam.[4]

Acquisition of Rubicon and the Alleged Brokering Fee Agreement

6 Mr Bartlett incorporated TSPL and TOSPL on 16 March 2017 and 10 October 2017 respectively.[5] The incorporation of TOSPL was in anticipation of an investment with SHPL for the acquisition of a group of companies called "Rubicon", which owned four floating production storage and offloading vehicles.[6] The intention was for a new entity known as "Faro" to be set up to facilitate the acquisition of Rubicon. SHPL and another company Oro Development Pte Ltd ("Oro"), which was owned by one Mr Roger Chia, would provide all the funding for the acquisition, amounting to more than USD 1.5m, through Faro. After SHPL and Oro received the agreed returns on their

---

3 SOC, paras 3 to 5.

4 Defence, paras 4 to 6.

5 SOC, paras 5(a) and 5(b).

6 SOC, paras 5(c) and 6; Defence, para 10.

Version No 1: 10 Dec 2025 (09:39 hrs)

respective investments in Faro (being their capital investments plus 15%) (the "Agreed Returns"), TOSPL would then be issued preference shares in Faro.[7]

7 According to the Claimant, at around the time the acquisition of Rubicon was being negotiated in mid to late 2017, Mr Bartlett requested a referral or brokering fee for his role in identifying the deal and assisting in the negotiations. The Claimant disagreed that Mr Bartlett should get the lion's share of any brokering fee because it was the Claimant who had provided funding (through SHPL) and made other efforts to get the deal done. Following discussions, the Claimant and Mr Bartlett agreed that a USD 900,000 brokering fee would be paid, out of which USD 700,000 would be paid to the Claimant and USD 200,000 to Mr Bartlett. Crucially, the Claimant also alleged that there was an agreement by the Claimant, Mr Bartlett and TOSPL that the brokering fee of USD 900,000 would be paid by Faro to TOSPL, and TOSPL would pay the Claimant USD 700,000 and Mr Bartlett USD 200,000 (the "Alleged Brokering Fee Agreement").[8] The Defendants denied that there was any agreement to pay a brokering fee to anyone apart from TOSPL, and that if the Alleged Brokering Fee Agreement existed, it was an agreement only between the Claimant and Mr Bartlett.[9]

8 In November 2017, a service agreement for Faro to pay USD 900,000 to TOSPL for certain advisory services provided by TOSPL was signed by the

---

7 SOC, para 6(a) to (c); Defence, paras 13 to 15.

8 SOC, para 7.

9 Defence, paras 16(c) (and (f).

Version No 1: 10 Dec 2025 (09:39 hrs)

Claimant for Faro and Ms Thiam for TSPL.[10] Faro paid a total of USD 900,000 to TOSPL on 10 November 2017 and 7 December 2017.[11]

9 The acquisition of Rubicon by Faro was completed on 1 December 2017. Rubicon started to do very well and by around April 2018, the Agreed Returns were achieved. Faro then issued shares to TOSPL, such that Faro's shareholders were SHPL (51%), Oro (15.3%) and TOSPL (33.7%).[12]

Disputed Loan Agreement

10 According to the Claimant, around May to July 2018, the Claimant and Mr Bartlett discussed the Claimant's share of the brokering fee, including where and when the Claimant's share should be paid. Mr Bartlett informed the Claimant that instead of TOSPL paying the Claimant's share of the brokering fee to the Claimant, it would be paid by TSPL instead. He proposed that the payment be documented as a loan from TSPL to the Claimant and requested that the Claimant execute a "loan agreement" with TSPL, for TSPL's and/or TOSPL's business reasons. Mr Bartlett also represented to and assured the Claimant that the "loan agreement" was not in fact for a loan, that there would be no need for the Claimant to pay back the "loan" to TSPL, and that TSPL would not enforce the "loan agreement" (the "Representation"). Mr Bartlett informed the Claimant that TSPL needed such documentation to pay the Claimant his share of the brokering fee.[13] All of this was denied by the

---

10 SOC, paras 9 to 11; Defence, paras 17 to 19.

11 SOC, para 12; Defence, para 20.

12 SOC, paras 13 to 14; Defence, paras 21 and 22.

13 SOC, paras 15 to 17.

Version No 1: 10 Dec 2025 (09:39 hrs)

Defendants, who also took the position that Mr Bartlett had no authority to act for, or make any such representations on behalf of, the Defendants.[14]

11 The Claimant averred that in reliance on the Representation, he was induced into executing a two-page "loan agreement" dated 3 July 2018 with TSPL (the "Disputed Loan Agreement").[15] The Disputed Loan Agreement was signed by the Claimant (as "Borrower") and Ms Thiam for TSPL (as "Lender"). It provided that:

(a) TSPL had "loaned the [Claimant] US$700,000 on the 6th of July, 2018 (the "Loan"), paid to the [Claimant] in two (2) instalments of US$400,000 and US$300,000, for the period of 12 calendar months from the first disbursement of funds".

(b) The Claimant was to "repay the Loan, in full or in part, within 12 months of the first disbursement of funds".

12 The Claimant took the position that there was no intention on either his or TSPL's part to create genuine legal relations and that the Disputed Loan Agreement was a sham and unenforceable. The USD 700,000 purportedly loaned to the Claimant was in fact monies already owed to the Claimant under the Alleged Brokering Fee Agreement.[16] On their part, the Defendants contended that the Disputed Loan Agreement was genuine and binding and that the Claimant was indebted under it.[17]

---

14 Defence, para 25.

15 SOC, para 19; 1st affidavit of Thiam Xiu Min Audrey dated 1 September 2025, exhibit TXMA-01, Tab A.

16 SOC, para 20.

17 Defence, para 29(b).

Version No 1: 10 Dec 2025 (09:39 hrs)

13 It was not disputed that the Claimant received from TSPL the sums of USD 400,000 on 6 July 2018 and approximately USD 300,000 on 23 July 2018. The Claimant regarded these monies as his share of the brokering fee, while the Defendants said that they were disbursed pursuant to the Disputed Loan Agreement.[18] It was also not disputed that the Claimant did not make any "repayment" under the Disputed Loan Agreement by 6 July 2019, as would have been required on the face of the document.[19]

Attempted enforcement of the Disputed Loan Agreement

14 In January 2025, Ms Thiam asked the Claimant about the alleged loan and explained that TSPL had been asked by its auditors to "resolve the outstanding sum". The Claimant informed Ms Thiam that she should let him speak to Mr Bartlett on the issue.[20]

15 According to the Claimant, Mr Bartlett told him that TSPL's accountants and tax consultants were making enquiries about the alleged loan and suggested that the loan be restructured. They had various discussions on this from February to June 2025. The Claimant suggested to Mr Bartlett that they get a Singapore-incorporated entity to take over the alleged loan and issue a bill to TSPL for a similar amount for services rendered, so that the loan could be written off in such a manner. Mr Bartlett responded that they could proceed in that manner if it suited the Claimant.[21]

---

18 SOC, para 21; Defence, para 36.

19 SOC, para 22; Defence, para 37.

20 SOC, para 24; Defence, para 38(g).

21 SOC, paras 25 to 26.

Version No 1: 10 Dec 2025 (09:39 hrs)

16 On 25 June 2025, TSPL commenced arbitration proceedings in the Singapore International Arbitration Centre against the Claimant (the "Arbitration").[22] According to the Claimant, he exchanged messages with Mr Bartlett about the Arbitration and Mr Bartlett agreed with the Claimant that the proceedings should not have been commenced. Mr Bartlett informed the Claimant that he had not authorised the commencement of proceedings and that he thought this was "panic on the Singapore side".[23]

17 The Arbitration was later suspended. According to the Defendants, after they saw the Claimant's position in the Arbitration that the Disputed Loan Agreement was a sham, they took the view that the Claimant and Mr Bartlett had cheated and dishonestly induced TSPL to deliver USD 700,000 to the Claimant under the guise of a loan agreement, and decided that proceedings should be pursued against the Claimant and Mr Bartlett for fraud, conspiracy and restitution. The Defendants therefore requested on 24 July 2025 that the Arbitration be suspended and the Claimants agreed to this on 1 August 2025.[24]

Present proceedings

18 The present proceedings were commenced by the Claimant on 25 July 2025. The Claimant did not deny that if the Disputed Loan Agreement was in fact valid and enforceable, then sums would be due and owing to TSPL under the agreement. The Claimant took the following positions:

(a) First, TSPL was estopped from enforcing its rights under the Disputed Loan Agreement. The estoppel arose because of the

---

22 SOC, para 27; Defence, para 41.

23 SOC, para 28.

24 SOC, para 29; Defence, para 44.

Version No 1: 10 Dec 2025 (09:39 hrs)

Representation by Mr Bartlett, which was made on TSPL's and/or his own behalf, that the Disputed Loan Agreement was not enforceable and would not be enforced. The Claimant acted in reliance on the Representation by signing the Disputed Loan Agreement.[25]

(b) Second, if the Disputed Loan Agreement was in fact effective and the sums transferred to the Claimant on 6 July 2018 and 23 July 2018 (see [13] above) were a loan disbursed to the Claimant, then this meant that TOSPL had failed to pay the Claimant his share of the brokering fee, and thereby breached the Alleged Brokering Fee Agreement.[26]

(c) Third, again if the Disputed Loan Agreement was in fact effective, then the Representation made by Mr Bartlett had caused the Claimant to suffer loss and damage.[27] Alternatively, there existed a collateral agreement between the Claimant and Mr Bartlett that, in consideration for the Claimant executing the Disputed Loan Agreement, Mr Bartlett would ensure that TSPL would not seek to enforce the Disputed Loan Agreement or demand repayment of the purported loan (the "Collateral Agreement"). Mr Bartlett failed to do this and thereby breached the Collateral Agreement.[28]

19 The primary remedy sought by the Claimant was a declaration that the Disputed Loan Agreement was unenforceable. In the alternative, the Claimant sought a declaration that TSPL was estopped from enforcing the Disputed Loan

---

25 SOC, para 30.

26 SOC, para 31.

27 SOC, para 32.

28 SOC, paras 33 and 34.

Version No 1: 10 Dec 2025 (09:39 hrs)

Agreement. Further in the alternative, in the event that the court found that the Disputed Loan Agreement was valid or effective, the Claimant sought (a) an order that Mr Bartlett pay the Claimant damages to be assessed; and (b) an order that TOSPL pay the Claimant the sum of USD 700,000.[29]

Application to strike out the claims

20 The Defendants applied to strike out the statement of claim on the following grounds.

21 On the claim for a declaration that the Disputed Loan Agreement was unenforceable, the Defendants argued that the claim was time-barred since 3 July 2024, this being six years since the entry into the Disputed Loan Agreement on 3 July 2018 (see [11] above). The claim was subject to s 6(1)(*a*) of the Limitation Act as a claim "founded on a contract", and therefore to the six-year limitation period prescribed therein for such claims.[30]

22 The Claimant disagreed that the Disputed Loan Agreement fell within the ambit of s 6(1)(*a*). The premise of the claim was that the Disputed Loan Agreement was a sham and unenforceable. It therefore could not be said that the claim was "founded on a contract" as required under s 6(1)(*a*). The Claimant referred me to an extract from Andrew McGee, *Limitation Periods* (Sweet & Maxwell, 9th Ed, 2022) ("McGee") in support of his position that the claim should not be regarded as founded on a contract.[31] In response, the Defendants argued that *Ng Chee Tian and another v Ng Chee Pong and others* [2025] 3

---

29 SOC, p 13.

30 Defendants' written submissions dated 25 September 2025 ("Defendants' written submissions"), paras 24 to 25 and 31.

31 Claimant's written submissions dated 25 September 2025 ("Claimant's written submissions"), paras 45 to 47.

Version No 1: 10 Dec 2025 (09:39 hrs)

SLR 235 ("*Ng Chee Tian*") was authority that the claim could not be "coherently characterise[d] … outside of contract".[32]

23 On the alternative claim for a declaration that TSPL was estopped from enforcing the Disputed Loan Agreement, the Defendants had two arguments. First, the claim was also time-barred, on this occasion under s 6(7) of the Limitation Act which applied to claims in equity. Second, the claim was unsustainable because it was an attempt to use promissory estoppel as a "sword" to find a free-standing cause of action.[33] The Claimant responded that the claim was not one in respect of which a "cause of action" could be said to have accrued, as required under s 6(7) read with s 6(1)(*a*) of the Limitation Act. Promissory estoppel could not, in the first place, be used to create a new cause of action.[34] The Claimant's invocation of promissory estoppel was proper because what he was seeking to do by way of this claim was to resist TSPL's demand for the sum of USD 700,000 pursuant to the Disputed Loan Agreement, and not to create any new cause of action.[35]

24 On the alternative claim for TOSPL to pay the Claimant USD 700,000 under the Alleged Brokering Fee Agreement, brought in the event that the court found the Disputed Loan Agreement to be enforceable, the Defendants argued that the claim could "never crystallise" because there was simply no claim for a declaration that the Disputed Loan Agreement was enforceable or otherwise effective. Even if the court declined to grant a declaration that the Disputed Loan Agreement was *un*enforceable, this was not the same as the court finding

---

32 Defendants' written submissions, para 29.

33 Defendant's written submissions, paras 33 to 36.

34 Claimant's written submissions, para 48.

35 Claimant's written submissions, para 75.

Version No 1: 10 Dec 2025 (09:39 hrs)

that the Disputed Loan Agreement *was* enforceable. The court would therefore have "no basis" to grant the relief sought under this claim.[36] The Claimant disagreed because if the court rejected the Claimant's primary position that the Disputed Loan Agreement was unenforceable, this must be because the court had found the Disputed Loan Agreement *to be* enforceable. It would be unreasonable and illogical to require the Claimant to ask for a declaration that the Disputed Loan Agreement was enforceable in order to seek the alternative remedy of payment of damages by TOSPL under the Alleged Brokering Fee Agreement, since this would be inconsistent with the Claimant's position that the Disputed Loan Agreement was unenforceable.[37]

25 The Defendants also argued that this alternative claim was time-barred as the facts concerning the Alleged Brokering Fee Agreement took place more than six years ago, even before the entry into the Disputed Loan Agreement.[38] The Claimant disagreed that there was any time bar. The six-year period under s 6(1)(*a*) of the Limitation Act for this claim only started to run at or around the time the notice of arbitration was served on the Claimant on 25 June 2025 (see [16] above). Before that, the facts relevant to the breach of the Alleged Brokering Fee Agreement were concealed by the fraud of Mr Bartlett, who was at all material times the agent of TOSPL (and TSPL). Specifically, it was concealed from the Claimant that the sums amounting to USD 700,000 paid to the Claimant (see [13] above) were apparently regarded as loan monies disbursed pursuant to the Disputed Loan Agreement, and that TOSPL had not in fact paid the Claimant his share of the brokering fee. By operation of s 29(1)(*b*) of the Limitation Act, the limitation period only started to run from the

---

36 Defendants' written submissions, paras 40 to 43.

37 Claimant's written submissions, para 83.

38 Defendants' written submissions, paras 44 and 44(a).

Version No 1: 10 Dec 2025 (09:39 hrs)

date that the Claimant discovered the fraud, or could with reasonable diligence have discovered it, and that occurred only when the notice of arbitration was served on him.[39]

26 Finally, the Defendants briefly suggested that the Claimant should not have brought these proceedings because they were commenced at a time that the Arbitration was still ongoing. Notwithstanding that, the Defendants were no longer pursuing this argument since the Arbitration was now suspended.[40] I therefore do not say anything more on this matter.

Analysis

27 I begin with the Defendants' arguments on the applicability of s 6 of the Limitation Act, since this cut across a number of claims. Following that, I turn to the remaining arguments made by the Defendants which can be dealt with more succinctly.

Limitation arguments

Claim for a declaration that the Disputed Loan Agreement is unenforceable

28 Section 6(1) and (7) of the Limitation Act provides:

> **Limitation of actions of contract and tort and certain other actions**
>
> **6.—**(1) Subject to this Act, the following actions shall not be brought after the expiration of 6 years from the date on which the cause of action accrued:
>
> (*a*) actions founded on a contract or on tort;
>
> (*b*) actions to enforce a recognizance;

---

39 Claimant's written submissions, paras 65 to 69.

40 Defendants' submissions, paras 37 to 39.

Version No 1: 10 Dec 2025 (09:39 hrs)

> (*c*) actions to enforce an award;
>
> (*d*) actions to recover any sum recoverable by virtue of any written law other than a penalty or forfeiture or sum by way of penalty or forfeiture.
>
> …
>
> (7) Subject to sections 22 and 32, this section shall apply to all claims for specific performance of a contract or for an injunction or for other equitable relief whether the same be founded upon any contract or tort or upon any trust or other ground in equity.

29 Section 6(1)(*a*) is *in pari materia* with ss 2 and 5 of the UK's Limitation Act 1980 (the "UK Limitation Act"), which concern actions founded on tort and on simple contract respectively (simple contracts are in contrast to specialty contracts under s 8 of the UK Limitation Act, which include contracts and other obligations in documents under seal and obligations arising under statutes, in respect of which the limitation period is 12 years (see also McGee at para 4.015)).

30 As a starting point, the mere fact that a declaration is sought does not *ipso facto* mean that limitation cannot apply to the claim. In *National Bank of Commerce v National Westminster Bank* [1990] 2 Lloyds Rep 514 ("*National Bank of Commerce*"), Webster J remarked that although an action can be brought simply for a declaration, a declaration is not in itself a cause of action and thus there is no period within which by statute a claim for a declaration must be brought. That has been roundly observed to be an inaccurate statement of the law (see, for example, *Charles Woodeson & anor v Credit Suisse (UK) Limited* [2018] EWCA Civ 1103 ("*Woodeson*") at [22]; *P & O Nedlloyd BV v Arab Metals Co* [2005] 1 WLR 3733 ("*P & O Nedlloyd*") at [20]; and McGee at para 3.005). A declaration that a sum is payable by way of debt or damages will be time-barred if the underlying cause of action is itself time-barred (*Woodeson* at [22]). The focus is therefore on the cause of action and when it accrued.

Version No 1: 10 Dec 2025 (09:39 hrs)

31 At the same time, it is relevant – for the purposes of considering limitation – that a claim for a declaration need not have a cause of action for it to be validly brought. This is settled law. In *Karaha Bodas Co LLC v Pertamina Energy Trading Ltd v and another appeal* [2006] 1 SLR(R) 112 ("*Karaha Bodas*"), the Court of Appeal held at [12]–[13] that while there is a general rule that a claim must be founded on a reasonable cause of action, an exception to the rule is where the claimant does not ask for substantive relief (such as an order for damages) but instead asks for a declaration of right. As the court observed (at [13]):

> By 1978, it was clear that the controversy over whether a party applying for declaratory relief must also have a subsisting *cause of action* or a right to some other substantive relief as well was over, since it had been clearly established before then that *he need not*. … In fact, as Lord Diplock observed [in *Gouriet v Union of Post Office Workers* [1978] AC 435], relief in the form of a declaration of right would generally be superfluous for a plaintiff who had a substantive cause of action. [emphasis added]

32 In other words, it is permissible, and indeed understandable, that a declaration be sought in the absence of a cause of action (see also *Zamir & Woolf* at paras 2-17 and 2-18).

33 The variety of matters in respect of which a declaration may be sought also means that the subject of a declaration may not fall, or fall neatly, within the categories prescribed in the Limitation Act, namely, actions "founded on a contract or on tort", to "enforce a recognizance", to "enforce an award" and so on. A declaration is a "formal statement by a court pronouncing upon the existence or non-existence of a legal state of affairs"; the court "may, for example, declare that the claimant is the owner of certain property, that he is a [subject of a country], that a contract to which he is a party has or has not been determined, or that a notice served upon him by a public body is invalid and of

Version No 1: 10 Dec 2025 (09:39 hrs)

no effect" (*Zamir & Woolf* at para 1-02). It has been observed that since the middle of the nineteenth century when the courts first viewed their power to grant declaratory relief with suspicion, there has been a significant expansion of declaratory relief with the passage of time such that the declaratory judgment is now a "remedy of very wide scope" with "broad and varied application", granted in relation to matters such as personal status, title to property, the construction of contracts and other written instruments (*Zamir & Woolf* at paras 1-14 and 2-15). The court, of course, has always retained a discretion not to grant declaratory relief if the declaration does not serve a useful purpose or relates to a merely general or abstract question of law (see *Zamir & Woolf* at para 4-98; *Tan Eng Hong v Attorney-General* [2012] 4 SLR 476 at [143]; and *Republic of India v Vedanta Resources plc* [2021] 2 SLR 354 at [31]).

34 The significance of these features of declarations in the limitation context is illustrated in the UK Supreme Court's decision in *Aspect Contracts (Asbestos) Limited v Higgins Construction Plc* [2015] UKSC 38 ("*Aspect*"). A dispute between the appellant contractor ("Higgins") and the respondent surveyor ("Aspect") over an asbestos survey conducted by Aspect in 2004 was referred to adjudication, with Higgins claiming £822,482 damages plus interest for Aspect's alleged failure to exercise reasonable skill and care in contract and tort. By way of an adjudication award rendered in 2009, the adjudicator found that Aspect was in breach of its duties and allowed some but not all of the damages sought. Aspect was ordered to pay Higgins £490,627 plus interest, which Aspect duly paid. Higgins did not commence any proceedings to recover the balance of its claim and the limitation period for it to do so expired by early 2011 at the latest. In 2012, Aspect commenced court proceedings seeking to recover the sum it paid under the adjudication award. Higgins brought a counterclaim for the balance of £331,855 that it had failed to obtain in the adjudication.

Version No 1: 10 Dec 2025 (09:39 hrs)

35 The question on appeal to the Supreme Court was how far a paying party, being Aspect, was able to disturb the provisional position established in the adjudication award, by itself commencing proceedings after the time had elapsed for Higgins to bring any claim founded on the original breach of contract or tort (see [16]). Higgins argued that Aspect's only entitlement was to seek declaratory relief, but that any such claim to declaratory relief was time-barred in both contract and tort at the latest by early 2011 (see [18]).

36 Lord Mance, giving the unanimous decision of the court, observed (at [20]) that declarations may be given in situations where there is, or is as yet, no cause of action, a common example being where a claim is made by an insured against liability insurers seeking a declaration that they will be liable to indemnify him in respect of any third party liability which he may be found to have. Lord Mance then held:

> 21. I am furthermore *unable to accept that a claim for a declaration that a person has* ***not committed a tort or breach of contract*** *is a claim falling within, respectively, section 2 or 5 of the Limitation Act 1980… A claim for a declaration* ***that a contractual right has accrued*** *has been held at first instance to be a claim involving a cause of action founded on simple contract:* [*P&O Nedlloyd*], para 20. Accepting without considering that analysis, *a claim for a declaration that a person has* ***not broken a contract*** *might also be regarded as a claim "founded on simple contract" (****though a claim that a person was not party to any contract certainly could not be****);* however ***a claim that a person has not broken a contract could not be a claim in respect of which it could sensibly be said that any "cause of action" had accrued****, still less accrued on any particular date.* On that basis section 5 could not apply, directly or by analogy.
>
> 22. As to section 2, *a claim that a person* ***had not committed a tort*** *could not in any circumstances sensibly be regarded as a claim founded on tort, quite apart from the impossibility of identifying any "date on which the cause of action accrued"*, for the purpose of applying section 2 either directly or by analogy. …
>
> [emphasis added in italics and bold italics]

Version No 1: 10 Dec 2025 (09:39 hrs)

37 In *P & O Nedlloyd*, Colman J remarked at [20]:

> … I would put it like this. The function of the Limitation Act is to identify those periods of time within which a claimant is permitted to invoke the jurisdiction of the court to grant relief. Those periods of time vary according to the nature of the grounds for relief. Those grounds comprise both the factual foundation and the assertion of a legal or equitable right consequential upon those grounds. *A claim for a declaration* ***that a contractual right has accrued*** *or* ***that a breach of contract has occurred*** *is thus a claim, or, in the words of section 5, an action, for relief* ***founded on grounds an essential part of which is a simple contract****.*
>
> [emphasis added in italics and bold italics]

38 In other words, a claim for a declaration that a contractual right has accrued, or that a breach of contract has occurred, is a claim "founded on [a] contract" within the meaning of s 5 of the UK Limitation Act. In *Woodeson* at [24], Longmore LJ cited Colman J's remarks with approval and reasoned that the claimants in that case, who had sought declarations as to a set-off and sums of damages that they claimed to be entitled to on their cross-claims against the defendant bank, could not improve their position simply by making claims for declarations rather than damages, such that their claims were to be regarded as time-barred unless time could be extended under s 32 of the UK Limitation Act by virtue of the bank's deliberate concealment.

39 It is useful to set all of this out as individual propositions:

(a) Section 5 of the UK Limitation Act (which applies to actions founded on simple contract) would not apply to a claim for a declaration that a person has not committed a breach of contract. Although such a claim can be considered as "founded on [a] contract", there is no "cause of action" as would be required for the section to apply.

Version No 1: 10 Dec 2025 (09:39 hrs)

(b) Section 5 would also not apply to a claim for a declaration that a person was not party to a contract. That cannot even be considered a claim "founded on [a] contract".

(c) In contrast, a claim for a declaration that a contractual right has accrued, or that a breach of contract has occurred, can be regarded as a claim "founded on [a] contract".

(d) Section 2 of the UK Limitation Act would not apply to a claim for a declaration that a person has not committed a tort. That cannot be said to be a claim "founded on tort", nor is there any "cause of action" as would be required for the section to apply.

40 In my view, this analysis is logical and persuasive. Since s 6(1)(*a*) of our Limitation Act is *in pari materia* to ss 2 and 5 of the UK Limitation Act, I accept that this should be regarded as correct under our law. Turning back to the claim for a declaration that the Disputed Loan Agreement is unenforceable, it followed that s 6(1)(*a*) of our Limitation Act did not apply to the claim. It could not be said to be a claim "founded on a contract" (the very premise of the claim being that there was no valid contract), nor could it sensibly be said that a "cause of action" had accrued (there being no allegation, or possibility of a coherent allegation, of a breach of contract in these premises, in addition to the "impossibility of identifying any "date on which the cause of action accrued"", to use the language of Lord Mance).

41 I rejected the Defendants' submission that *Ng Chee Tian* was authority that s 6(1)(*a*) of the Limitation Act would apply to the claim. The parties in *Ng Chee Tian* were all beneficiaries of the deceased's estate. Before his death, the deceased signed a share transfer document in October or November 2014 for the transfer of certain shares in a company founded by the deceased to the first

Version No 1: 10 Dec 2025 (09:39 hrs)

defendant. The claimants formed the view that the deceased had signed the document without knowing what he was signing and had felt that he was unable to undo the share transfer because of his frailty and reliance on the first defendant as his caregiver. The claimants then commenced proceedings against the defendants. Following certain amendments to the claims, the claimants sought against the defendants, *inter alia*, a declaration that the share transfer was void *ab initio* on the ground of *non est factum*, or an order rescinding the transfer on the grounds of mistake, unconscionable bargain or undue influence (see [25]).

42 The first defendant applied to strike out these claims. One of the issues before the court was whether the claims were time-barred since November 2020, being six years since the share transfer was effected. The claimants argued that the claim for a declaration that the share transfer was void was not one founded on a contract, such that s 6 of the Limitation Act did not apply. The court reasoned as follows:

> 100 On closer analysis however, the veneer of the principle quickly unravels: if such a claim is not a cause of action founded on *contract*, then what precisely is it? At the hearing before me, when invited to answer such question, the claimants were unable to actually proffer an alternative characterisation of the claim. The intuitive (though perhaps, not all that well-considered) response might be that the cause of action is that of "restitution". However, that is no answer at all, since the word "restitution", as used in the present context, is nothing more than a "response to an event" (*Alwie* ([56] *supra*) at [126]). Put differently, restitution is the *remedy* and cannot simultaneously be the *event*. The question then remains: what then is the "event" or the cause of action that informs the remedy of restitution? In this regard, it is conventionally understood that restitutionary remedies only arise one of two ways: (a) in unjust enrichment; and (b) as restitution for wrongs (Tang Hang Wu, *Principles of the Law of Restitution in Singapore* (Academy Publishing, 2019) at paras 01.001 and 09.001–09.005).
>
> 101 Based on that analytical framework, fatally for the claimants, there is no answer that would appear to assist the

Version No 1: 10 Dec 2025 (09:39 hrs)

claimants. Indeed, in my judgment, it is clear why the claimants cannot characterise any claim outside of contract. It is because the most conventional (and obvious) answer would be, even assuming no cause of action in contract existed, that the cause of action would conceivably be tortious. This is because what is being demanded, at bottom, is restitution for wrongs since it is the claimants own case for *non est factum* that the 2014 transfer was the direct result of "wrongful conduct" on the part of one of the defendants. As observed in *Esben Finance* ([29] *supra*) at [73], the "restitution for wrongs relates *only* to the remedial response to a civil wrong, and that the claim is therefore founded on the civil wrong *itself*" [emphasis in original]. On this front, it may be that the wrongs that have been alleged can take various forms such as the tort of deceit or (perhaps somewhat less plausibly) that of conversion. However, neither of these get the claimants very far as any permutation of these claims would be time-barred (being in essence, tort claims) by virtue of s 6(1) of the Limitation Act.
…

102 In the same vein, if the contention is that the cause of action is neither in contract nor tort, but instead the facts gives rise to some other equitable relief upon any trust or other ground in equity, this itself would similarly be time-barred under s 6(7) of the Limitation Act.

…

104 All that said, ***it is not necessary for me to come to a conclusive determination on the matter of the characterisation of the claim. This is particularly the case given that the claimants themselves realise that there is no way out of the conundrum (see above at [100]) and elected not to even suggest any such characterisation.*** The simple point is that, even taking the claimants' case at its highest, and assuming that the claim on the basis of *non est factum* is not a contractual one, there are *other self-evident* ways to characterise the cause of action under the rubric of the traditional categories of tort or equity that would once again lead us to the very limitation issues that they are seeking assiduously to avoid. That these traditional causes of action continue to apply would also concurrently mean that there is again no scope for the doctrine of unjust enrichment to apply. ***In short, no matter which path the argument traverses and which cause of action one ultimately lands on, they lead to the same destination: that the cause of action would be legally unsustainable.***

[emphasis added in bold italics; emphasis in italics in original]

Version No 1: 10 Dec 2025 (09:39 hrs)

43 I found the following to be clear from the above extract. First, and most fundamentally, *Ng Chee Tian* did not decide the question of whether an action for a declaration that a contract is void on the basis of *non est factum* is one "founded on a contract", such that the time bar under s 6 of the Limitation Act may apply. Rather, the court held that it was simply "not necessary … to come to a conclusive determination on the matter of the characterisation of the claim", because whether the claim was based on contract (as the claimants argued), tort or equity, it would be time-barred under ss 6(1)(*a*) or 6(7) of the Limitation Act (see [104]). Second, *Ng Chee Tian* did not deal with the question of whether, with respect to a claim for a declaration that a contract is invalid or not binding because it is void or otherwise unenforceable (whether on the basis of *non est factum* or other grounds), there is a "cause of action" within the meaning of s 6. The court was simply not confronted with this question. It only considered the issue of whether such an action was "founded on a contract" (and ultimately without conclusively deciding this). For these reasons, I found that *Ng Chee Tian* did not support the Defendants' position, being non-conclusive on the characterisation of the claim and silent on the question of whether such a claim involved a "cause of action".

44 I add, for the avoidance of doubt, that none of the above should be regarded as reason for thinking that declarations can be sought with impunity, without having regard to the amount of time that has elapsed since the material events. That would be erroneous for the following reasons. First, it must be borne in mind that whether a claim for a declaration is subject to the Limitation Act ultimately depends on what the declaration seeks. So, for example, a claim for a declaration that a contract has been breached or that a tort has been committed would be regarded as a claim founded on a contract or tort, and would involve a cause of action. Second, s 32 of the Limitation Act expressly states that the Act does not affect any equitable jurisdiction to refuse relief on

Version No 1: 10 Dec 2025 (09:39 hrs)

the ground of acquiescence, laches or otherwise. There is a similar provision in s 36(2) of the UK Limitation Act. There is no reason why claims for declarations should be excluded from the ambit of this provision and in fact there is case law showing that they are not. In *Fisher v Brooker* [2008] EWCA Civ 287, Mummery LJ observed that although the UK Limitation Act did not bar the making of the claims for declarations (which in that case concerned joint ownership of copyright), it was common ground that the "equitable defences of acquiescence, laches, delay and proprietary estoppel are potentially available to the defendants as grounds entitling the court to refuse to grant relief" (at [34(1)]). On appeal, the point of principle was left untouched (see *Fisher v Brooker and others* [2009] UKHL 41 at [78]) although the House of Lords disagreed that in the circumstances of the case acquiescence and laches operated to disentitle the appellant from the exercise of the court's discretion to grant the declarations. Accordingly, prospective claimants who fail to have regard to the passage of time in seeking declarations do so at their own risk.

45 Finally, it must be remembered that a declaration is not itself enforceable, or at least directly exigible, against a defendant. A declaratory judgment, as a "formal statement by a court pronouncing upon the existence or non-existence of a legal state of affairs", is to be "contrasted with an executory, in other words, coercive, judgment which can be enforced by the courts" (*Zamir & Woolf* at para 1-02, cited with approval by the Court of Appeal in *Bocotra Construction Pte Ltd and others v Attorney-General* [1995] 2 SLR(R) 282 at [28]). In an executory judgment, the courts "determine the respective rights of the parties and order the defendant to act in a certain way", such as by paying damages or to refrain from interfering with the claimant's rights; and if the order is disregarded, it can be enforced by official action such as the levying of execution against the defendant's property or through proceedings for contempt of court. A declaratory judgment, "on the other hand, pronounces upon a legal

Version No 1: 10 Dec 2025 (09:39 hrs)

relationship but does not contain any order which can be enforced against the defendant" (*Zamir & Woolf* at para 1-02).

46 In addition, the grant of declaratory relief does not *ipso facto* entail the grant of consequential relief. The point was made clear by Lord Mance in *Aspect*, where he observed that Higgins had failed to identify any authority for the proposition that a court can or should make orders consequential upon a declaration of non-liability for the payment of any sums which the recipient would not have a right to claim on some independent juridical basis (at [18]). Lord Mance drew a distinction between declaratory relief and consequential relief. While declarations "may be given in situations where there is, or is as yet, no cause of action", consequential relief "depends … upon the existence of a cause of action, or interference, actual or threatened, with a right". Accordingly, it would not be correct to say that a claim for a declaration "[can] be accompanied by consequential relief ordering a payment to which there was no independent right". What this means is that if a claimant, having successfully obtained a declaration, then seeks consequential relief from the defendant such as damages, he must still show a cause of action – and that may be subject to a time-bar.

47 In my view, the non-exigibility of a declaration against a defendant, and the need for a cause of action to be identified for any consequential relief to be sought on the back of a declaration (and the possibility that such cause of action may run into a time bar), temper the effects of what is arguably a more generous approach to limitation when declarations are sought.

Version No 1: 10 Dec 2025 (09:39 hrs)

Claim for a declaration that TSPL is estopped from enforcing the Disputed Loan Agreement

48 I turn to the claim for a declaration that TSPL is estopped from enforcing the Disputed Loan Agreement, on the basis of the Representation by Mr Bartlett given on his and TSPL's behalf that the Disputed Loan Agreement was not enforceable and would not be enforced (see [18(a)] above). This was a claim in equity. Section 6(7) of the Limitation Act provides that s 6 applies to all claims for equitable relief, whether founded upon any contract or tort or upon any trust or other ground in equity.

49 In my judgment, it could not sensibly be said, having regard to the claim, that there was a "cause of action" as required in s 6, such that a time bar could apply. Briefly foreshadowing what the Defendants themselves said to further a different argument (see [57] below),[41] promissory estoppel is not a cause of action. It is trite that promissory estoppel "does not create new causes of action" where none existed before, and only prevents a party from insisting upon his strict legal rights where it would be unjust to allow him to enforce them, having regard to the dealings which have taken place between the parties (*Combe v Combe* [1951] 2 KB 215 at 219). The Defendants' argument that this claim was time-barred by s 6 of the Limitation Act was therefore a non-starter.

50 It is nevertheless useful to briefly unpack what a "cause of action" entails. In *Salmizan bin Abdullah v Crapper, Ian Anthony* [2024] 5 SLR 257 ("*Salmizan*"), within a discussion on the Limitation Act, Judicial Commissioner Goh Yihan (as he then was) cited the definition of a cause of action in *Black's Law Dictionary* (Bryan A Garner ed) (Thomson Reuters, 11th Ed, 2019) ("*Black's Law Dictionary*") at p 275, being "a group of operative facts giving

---

[41] Defendants' written submissions, para 34.

Version No 1: 10 Dec 2025 (09:39 hrs)

rise to one or more bases for suing: a factual situation that entitled one person to obtain a remedy in court from another person" (at [31]). In the context of a claim in tort, the cause of action is "complete only when there is a claimant who can sue and a defendant who can be sued, and when the ingredients of duty, breach and damage are all satisfied" (at [32]). The "classic definition" of a cause of action (see McGee at para 1.014) is given by Lord Esher MR in *Coburn v College* [1897] 1 Q.B. 702: "Every fact which it would be necessary for the claimant to prove, if traversed, in order to support his right to the judgment of the court". McGee summarises the position as follows: "In other words, the claimant must prove that the defendant has owed him a duty and has committed a breach of that duty. In most cases, he will also have to show that he has suffered damage as a consequence of that breach of duty, but there are some wrongs which are actionable *per se* without proof of damage." (at para 1.015).

51 In respect of the claim for a declaration that TSPL was estopped from enforcing the Disputed Loan Agreement, there was simply no breach of duty alleged, much less any damages sought. It could not be said that the claim involved a cause of action.

Alternative claim for TOSPL to pay the Claimant USD 700,000 under the Alleged Brokering Fee Agreement, in the event the court finds that the Disputed Loan Agreement is effective

52 The final objection based on limitation taken by the Defendants was in respect of the alternative claim, brought in the event that the court finds the Disputed Loan Agreement to be effective, for TOSPL to pay the Claimant USD 700,000 under the Alleged Brokering Fee Agreement. The Defendants argued that this alternative claim was time-barred as the facts concerning the Alleged Brokering Fee Agreement took place more than six years ago (see [25] above).

Version No 1: 10 Dec 2025 (09:39 hrs)

53 In considering the objection, I found that *Aspect* offered a useful parallel. In *Aspect*, Lord Mance observed that it was artificial to treat Aspect's claim – which was to recover a sum paid to Higgins under an adjudication award in 2009 (see [34] above) – as being based on a cause of action accruing in 2004 or 2005 which was the time of the underlying events (at [19]). This "ignores a core ingredient of and the immediate trigger to Aspect's current claim, which is that it has been ordered to make and has made a large payment in 2009. It is artificial to treat a claim to recover that sum as based on an alleged cause of action accruing in 2004 or early 2005."

54 Similar logic applied to the Defendants' argument. The Claimant did not actually take the position that the Disputed Loan Agreement was effective, or that he had not actually received his share of the brokering fee under the Alleged Brokering Fee Agreement; his position was that he had in fact already been paid his share (see [13] above) and there really were no additional monies that he was seeking. The alternative claim would only conceivably be brought in the event that the court finds the Disputed Loan Agreement to be enforceable, as this would mean (as the Defendants contended) that the total of USD 700,000 paid to him in two tranches on 6 and 23 July 2018 were in fact loan monies extended to him pursuant to the Disputed Loan Agreement, and that he had not in fact received his share of the brokering fee under the Alleged Brokering Agreement. In other words, the court's finding, should that come to pass, that the Disputed Loan Agreement is enforceable is, to use the language of *Aspect*, a "core ingredient of and the immediate trigger" to this alternative claim for payment under the Alleged Brokering Fee Agreement.

55 The point can be put another way, from the perspective of the formation of the *cause of action*. If the Claimant had always been of the understanding that he had received his share of the brokering fee and that the Disputed Loan

Version No 1: 10 Dec 2025 (09:39 hrs)

Agreement was not enforceable or not to be enforced, it would be neither fair nor reasonable to insist that the Claimant should nevertheless have brought a claim against TOSPL for a breach of the very same Disputed Loan Agreement that he thought was not enforceable or not to be enforced. There would be no reason for the Claimant to do so at least until there were proceedings or the threat of proceedings under the Disputed Loan Agreement, with a finding or risk of a finding that he was liable to make payment under that agreement. That payment would then crystallise his *losses* for the purposes of a claim under the Alleged Brokering Fee Agreement. Seen from that perspective, a finding that the Claimant is liable to make payment under the Disputed Loan Agreement is a necessary part of the *cause of action* for his alternative claim under the Alleged Brokering Fee Agreement. To use the language of the definition of a cause of action in *Black Law's Dictionary* as cited in *Salmizan*, such a finding is an "operative fact" that gives rise to the basis of suing. The limitation period would not start running until that fact arose.

Other arguments

56 I found the remaining arguments by the Defendants as to why the claims should be struck out to be substantially lacking in merit and will address them briefly.

57 I begin with the argument that the claim for a declaration that TSPL was estopped from enforcing the Disputed Loan Agreement involved the use of estoppel as a "sword" to find a free-standing cause of action. I had no hesitation in rejecting this submission. That was an inaccurate characterisation of the claim. The Claimant was not seeking to prosecute an independent or "free-standing" cause of action by seeking a declaration on the alleged estoppel. It was clear from the pleadings that the declaration on the estoppel was being

Version No 1: 10 Dec 2025 (09:39 hrs)

sought in response to TSPL's demands for repayment under the Disputed Loan Agreement. In other words, it was being used precisely "as a shield in order to prevent a promisor from insisting on his strict legal rights" (to use the language of *Oriental Investments (SH) Pte Ltd v Catalla Investments Pte Ltd* [2013] 1 SLR 1182 at [82]).

58 Returning to the definition of a cause of action, the Defendants' argument was again fundamentally premised on a misconception of what a cause of action is. The claim did not involve a cause of action (or "free-standing" cause of action), because no breach of any duty giving rise to a right to judgment against the Defendants was alleged. The Claimant's very position was that he had already received his share of payment under the Alleged Brokering Fee Agreement and bore no liability to pay an equivalent sum under the Disputed Loan Agreement. No relief to be borne by the Defendants was being sought.

59 Finally, I address the Defendants' argument that the alternative claim for TOSPL to pay the Claimant USD 700,000 under the Alleged Brokering Fee Agreement, brought in the event the court finds the Disputed Loan Agreement to be effective, could "never crystallise" because there was no claim for a declaration that the Disputed Loan Agreement was actually enforceable. This argument was unpersuasive. The enforceability of the Disputed Loan Agreement was plainly an issue in the dispute, having regard to the claim and the response of the Defendants, who had explicitly taken the position that the Disputed Loan Agreement *was* enforceable. For example, the Defendants pleaded at paragraph 29(b) of the Defence that "[t]he Loan Agreement was a genuine and binding agreement between the parties, pursuant to which the Claimant is indebted.". When the trial court comes to adjudicate the claim for a declaration that the Disputed Loan Agreement is unenforceable, it would

Version No 1: 10 Dec 2025 (09:39 hrs)

inevitably have to consider the enforceability or otherwise of the Disputed Loan Agreement, including the Defendants' position that the agreement *is* enforceable. To insist that because the claim is for a declaration that the Disputed Loan Agreement is *un*enforceable, and therefore that the alternative relief sought cannot come to pass (because the finding would either be that the agreement is unenforceable or *not* unenforceable), is in my view unrealistic and overly technical.

Conclusion

60 For the foregoing reasons, I declined to strike out the statement of claim and dismissed the Defendants' striking out application. Having heard the parties on costs, I ordered the first and second defendants to pay the claimant costs of and incidental to the application, fixed at $12,000 (all in).

61 In closing, I express my gratitude to counsel for their helpful submissions and research.

Elton Tan Xue Yang
Assistant Registrar

Tang Xi-Rui, Charlotte and Lim Fang-Xin Olive (Drew & Napier LLC) for the claimant;
Wayne Ong and Lim Xiao Ping (Wayne Ong Law Practice) for the first and second defendants.

Version No 1: 10 Dec 2025 (09:39 hrs)