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

[2025] SGHC 161

Suit No 204 of 2020

Between

(1) Richard Cheung Teck Cheong
(2) Chew Chai Har
(3) Shan Ming Airconditioning (S) Pte Ltd
(4) Sim Solutions Pte Ltd
(5) Ramachandran Ananthanarayanan
(6) Green Oak Pte Ltd
(7) Hao Bo Pte Ltd
(8) Andrew Yeo Seng Thean
(9) Tan Kay Kherng
(10) Lim Hui Hung Luanne
(11) Sun Xihua
(12) Chiam Chye Hong
(13) A Wen Mianshi Pte Ltd
(14) ACHI501 Pte Ltd
(15) M2L Holding Investment Pte Ltd
(16) Loo Kah Hui (Lu Jiahui)

… *Plaintiffs*

And

LVND Investments Pte Ltd

… *Defendant*

JUDGMENT

[Contract — Misrepresentation — Fraudulent]
[Contract — Misrepresentation Act]
[Contract — Misrepresentation — Action for rescission]

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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.

Cheung Teck Cheong Richard and others
v
LVND Investments Pte Ltd

[2025] SGHC 161

General Division of the High Court — Suit No 204 of 2020
Wong Li Kok Alex J
14–18, 21–23, 25, 29–30 October, 1, 4–8, 11–15 November, 9–10 December 2024, 25 March 2025

14 August 2025 Judgment reserved.

Wong Li Kok Alex J:

Introduction

1 On the corner of Macpherson Road and Aljunied Road, two commercial developments occupy the space formerly known as the Windsor Hotel. The first is the retail shopping centre, Macpherson Mall at 401 Macpherson Road (the "Development"). The second is a hotel, the Ibis Styles Singapore on Macpherson ("Ibis Hotel"). The former is the subject of this dispute.

2 The plaintiffs had all purchased retail shopping units at the Development. When the Development was completed and the plaintiffs moved into their units, they allege that they had not been given what they bargained for. They accused the defendant of misrepresentation. The defendant claims that the plaintiffs suffer from a case of buyers' remorse and sought to place blame on the defendant for their own poor decisions.

3 Prior to the trial of this action, I was invited by the plaintiffs for a site visit to the Development so that I could view their complaints (the "Site Visit"). I accepted this invitation and attended for a site visit (at which the defendant was also present) on 7 October 2024.

Facts

The plaintiffs

4 While there were initially 16 plaintiffs, a number of plaintiffs discontinued their claims at various points in this suit. The seven remaining plaintiffs are:

(a) the first and second plaintiffs, *ie*, Richard Cheung Teck Cheong and Chew Chai Har (unit #02-04);

(b) the third plaintiff, *ie*, Shan Ming Airconditioning (S) Pte Ltd (unit #03-02);

(c) the fifth plaintiff, *ie*, Ramachandran Ananthanarayanan (unit #01-19);

(d) the 11th and 12th plaintiffs, *ie*, Sun Xihua and Chiam Chye Hong (unit #03-01); and

(e) the 15th plaintiff, *ie*, M2L Holding Investment Pte Ltd (unit #02-20).

(collectively, the "remaining plaintiffs").

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Background to the dispute

5 The Development was developed by the defendant, LVND Investments Pte Ltd ("LVND"). The core of this dispute centred around the sales process and documentation put forward by LVND and that is where I will start in describing the background.

6 Sometime in 2013, LVND commenced its marketing efforts to sell the shop units in the Development. LVND engaged Huttons Asia Pte Ltd ("Huttons") and Savills Singapore Pte Ltd ("Savills") to market the Development at LVND's sales gallery at 401 Macpherson Road (the "Sales Gallery").

7 At that time, the construction of the development had not been completed. The plaintiffs' evidence was that the former hotel, Hotel Windsor, had not been demolished. The structure of the former Hotel Windsor remained in place. The Ibis Hotel and the Development were designed around and arose out of the existing structure.[1]

8 For the purposes of this dispute, two types of shop units were sold by LVND. The typical shop units comprised of a demarcated space within the floor area of the Development. Of the units purchased by the remaining plaintiffs, units #01-19, #02-04 and #02-20 were these typical shop units. Some special shop units were also sold, and these comprised not just the demarcated space within the floor area of the Development but also a separate advertising signage space. This advertising signage space was located on the outside of the

[1] Affidavit of Evidence-in-Chief ("AEIC") of Richard Cheung Teck Cheong ("RCTC") dated 15 August 2024 at paras 15 and 19.

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Development and allowed the proprietor of that unit to use that advertising space for its own purposes or to rent it out to third parties albeit the extent to which this was allowed was disputed by the remaining plaintiffs. Of the units purchased by the remaining plaintiffs, units #03-01 and #03-02 were these special shop units.

9 The Development did not use a central air-conditioning system. This meant that each shop unit had its own air-conditioning system. For both types of shop units, the air-conditioning indoor unit was located in the shop unit itself. The air-conditioning condenser was located elsewhere in the Development on identified air-con "ledges" (the "AC ledges"). This also emerged to be a subject of significant argument between the parties.

Brochures

10 LVND issued two brochures to market the shop units of the Development. The first brochure (which was the one provided to all of the remaining plaintiffs save for the third plaintiff) was issued on or around July or August 2013 (the "Brochure").[2]

11 The Brochure provided information to potential purchasers on, *inter alia*, the floor plans of the basement to the third storey of the Development. The "Area" of the units was set out in square feet against the unit number of each shop unit on a floor in a table next to the floor plan. Footnotes at the bottom of each page stated that the "[u]nit area includes air-con ledge [*sic*]", save for select units which either included "air-con ledges and loft's voids [*sic*]", or "air-con

[2] 1st AEIC of Goon Eu Jin, Terence dated 15 August 2024 ("GEJ") at para 15.1.

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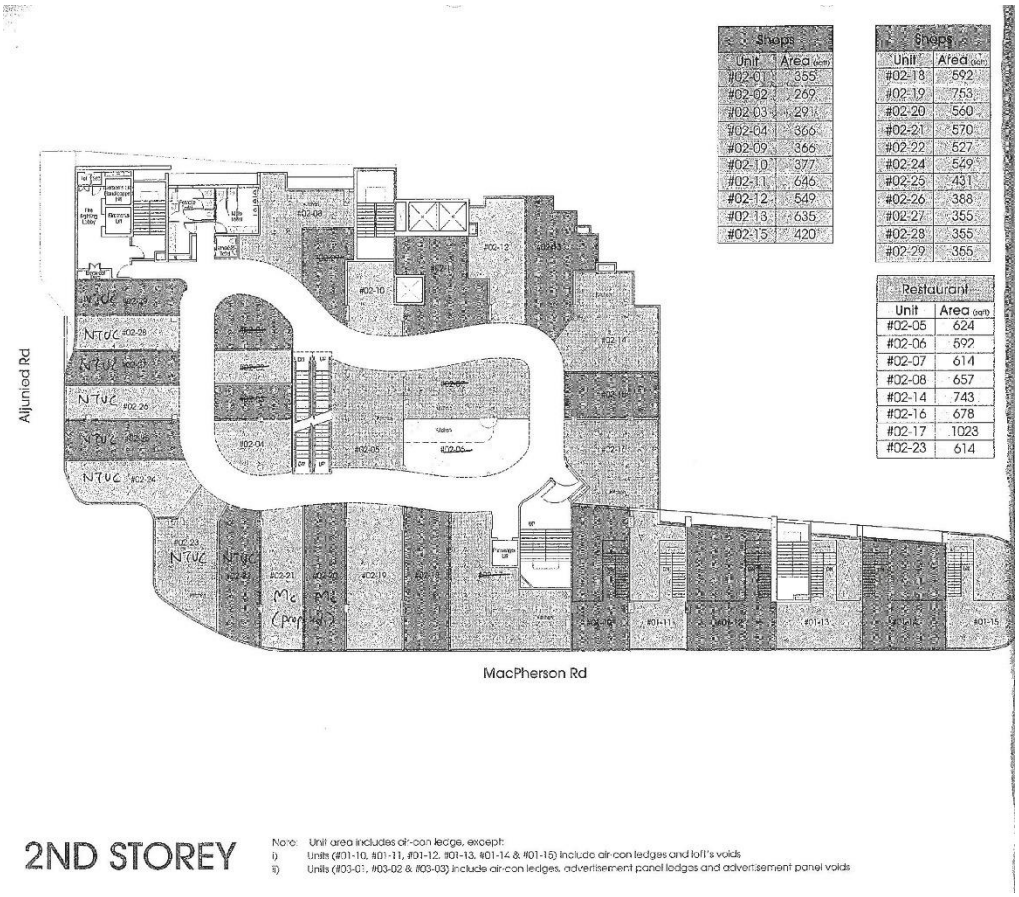
ledges, advertisement panel ledges and advertisement panel voids".[3] Unlike in later versions of the Brochure, the location of the AC ledges was not indicated in the floor plans. A copy of the second storey floor plan as set out in the Brochure is replicated here as an illustration.



12 The Brochure contained illustrations of the Development. The disclaimer "Artist's Impression" was included at the bottom-right or bottom-left corner of such illustrations.[4] The last page of the Brochure included a

3 See Core Bundle ("CB") at p 2247.

4 See CB at pp 2239–2240, 2250, 2252 and 2257.

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disclaimer that "[w]hile every reasonable care has been taken in the preparation of this brochure, the developer and its agents cannot be held responsible for any inaccuracies or omissions. All statements are believed to be correct but shall not be regarded as statements or representations of facts".[5]

Option to Purchase and Side Letter

13 By way of overview for the purposes of this brief background, when a potential purchaser decided to purchase a unit, the Huttons or Savills agents would issue the Option to Purchase ("OTP") for that unit. Along with the OTP, the agents would also issue a package of documents (the "Side Letter") to the purchaser.[6] The Side Letter has also been referred to in the evidence by the sales agents and other LVND witnesses as Project Detailed Information ("PDI").[7] The potential purchasers would typically issue a cheque to LVND as the booking fee under the OTP. The order in which these documents were provided and the extent to which they were explained by LVND to potential purchasers is a matter of vehement disagreement between the parties.

14 The parties disagreed on whether the Side Letter had to be signed before a purchaser would be issued with the OTP for their unit, or whether the OTP was issued first, and the Side Letter was provided after. I shall deal with this issue at [107] below.

15 For now, it suffices to note that the Side Letter consisted of a cover letter (the "Cover Letter"), as well as various enclosures. The Side Letter and the

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5 CB at p 2251 and 2257.

6 See AEIC of Mok Mun Hon Derek dated 15 August 2024 ("MMH") at para 19.

7 Notes of Evidence ("NE") dated 6 November 2024 at p 101 lines 10–20.

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documents comprising the sale and purchase agreement for each unit ("SPA") formed the subject of substantial arguments between the parties so I will summarise the contents of the Side Letter and the documents comprising the SPA below.

(1) Cover Letter

16 The Cover Letter stated that it "hereby enclosed the following":

(a) Annex A: Location Plan;

(b) Annex B1 & B2: Site Plan/Basement Plan;

(c) Annex C: Specifications of Unit & Description of Building;

(d) Annex D: Unit Plan;

(e) Annex E: Information of Unit;

(f) Annex F: Building Plan Approval / Written Permission / Sewage and Drainage Interpretation Plan; and

(g) Annex G: Amendments to the Prescribed Sale and Purchase Agreement.

(collectively, the "Annexes").[8]

17 The Cover Letter also contained LVND's track record. LVND disclosed that it had "not carried out and completed any housing or other development project(s) in Singapore". This section of the Cover Letter also included a table

[8] See CB at p 119.

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of the housing or other development project(s) in Singapore that had been completed and carried out by LVND's related corporations.[9]

18 Finally, the Cover Letter informed purchasers that "[a] copy of the Schedule of Strata Units [or amended Schedule of Strata Units) for the Housing Project [was] available for [their] inspection at the [Sales Gallery], prior to [their] payment of the booking fee".[10]

19 Purchasers were to acknowledge receipt of the Side Letter prior to making payment for the booking fee for the grant of the OTP by signing the "Purchasers' Acknowledgment" portion of the letter.[11]

(2) Annexes

20 Not all the Annexes in the Side Letter were relevant to the dispute (or the subject of dispute themselves). As such, I will only summarise the relevant Annexes.

(A) ANNEX C

21 Annex C contained the "Specifications of the Unit". The notes to the "Specifications of the Unit" included a section on "Advertising Signage" and these referenced the special shop units with advertising space (see above at [8]). This section stated that "[a]ll advertising signage are accessory lots and should only be static advertisements". The section titled "AC Ledges" also noted that

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9 See CB at p 119.

10 See CB at p 120.

11 See CB at p 120.

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"[t]he term of aircon ledge or aircon yard should be referenced to what was shown on the approved Building Plan".[12]

22 Annex C also included a "Description of Building Project", which stated in its notes that:[13]

> F. All AC ledges at roof terrace (open to sky) shall be free from any obstruction and/or storage. Demarcation for each individual AC ledge will be provided. No fencing allowed, provision shall be given for ease of maintenance access when necessary.

(B) ANNEX D

23 Annex D would contain the "unit plan", which was the floor plan and location of the relevant unit. This floor plan, like the floor plans in Brochure 2, also set out the location of air-con ledges on that floor. The small print at the bottom of the floor plan noted that "FLOOR AREA IS INCLUSIVE OF AIR CON LEDGE EXCEPT … UNITS (#03-01, #03-02 & #03-03) INCLUDE AIR CON LEDGE, ADVERTISEMENT PANEL LEDGES AND ADVERTISEMENT PANEL VOIDS". The small print also stated that "AIR CON LEDGES ARE LOCATED ON 2ND,3RD,5TH,6TH STORY AND ROOF".[14]

24 Where the relevant unit also came with an advertisement signage, Annex D also included a plan of the advertisement signage. This plan contained

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12 See CB at pp 125–129.

13 See CB at p 134.

14 See CB at p 135.

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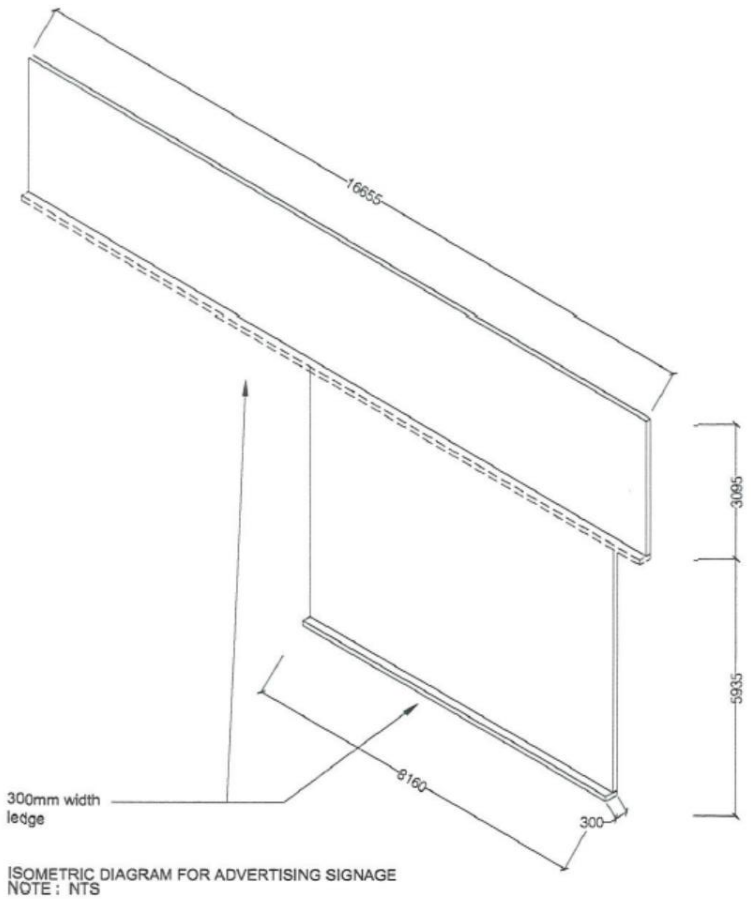
an isometric diagram which set out the dimensions of the advertisement signage (the following example is from Annex D of the Side Letter for unit #03-02):[15]



25 A diagram showing the location of the advertisement signage (the following example is from Annex D of the Side Letter for unit #03-02) was also provided:[16]

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15 CB at p 136.

16 CB at p 136.

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26 The plans in Annex D each contained an acknowledgment of receipt, which purchasers were required to sign.[17]

(C) ANNEX E

27 Annex E spelt out the estimated floor area of the relevant unit. This estimated floor area was categorised into the different components of the unit – *ie*, "Unit Size", "Air-conditioner ledges" and, where applicable, "Advertising Spaces (ledge and void)". Unlike the areas in the Brochures, which were in square feet, the areas in Annex E were in square metres.[18]

28 Annex E also contained an acknowledgment of receipt for purchasers to sign.[19]

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17 See CB at p 136.

18 See CB at p 137.

19 See CB at p 137.

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29 There was a heated debate between the parties on whether Annex E was actually included in the Side Letters provided to the plaintiffs. I will deal with this below at [119]–[125].

(D) ANNEX G

30 Annex G contained the amendments to be made to the prescribed SPA form.[20]

31 Amongst other things, it noted that a new clause on "AC Ledges" would be inserted into the SPA. This clause stated that "[a]ll AC ledges at roof terrace (open to sky) shall be free from any obstruction and/or storage" and that "[d]emarcation for each individual AC ledge will be provided".[21]

32 Annex G also set out notes on "Advertising Signage" and "Air-con Ledges" that would be inserted into the First Schedule of the SPA form. The note on advertising signage stated that "[a]ll advertising signage are accessory lots and should only be static advertisements". The note on "Air-con Ledges" stated that "[t]he term of aircon ledge or aircon yard should be referenced to what was shown on the approved Building Plan".[22]

S&P Package

33 Within 14 days from the date of the OTP, LVND's lawyers would issue (pursuant to cl 2.1 of the OTP)[23] a copy of the SPA for execution, alongside a

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20 See CB at p 149.

21 See CB at p 153.

22 See CB at p 156.

23 See CB at p 98.

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CD-ROM containing a package of documents relating to the Development and a cover letter (the "CD-ROM") (collectively, the "S&P Package"). Thereafter, the purchaser would have three weeks from the date of receipt of the S&P Package to exercise the OTP and execute the SPA.[24]

34 Parties disagreed on whether the CD-ROM was included in the S&P Packages sent to the plaintiffs or their solicitors. Based on the evidence, the CD-ROM did not occupy a particularly clear space within the context of the parties' contractual relationship. The CD-ROM was referred to in the cover letter of the S&P Package as containing documents "for your attention".[25] It was not explicitly stated in the cover letter or in the SPA that the documents contained in the CD-ROM would form part of the contract between the parties. However, the SPA referenced certain documents contained in the CD-ROM, meaning that such documents were incorporated by reference (see below at [44]).

(1) CD-ROM

35 The CD-ROM contained the following documents:

(a) title deeds relating to the parent land lot(s) on which the Development was comprised;

(b) grant(s) of Written Permission and an e-mail dated 18 July 2013 from URA;

(c) notice(s) of Approval of Building Plans;

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24 MMH at para 27.

25 See CB at p 12.

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(d) the letter from the Comptroller of Property Tax approving the official address of the Development;

(e) the letter from the Street and Building Names Board approving the English name of the Development, and an e-mail from URA dated 17 July 2013;

(f) the Registered Surveyors' Certificate on the area of the Development;

(g) the letter from the Commissioner of Buildings approving the amended schedule of strata units for share value allotment of the Development; and

(h) the letter from the paramount mortgagee relating to consent and release.[26]

36 In particular, the letter from the Commissioner of Buildings included the approved amended schedule of strata units (the "Schedule of Strata Units"). The Schedule of Strata Units listed all the units of the Development, and in relation to each unit, stated the total strata area of the unit, including the size and location of the air-con ledges and advertisement signage (where applicable).[27]

37 Similarly, the Registered Surveyors' Certificate also listed the total strata areas of the unit, which included a breakdown of the areas of the shop, the air-con ledges, and the advertisement signage (where applicable).[28]

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26 MMH at para 28.

27 CB at pp 80–86.

28 CB at pp 87–96.

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(2) SPA

38 The SPA consisted of:

(a) the main body of the SPA and the (First) Schedule;[29]

(b) a Second Schedule, which set out the approved amendments to the standard form SPA;[30]

(c) Annexure A and B, which were the second storey floor plan and third storey floor plan respectively;[31]

(d) Schedule A, which set out restrictions on use and enjoyment;[32]

(e) Schedule B, which contained the transaction particulars as well as the signature block for the SPA as a whole;[33] and

(f) a to-scale diagrammatic sketch plan of the Development as well as the respective units (including the applicable accessory lots).[34]

39 In relation to the location and description of the air-con ledges, cl 27 of the SPA (inserted by operation of paragraph 17 of the Second Schedule of the SPA) provided that "[a]ll AC ledges at roof terrace (open to sky) shall be free

29 See CB at pp 455 and 468.

30 See CB at p 478.

31 CB at pp 487 and 490.

32 See CB at p 489.

33 CB at p 493.

34 CB at p 494.

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from any obstruction and/or storage" and that "[d]emarcation for each individual AC ledge will be provided".[35]

40 Similarly, paragraph l of the notes in the First Schedule of the SPA (inserted by paragraph 18 of the Second Schedule of the SPA) stated that "[t]he term of aircon ledge or aircon yard should be referenced to what was shown on the approved Building Plan".[36]

41 In relation to the advertising ledges, paragraph (k) of the notes to the First Schedule of the SPA (inserted by paragraph 18 of the Second Schedule to the SPA) stated that "[a]ll advertising signage are accessory lots and should only be static advertisements".[37]

42 The SPA also contained the following information regarding the strata area of the respective unit:

(a) Annexures A and B of the SPAs contained notes stating that "FLOOR AREA IS INCLUSIVE OF AIR CON LEDGE";[38]

(b) Schedule B of the SPA provided at paragraph 6 that "the Shop on the [X] storey(s) of the Building, compris[es] an estimated floor area of [X] square metres (including Ac Ledge as Accessory Lot, Void, Ac Ledge, Advertisement Signage as Accessory Lot (where applicable) as shown in the registered land surveyor's certificate on strata area)";[39] and

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35 CB at p 482.

36 CB at p 485.

37 CB at p 485.

38 CB at pp 487 and 490.

39 CB at p 493.

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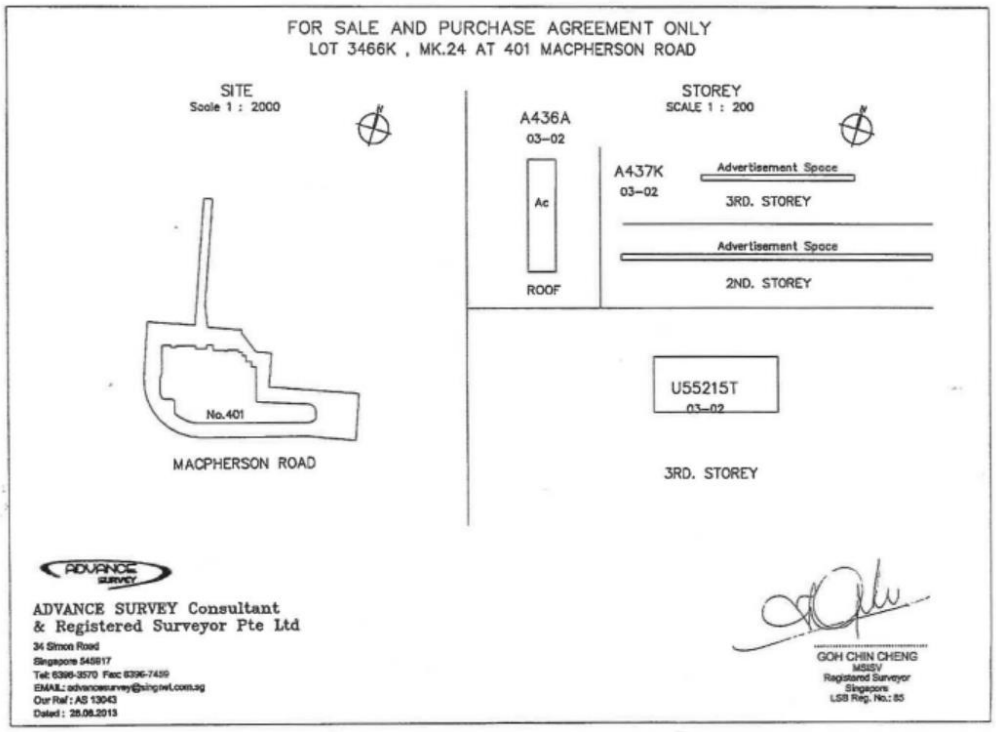
(c) the to-scale diagrammatic sketch plan of the relevant unit and its accessory lots.

43 As an example, the diagrammatic sketch plan included in the SPA for unit #03-02 is as follows:[40]



44 Schedule B of the SPA also incorporated the Registered Surveyors' Certificate on the area of the Development (above at [35(f)] and [37]) into the SPA by reference (see above at [38(e)]).

40 CB at 494.

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Handover and subsequent events

45 The units purchased by the plaintiffs were handed over to the plaintiffs in 2016.[41]

46 Around 2018, the first, third and fourth plaintiffs, and a Ms Nancy Ang, who represented the eighth, ninth and tenth plaintiffs, put themselves up for election and were elected as members of the Management Corporation Strata Title (the "MCST") of the Development.[42]

47 Sometime at or around June 2018, the plaintiffs who had been elected as members attended the first meeting of the MCST and raised issues regarding alleged shortfalls in the gross floor areas of the shop units in the Development.[43]

48 On 25 June 2018, Ms Aishah, the building manager of the Development, brought the first and third plaintiffs and Ms Nancy Ang to the roofs of the fifth, sixth and tenth stories of the Development to view the AC ledges of the plaintiffs' shop units.[44]

The parties' cases

The remaining plaintiffs' case

49 The core of the plaintiffs' case is that they are victims of a scam concocted by LVND to sell off what are ordinarily commercially unusable and unsaleable parts of a property development to unsuspecting buyers. LVND

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41 Parties' Agreed Chronology of Key Events ("PACKE") at p 8, S/N 11.

42 PACKE at p 8, S/N 13.

43 PACKE at p 9, S/N 14.

44 PACKE at p 9, S/N 15.

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cleverly structured the marketing processes, materials, as well as documentation for the sale of the units in a manner that would confer upon them a defence when the purchasers inevitably realised they had been scammed.[45]

The alleged representations

50 The remaining plaintiffs pleaded that the following five categories of representations were made to them by LVND or its agents:

(a) that the plaintiffs would receive shop units with a total usable area reasonably in line with the total floor areas emphasised in the Brochure and oral representations (the "Usable Area Representation");

(b) that the plaintiffs would derive a higher rental yield based on the entirety of the floor area of the shop unit being rentable (the "Rental Yield Representation");

(c) that there would be other popular brands and quality tenants taking up space in the Development, thus adding to the commercial desirability of owning a shop unit in the Development (the "Tenant Mix Representation");

(d) that the plaintiffs would receive "air-con ledges" for the condensers of the air-conditioning systems of their respective shop units that are accessible, functional and otherwise fit for purpose (the "AC Ledge Representation); and

(e) that in the case of the third, 11th and 12th plaintiffs, they would receive as part of the purchase of their shop units, spaces for advertising

45 Plaintiffs' Written Submissions ("PWS) at para 2.

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signage which are additional to the total floor area of the shop units purchased by them, and which can generate additional rental income for them (the "Advertising Signage Representation")

(collectively, the "Purported Representations").[46]

51 According to the remaining plaintiffs, the Purported Representations were made to them by LVND or its agents by the following means:

(a) As regards the Usable Area Representation:

(i) by way of the Brochure, which set out in its floorplans the "Area" of each unit; and/or

(ii) by way of representations made by the sales agents.[47]

(b) As regards the Rental Yield Representation and the Tenant Mix Representation;

(i) by way of representations made by the sales agents.[48]

(c) As regards the AC Ledge Representation:

(i) by way of the Brochure, Side Letter, OTP and SPA, which stated that the remaining plaintiffs would receive "air-con ledges" as accessory lots.[49]

(d) As regards the Advertising Signage Representation:

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46 Statement of Claim at para 25.

47 Statement of Claim at para 25.

48 Statement of Claim at para 25 and 30(d).

49 Statement of Claim at para 6 and 30(a).

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(i) by way of the Side Letter, OTP and SPA, which stated that the third, 11th and 12th plaintiffs would receive "advertising panel ledges" as accessory lots;[50] and/or

(ii) by way of representations made by sales agents that the advertising panel ledges would be digital and would not be included in the total floor areas of their respective shop units.[51]

The alleged falsity of the representations

52 The remaining plaintiffs argue that all of the Purported Representations were false. In particular:

(a) The Usable Area Representation was false because the actual usable floor area of the shop units the remaining plaintiffs purchased was "far less than what the [remaining plaintiffs] had been led to believe".[52]

(b) The Rental Yield Representation was false because it was premised on the entire shop unit area being rented out, "notwithstanding the practical impossibility of the [AC ledge] and [advertising panel ledge] being subsequently rented out".[53]

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50 Statement of Claim at paras 25(e) and 30(h).

51 Statement of Claim at para 25(e) and 30(j).

52 Statement of Claim at para 29(a).

53 Statement of Claim at para 29(d).

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(c) The Tenant Mix Representation was false because "at least one of the major retail entities specified by the … sales agents did not take up units in the [Development]".[54]

(d) The AC Ledge Representation was false because the AC ledges received by the remaining plaintiffs "were not in fact 'ledges' as commonly understood but were in fact marked out portions of the roofs of the building … or were metal frames placed on the floor of the roofs of the building", and the AC ledges were not effectively functional or fit for purpose as they were "a considerable distance from the units themselves" and "the air-conditioning for the [remaining plaintiffs'] shop units frequently proved to be ineffective].[55]

(e) The Advertising Signage Representation was false because the advertising panels were not digital and were in fact included within the area of their shop units.[56]

The alleged fraudulence or negligence of the Purported Representations

53 The remaining plaintiffs allege that LVNDs and/or its sales agents made the Purported Representations knowing they were false, or recklessly without regard as to their truth, or negligently. In particular, they rely on the fact that LVND had deliberately omitted Annex E, the only document which specifically set out the breakdown of the area of their units, from the Side Letter and only

54 Statement of Claim at para 29(e).

55 Statement of Claim at para 29(b) and 29(c).

56 Statement of Claim at para 30(i) and 30(j).

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provided it to the remaining plaintiffs after they had executed their respective SPAs.[57]

The remaining plaintiffs' reliance on the Purported Representations and the damage suffered

54 The remaining plaintiffs allege that they were induced by the Purported Representations to "execute their individual [SPAs] with the [defendant]".[58] Had the remaining plaintiffs not been misled by the Purported Representations, they would "either not have purchased their respective shop units at the prices they did, or would have purchased the same shop units at a lower price".[59]

LVND's case

55 LVND denies the existence of any such scheme or that any of the Purported Representations were made. Even if the Purported Representations were made, they would have been corrected by the Brochure, the Side Letter, the S&P Package and the terms of the SPA.[60] Furthermore, the remaining plaintiffs are barred from rescinding their respective SPAs as they had affirmed said SPAs.[61]

56 It also argues that the third and fifth plaintiff's claims are time-barred.[62]

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57 Statement of Claim at paras 15 and 30.

58 Statement of Claim at para 28.

59 Statement of Claim at para 30(f).

60 Defence at para 22.

61 Defence at para 24A.

62 Defendant's Written Submissions ("DWS") at para 11.

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Issues to be determined

57 The broad issues to be determined are as follows:

(a) whether the third and fifth plaintiff's claims are time-barred;

(b) as regards the remaining plaintiffs' claims for fraudulent misrepresentation;

(i) whether there was a fraudulent scheme by LVND to sell off usually unsaleable portions of the Development; and

(ii) therefore, whether LVND had the necessary fraudulent intention to induce the remaining plaintiffs to enter into the SPAs based on the Purported Representations;

(c) as regards the remaining plaintiffs' claims in negligent misrepresentation:

(i) whether the AC Ledge Representation constituted an actionable misrepresentation; and

(ii) in relation to the first and second plaintiffs:

(A) whether LVND had made the Usable Area Representation;

(B) whether the Usable Area Representation was false;

(C) whether LVND had made the Usable Area Representation negligently; and

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(D) whether the first and second plaintiffs had relied on the Usable Area Representation in entering the SPA;

(iii) in relation to the third plaintiff:

(A) whether LVND had made the Usable Area Representation and/or the Advertising Signage Representation;

(B) whether these representations were false;

(C) whether LVND had made these representations negligently; and

(D) whether the third plaintiff had relied on these representations in entering the SPA;

(iv) in relation to the fifth plaintiff:

(A) whether LVND had made the Usable Area Representation, the Rental Yield Representation and/or the Tenant Mix Representation;

(B) whether these representations were false;

(C) whether LVND had made these representations negligently; and

(D) whether the fifth plaintiff had relied on these representations in entering the SPA;

(v) in relation to the 11th and 12th plaintiffs:

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(A) whether LVND had made the Usable Area Representation and/or the Advertising Signage Representation;

(B) whether these representations were false;

(C) whether LVND had made these representations negligently; and

(D) whether the 11th and 12th plaintiffs had relied on these representations in entering the SPA;

(vi) in relation to the 15th plaintiff:

(A) whether LVND had made the Usable Area Representation, the Rental Yield Representation and/or the Tenant Mix Representation;

(B) whether these representations were false;

(C) whether LVND had made these representations negligently; and

(D) whether the fifth plaintiff had relied on these representations in entering the SPA; and

(d) if misrepresentation is made out, whether the plaintiffs may rescind the SPAs.

The applicable law

58 The remaining plaintiffs' claim in this action is that LVND induced them to execute their respective SPAs by making the Purported Representations and by doing so fraudulently, or in the alternative, negligently.

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Fraudulent misrepresentation

59 To succeed in fraudulent misrepresentation, the remaining plaintiffs must prove the following (*Broadley Construction Pte Ltd v Alacran Design Pte Ltd* [2018] 2 SLR 110 ("*Broadley*") at [14])

(a) LVND made a false representation of fact (*ie*, a misrepresentation) to each of them;

(b) LVND made the misrepresentation with the intention that they should act on it;

(c) the remaining plaintiffs each acted in reliance on the misrepresentation;

(d) the remaining plaintiffs each suffered damage by acting on the misrepresentation; and

(e) LVND made the misrepresentation knowing that it was false or in the absence of any genuine belief that it was true.

Negligent misrepresentation

60 It is unclear whether the remaining plaintiffs' claim is based on s 2(1) of the Misrepresentation Act 1967 (2020 Rev Ed) ("MA"), or the tort of negligent misrepresentation.

61 In their statement of claim, under the header "Negligent Misrepresentation", the remaining plaintiffs "rely upon the provisions of Section 2 of the Misrepresentation Act entitling them in the circumstances to

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the reliefs claimed therein".[63] In other words, the remaining plaintiffs' (alternative) pleaded case is that of a *statutory* claim for negligent misrepresentation under s 2(1) of the MA.

62 However, in their written submissions, the remaining plaintiffs then refer to "the elements of the *tort* of negligent misrepresentation" (emphasis added).[64] They thus appear to be arguing that that they have a *common law* claim for negligent misrepresentation.

63 A claim under s 2(1) of the MA comprises the following five elements (*Far East Opus Pte Ltd v Kuvera Properties Pte Ltd* [2025] SGHC 109 ("*Far East Opus*") at [121]):

(a) a misrepresentation is made by LVND to the claimant;

(b) the claimant was induced to enter into the contract on account of the misrepresentation;

(c) the claimant suffers loss as a result;

(d) LVND would be liable to damages *if* the misrepresentation had been made fraudulently (and therefore fraud is not a necessary element); and

(e) LVND is unable to prove that, up to the time that the contract was made, he had reasonable grounds to believe and did believe that the facts represented were true.

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63 Statement of Claim at para 31.

64 PWS at para 31.

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64 The distinction between a statutory claim for negligent misrepresentation as compared to a claim in common law is that, for a statutory claim, the burden of proof is on the *representor*, rather than the representee, to prove that "he had reasonable ground to believe and did believe up to the time the contract was made that the facts represented were true". Claimants tend to prefer a statutory claim for negligent misrepresentation for this reason. The other distinction is that a claim under s 2(1) of the MA is only available to one contracting party against another contracting party, whereas the tort of negligence applies to all cases where a claimant can establish a duty of care (see *Trans-World (Aluminium) Ltd v Cornelder China (Singapore)* [2003] 3 SLR(R) 501 at [124]). Hence, a representee making a statutory claim for negligent misrepresentation need not establish that he was owed a duty of care by the representor (*Far East Opus* at [122]).

65 Given that the requirements for a statutory claim for negligent misrepresentation are similar and in fact more lenient than that for the tort of negligent misrepresentation, I will give the remaining plaintiffs the benefit of the doubt, and evaluate whether they have made out a claim under s 2(1) of the MA, rather than the tort of negligence.

Actionable misrepresentation

66 At this point, I would note that the primary relief sought by the remaining plaintiffs is the recission of their respective SPAs.[65]

67 Once a claimant establishes actionable misrepresentation, that, without more, entitles the claimant to rescind the contract (*RBC Properties Pte Ltd v*

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[65] Statement of Claim at Section D, para (1).

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Defu Furniture Pte Ltd [2015] 1 SLR 997 ("*RBC Properties*") at [56]). Distinguishing between the specific types of misrepresentation is strictly only necessary when a claimant is seeking damages.

68 The elements of actionable misrepresentation are thus elements common to both types of misrepresentation, namely, that:

(a) there is a statement of existing or past fact made by one party to another;

(b) that statement is false; and

(c) that statement induced the other party to enter into the contract.

69 In particular, the element of reliance requires that the misrepresentation play a "real and substantial role" in inducing the plaintiff to act, though it need not be the sole or decisive factor (*Crystal Beauty Pte Ltd v Xu Jasmine and another* [2025] SGHC 86 ("*Crystal Beauty*") at [36], citing *Ma Hongjin v Sim Eng Tong* [2021] SGHC 84 at [64]).

The third and fifth plaintiffs' claims are not time barred

70 LVND argues that the third and fifth plaintiffs' claims are time-barred. The third and fifth plaintiffs' causes of action accrued when they entered into their respective SPAs, on 27 September 2013 and 28 October 2013 respectively. The present suit was commenced more than 6 years later, on 4 March 2020.[66] That being the case, LVND's position is that the limitation period of six years

[66] DWS at para 12.

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under s 6(1)(*a*) of the Limitation Act 1959 (2020 Rev Ed) ("LA") operates to bar the third and fifth plaintiffs' claims in misrepresentation.[67]

71 The third and fifth plaintiffs argue that the date on which their causes of action accrued was when they took possession of their respective units in 2016. It was only after they were physically able to view their respective units that they realised that the Purported Representations were false and their losses became ascertainable.

72 LVND relies on the case of *Liew Soon Fook Micheal and another v Yi Kai Development Pte Ltd* [2017] SGHC 88 ("*Micheal Liew*"), where the High Court held that if a contract was allegedly induced by a misrepresentation, the damage to the purchasers would have occurred, at the latest, at the time of entry into the contract. LVND asserts that *Micheal Liew* remains good law. Though the Court of Appeal "commented" on the High Court's decision in *Micheal Liew* in the case of *IPP Financial Advisors v Saimee bin Jumaat and another appeal* [2020] 2 SLR 272 ("*IPP*"), *IPP* did not overrule *Micheal Liew*, and "can be distinguished as it concerned very different facts from those of the present case or those in [*Micheal Liew*]". In particular and according to LVND, the Court of Appeal's holding in *IPP* was in relation to cases of contingent loss, while the loss suffered in the present case and in *Micheal Liew* is not contingent loss.[68]

73 I was not persuaded. In my judgment, the Court of Appeal in *IPP* explicitly overruled the High Court's decision in *Micheal Liew*. *IPP* concerned losses following from the respondent's entry into certain investment

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67 DWS at para 11.

68 NE dated 25 March 2025 at p 24.

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agreements. The issue in *IPP* was whether the respondent's cause of action had accrued at the point that the respondent entered into the contract, or one year later, when no repayment was made by the appellant. In *IPP* at [87], the Court of Appeal noted that "[t]here are two more recent High Court cases in Singapore which appear to diverge from the approach in *Wiltopps*" (*ie*, that for the purposes of determining when a claim accrues, what has to be shown is actual loss or damage, not future loss or damage), the first being the case of *Micheal Liew*. The Court of Appeal "respectfully disagree[d]" with those divergent cases, as the test employed in those cases seem to have been employed "in order to rationalise their respective outcomes, even though upon closer inspection, *the losses in those cases were indeed purely contingent*" [emphasis added] (*IPP* at [92]).

74 In other words, the Court of Appeal explicitly disagreed with the decision in *Micheal Liew* and found that the loss in *Micheal Liew* was purely contingent.

75 Following *IPP*, the current case, being (as LVND itself argues) analogous to *Micheal Liew*, is a case of contingent loss. At the point of entering the SPAs, the remaining plaintiffs had yet to suffer any actual loss. This was because the Development had not yet been built. As such, the Court of Appeal's holding in *IPP* would apply squarely to the current case. I thus agree with the third and fifth plaintiffs that their claim is not time barred. Their causes of action only accrued when they took possession of their respective units in 2016 when their losses became ascertainable allegedly as a result of the Purported Representations.

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76 In light of my finding that the third and fifth plaintiffs' claims are not time barred, I do not have to consider if those claims need to benefit from a postponement of the limitation period as a result of fraud under s 29(1) of the LA.

The remaining plaintiffs' claims in misrepresentation

77 I will first address some preliminary issues raised by the parties. I will then address the factual findings that are relevant across all the claims for misrepresentation, before moving on to the remaining plaintiffs' claim for fraudulent misrepresentation. Finally, I will address the remaining plaintiffs' claim for negligent misrepresentation. As this last group of issues is highly fact-specific, I will also address each of the remaining plaintiffs' cases on a standalone basis.

Other preliminary issues

Whether the Purported Representations applied to all of the remaining plaintiffs equally

78 According to the remaining plaintiffs, the Purported Representations pleaded in the Statement of Claim (above at [50]) are "the misrepresentations made to the group acting as a group". This "group" comprised different plaintiffs, who were each affected by the misrepresentations in different ways and this is summarised below.[69]

[69] Plaintiffs' Reply Submissions dated 7 March 2025 ("PRS") at para 59.

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79 There were two "major operative misrepresentation[s]" which applied to all of the remaining plaintiffs, namely the Usable Area Representation and the AC Ledge Representation.[70]

80 In contrast, the Advertisement Signage Representation only applied to the third and 11th and 12th plaintiffs.[71]

81 Finally, the other pleaded misrepresentations, *ie*, the Rental Yield Representation and the Tenant Mix Representation, "affect different [plaintiffs] in different ways". Those representations were "not significant" to remaining plaintiffs who had purchased the shop units for their own use (*ie*, the first and second plaintiffs, the third plaintiff, and the 11th and 12th plaintiffs).[72] However, these representations are relied on by the fifth and 15th plaintiffs, who bought their respective units in order to generate income.[73]

82 The remaining plaintiffs' counsel's case on this last point is somewhat garbled. On one hand, he admits that the remaining plaintiffs who bought shop units for their own use "would not have attached much significance to possible rental yields and tenant mix".[74] On the other hand, he argues that "[t]he fact that these [representations] were not significant to those [plaintiffs]" does not mean they were not induced by these representations as part of LVND's strategy to lure them into the purchase.[75]

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70 PRS at paras 59–60.

71 PRS at para 60.

72 PRS at para 61.

73 PRS at para 62.

74 PRS at para 61.

75 PRS at para 61.

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83 It is not clear if counsel for the remaining plaintiffs is trying to say that even if the representations did not end up inducing those plaintiffs, LVND had still made such representations with fraudulent intent, or that even though the representations were not significant to those plaintiffs, they still induced those plaintiffs into executing their respective SPAs.

84 Either way, this argument must fail:

(a) In order to establish fraudulent misrepresentation, the representee must still establish that they *in fact* relied on the representation – it is not sufficient that the representor intended that the representee rely on the representation (see above at [59]).

(b) Regarding the element of reliance, while the misrepresentation need not be the sole or decisive factor in inducing the representee to act, it must still play a "real or substantive" role (see above at [69]). Given the remaining plaintiffs' explicit concession that the Rental Yield Representation and the Tenant Mix Representation was "not significant" to certain plaintiffs, the element of reliance is not made out in relation to those representations for those plaintiffs.

Whether the Purported Representations constituted statements of fact

85 Another preliminary issue raised by LVND was in relation to the first element of actionable misrepresentation – *ie*, that defendant had made statements of existing or past fact to the remaining plaintiffs.

86 LVND argues that the Purported Representations all pertain to statements of future intention, rather than statements of existing or past fact.

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Therefore, the Purported Representations cannot constitute actionable misrepresentation.[76]

87 I agree with LVND that the Purported Representations were representations as to what the remaining plaintiffs "would" receive, which suggests that they were statements of future intention. However, as LVND itself notes,[77] such statements may be re-characterised as statements implying that (a) the maker of the statement honestly believed at that point in time that the event would happen in the future, or (b) that the maker had, at that point in time, reasonable grounds for making such an assertion: *Deutsche Bank AG v Chang Tse Wen* [2013] 1 SLR 1310 at [96].

88 As such, the mere fact that the Purported Representations pertained to statements of future intention does not preclude the remaining plaintiffs from establishing a claim in misrepresentation.

Whether the remaining plaintiffs must establish that they entered into the SPAs in reliance on the Purported Representations

89 Another point of significant dispute between the parties concerns the element of reliance.

90 LVND's case is that the remaining plaintiffs could not have relied on the Purported Representations in entering their respective SPAs. It argues that even if there had been misrepresentations made to the remaining plaintiffs, such misrepresentations would have been corrected by the terms of the contract

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76 DWS at paras 40–41.

77 DWS at para 39.

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itself.[78] It cites the Court of Appeal's decision in *Broadley*.[79] In *Broadley*, a subcontractor began defaulting on payments to its supplier as the subcontractor's main contractor had itself defaulted on payments to the subcontractor (*Broadley* at [4]). The parties thus entered into a tripartite agreement where the subcontractor authorised its main contractor to pay the supplier on its behalf. The terms of this agreement were formalised in a written undertaking (*Broadley* at [6]). Before the parties drafted and signed the undertaking, the supplier told the subcontractor that if the main contractor did not pay, the subcontractor would remain liable for the outstanding sum. The subcontractor remained silent and did not respond (*Broadley* at [17]). However, the undertaking that was signed stated that the subcontractor was released of all liability to the supplier.

91 The Court of Appeal found that the supplier could not rescind the undertaking for fraudulent misrepresentation. Even if the subcontractor's silence amounted to a misrepresentation that it accepted that it would remain liable to the supplier if the main contractor failed to pay, any misimpression which the supplier was labouring under was corrected by the terms of the undertaking. That being the case, the supplier could not have been induced by the misrepresentation into signing the undertaking (*Broadley* at [32]).

92 Whether a representee was induced by the representor's misrepresentation to entering into a contract is a question of fact. Where a representor contends that the representee was not induced by the representation because it had already been corrected, the representor needs to show that he has

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78 DWS at para 47.1.

79 DWS at para 35.

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brought the correction to the representee's attention such that the representee is aware of the correction (*Broadley* at [34]).

93 In the case of *Broadley*, because the undertaking expressly provided that the subcontractor was released from liability, the misrepresentation (if any) was dispelled by the express terms of the contract. The supplier should be taken to have actually read the contract it signed, and thus, known the falsity of the alleged misrepresentation. To hold otherwise would undercut the basis of the conduct of commercial life – that businessmen with equal bargaining power would read their contracts and defend their own interests before entering into contractual obligations, and that they would rely on their counterparties to do the same (*Broadley* at [36]). Furthermore, the subcontractor's position was patently obvious from the undertaking. This was especially so as the indemnity clause was not buried in a mass of small print but clearly appeared just above the space for signature by the parties. If the supplier chose to sign the undertaking without seeking any clarification, this was pursuant to its own assumption that it reflected its own understanding of the agreement, and the consequences arising therefrom must therefore fall on it alone (*Broadley* at 38]).

94 LVND claims that even if it had made the Purported Representations, this would have been corrected by the documents such as the Side Letter, the SPA and the S&P Package, which were provided to the remaining plaintiffs prior to the execution of the SPA and after the alleged representations made to the remaining plaintiffs.[80]

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80 DWS at para 47.1.

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95 The remaining plaintiffs seek to distinguish the facts of *Broadley* from the facts in the present case. I will address this at [208]–[211] below. The remaining plaintiffs also raise an argument relating to a point of law. They argue that following *Broadley*, the element of inducement may be made out when there is any act of reliance on the representation, not just when the representee entered into the contract in reliance on the representation. In making this argument, they rely on the Court of Appeal's holding in *Broadley* that a correction "must have been made *prior* to the representee's entry into the contract or <u>any other act of reliance on the statement</u>" [emphasis in original in italics, emphasis added in underline]. Hence, as the remaining plaintiffs had acted in reliance on the Purported Representations by signing the OTP, even if the Purported Representations were corrected by the terms of the SPA, there was still actionable misrepresentation entitling the remaining plaintiffs to *rescind the SPA*.[81]

96 I was not persuaded by the remaining plaintiffs' argument.

97 In my judgment, the Court of Appeal's reference to "any other act of reliance" was likely made with a *damages* claim in mind, rather than a claim for recission of contract. The very basis for allowing rescission of a contract induced by a misrepresentation is that a *contract that results from misrepresentation* is one that is "defective in its formation" (Pearlie Koh, "Misrepresentation and Non-disclosure" in ch 11 of *The Law of Contract in Singapore* (Andrew Phang Boon Leong gen ed) (Academy Publishing, 2nd Ed, 2022) at para 11.101). By rescinding the contract, the representee is able to "escape from the contract which he has been inveigled into making by the false

[81] NE dated 25 March 2025 at pp 6–7.

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representation of the other contracting party" (*Attwood v Small* (1838) 6 Cl & Fin 232 at 266). Hence, where the misrepresentation has no link to a contract (*ie*, where there is "some other act of reliance"), that misrepresentation would not entitle parties to rescind said contract. Hence, the Court of Appeal has been very clear that "[i]n the contractual context", a claimant is required to establish that they relied on the representation by "entering into the contract with the representor" (*Strait Colonies Pte Ltd v SMRT Alpha Pte Ltd* [2018] 2 SLR 441 ("*Strait Colonies*") at [33]).

98 While the plaintiffs also seek, in the alternative, damages in lieu of rescission, the remaining plaintiffs have also deviated from their pleaded case in making this argument. In their Statement of Claim, the remaining plaintiffs state that they seek "[r]escission of the SPAs", "[d]amages in lieu of rescission [of the SPAs]" and "[d]amages for any and all losses, costs and expenses suffered as a result of entering into the SPA".[82] Furthermore, in the section titled "Causes of Action", the remaining plaintiffs specified that "[i]n reliance on the truth of LVND's representations as specified at paragraph 25 above, and induced thereby, the Plaintiffs proceeded to execute their *individual Sale and Purchase Agreements* with [LVND]" [emphasis added].[83] It is clear that the remaining plaintiffs' case all along has been centred around the SPAs. Therefore, this current argument that they relied on the Purported Representations in entering the OTPs constitutes a significant deviation from their pleaded case and should not be allowed in respect of their claim for rescission *and* their alternative claim for damages.

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82 Statement of Claim at Section D.

83 Statement of Claim at para 28.

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Whether the remaining plaintiffs may raise their argument regarding the Sale of Commercial Properties Rules

99 At the hearing, the remaining plaintiffs' counsel also argued for the first time that the SPAs had breached r 7 of the Sale of Commercial Properties Rules. According to the remaining plaintiffs, this was because the schedules other than the Second Schedule of the SPA were not approved by the URA. Therefore, LVND could not rely on corrections in Schedule B of the SPA to claim that the remaining plaintiffs did not rely on the Purported Representations in entering into their respective SPAs.[84]

100 In response, LVND argued that this contention was not pleaded and should not be allowed as the remaining plaintiffs should not be allowed to catch LVND by surprise.[85]

101 I agree with LVND. This argument was not pleaded and was raised only in the oral closing submissions. This point was also not raised to any of LVND's witnesses in cross-examination. While the remaining plaintiffs' counsel argues that there is no evidence that Schedule B of the SPA was approved by the URA, I agreed with LVND that the evidence was not presented because this point had never been raised by the remaining plaintiffs. The SPA had been in evidence since the start of the proceedings so the remaining plaintiffs' counsel cannot say (as he did)[86] that he was just responding to the LVND's counsel's closing submissions. For those reasons, the remaining plaintiffs should not be allowed to make this argument at this late stage in the proceedings.

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84 NE dated 25 March 2025 at pp 27–28 and 36.

85 NE dated 25 March 2025 at p 36.

86 NE dated 25 March 2025 at p 37.

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102 In any case, I do not see how the alleged breach of the Sale of Commercial Properties Rules would mean that LVND could assert the corrections in Schedule B of the SPA to claim that the remaining plaintiffs did not rely on the Purported Representations in entering their respective SPAs. LVND relies on Court of Appeal's holding in *Broadley* that parties are expected to read the terms of the contracts they sign (see above at [93]). As far as the parties were aware at the point of signing, Schedule B of the SPA formed a part of the SPA. There is no evidence that the remaining plaintiffs had received advice from their respective lawyers representing them in the SPA that Schedule B of the SPA was unenforceable and thus irrelevant. That being the case, *Broadley* would apply with equal force to this case whether or not Schedule B of the SPA is enforceable.

General factual findings

103 Before I evaluate the factual matrix of each remaining plaintiff's claim in turn, I set out some key findings I have made from the evidence that are relevant across all the claims for misrepresentation.

The remaining plaintiffs' level of experience in buying property

104 One point of dispute between the parties was whether the remaining plaintiffs constituted experienced property investors. Counsel for the remaining plaintiffs alleged that none of the remaining plaintiffs were "savvy or experienced property investors".[87] On the other hand, during cross-examination, counsel for LVND sought to establish that all of the remaining plaintiffs were

[87] Plaintiffs' Opening Statement at para 3.

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experienced property investors, having purchased multiple investment properties.

105 All of the remaining plaintiffs acknowledged their prior property purchasing experience, though their purchase of shop units in the Development was their first venture into commercial real estate within a shopping mall:

(a) The first plaintiff had previously purchased seven different properties – of these, six were as personal residences, and one was for investment purposes.[88]

(b) The third plaintiff's representative is also an experienced property investor, having purchased more than ten industrial properties and four residential properties (namely, a HDB, a condominium, and two landed properties).[89] However, this was his first time purchasing a shop unit.[90]

(c) The fifth plaintiff had previously purchased "two or three" properties in Singapore and "two or three" properties "around the world".[91] However, this was his first purchase of a commercial property.[92]

(d) The 11th plaintiff had previously purchased four properties in China – two residential properties, one "small supermarket", and one

88 NE dated 17 October 2024 a p 56 line 24–p 57 line 10.

89 NE dated 21 October 2024 at p 19 lines 16–21.

90 NE dated 21 October 2024 at p 20 line 5.

91 NE dated 25 October 2024 at p 26 lines 16–22.

92 NE dated 25 October 2024 at p 16 lines 5–7.

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"small office".[93] She had also purchased four properties in Singapore with the 12th plaintiff, namely, three residential properties and one two-storey shop in an HDB.[94]

(e) The 15th plaintiff's representative had previously purchased units in three industrial developments, three commercial developments and two residential developments.[95]

106 As such, I agreed with LVND that the remaining plaintiffs were experienced property investors.

The order of documents provided and signed

107 Another point of dispute between the parties was the order in which the Side Letter and the OTP were issued and signed.

108 LVND called a number of witnesses to give evidence on their general sales process. I consider their evidence first.

(1) Mok Mun Hon Derek (Development Manager)

109 Mr Mok Mun Hon Derek ("Mr Mok") is an employee of Nobel, which is one of the shareholders of LVND. He has been deployed as the Development Manager of LVND.[96]

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93 NE dated 29 October 2024 at p 35 lines 15–17.

94 NE dated 29 October 2024 at p 36 line 1–p 37 line 6; NE dated 30 October 2024 at p 55 lines 2–17.

95 NE dated 1 November 2024 at p 53 lines 14–16, p 53 line 20–p 54 line 5, and p 53 lines 11–14.

96 NE dated 8 November 2024 at p 5 lines 10–20.

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110 His role as the Development Manager of the Development, involved, *inter alia*, preparing sales documents for the units at the Development, including the Side Letters and OTPs; and overseeing the sale and purchase process for the units at the Development.[97]

111 According to Mr Mok, the sales process proceeded in the following manner:

(a) The sales agents would present the Development to potential purchasers using the model of the Development in the Sales Gallery.[98] The sales agents were briefed on the process to be adopted in marketing the Development. In particular, sales agents were told that the units consisted of "air-con ledges, advertisement ledges and the location". When a potential purchaser expressed interest in a unit, sales agents were to check with their project-in-charge (the "Project I/C") for the breakdown of the area of the unit, as set out in the schedule of units, and inform the potential purchaser of the same.[99]

(b) Thereafter, if the potential purchaser decided to purchase the unit, the sales agents would provide two sets of the Side Letters to the potential purchaser to be signed.[100]

(c) Mr Mok had instructed the Project I/Cs to brief their agents to go through each of the Annexes of the Side Letters with the potential

97 MMH at para 6.

98 NE dated 8 November 2024 at p 101 lines 1–9, p 106 lines 14–20.

99 NE dated 8 November 2024 at p 104 lines 6–12.

100 MMH at paras 19 and 23.

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purchasers, and to obtain their acknowledgement by way of their signature or initials on each page of the Side Letters.[101]

(d) Upon the potential purchaser signing and initialling both sets of the Side Letters, the Project I/C would check that the documents were in order. Thereafter, they would hand the two sets of Side Letters to Mr Mok.[102]

(e) Mr Mok would check that all the Annexes were present, and that each page of both sets of the Side Letters had been signed by the potential purchaser. Only after ensuring that all pages of the Side Letters were present and signed, would Mr Mok obtain two sets of the OTP (signed by one of LVND's directors) and hand the same to the Project I/C.[103]

(2) The Project I/Cs

112 LVND also called all four Project I/Cs (two from Huttons and two from Savills) as witnesses. The Huttons Project I/Cs were Ms Lim Geok Kee @ Tan Geok Kee ("Ms Allyson Lim") and Mr Cheong Yeon Lai ("Mr John Cheong").[104] The Savills Project I/Cs were Ms Jen Wong Hong Lay Hong ("Ms Jen Wong") and Mr Daniel Phua Wee Kwong, Daniel ("Mr Daniel Phua").[105] In

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101 MMH at para 23.

102 MMH at para 24.

103 MMH at para 25.

104 AEIC of Lim Geok Kee @ Tan Geok Kee dated 15 August 2024 ("LGK") at para 4; AEIC of Cheong Yeon Lai dated 15 August 2024 ("CYL") at para 4.

105 AEIC of Wong Lay Hong ("WLH") at para 4; Affidavit of Phua Wee Kwong, Daniel dated 15 August 2024 ("PWK") at para 4.

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particular, Ms Allyson Lim was retired and hence had no incentive to be untruthful in presenting her evidence.[106]

113 The Project I/Cs' evidence was generally consistent. The Project I/Cs' role involved:[107]

(a) training and briefing the core team of sales agents on information pertaining to the Development;

(b) preparing the Side Letters by writing the names and address of the potential purchasers, the unit that the potential purchasers were interested in purchasing, and the transaction details, to be given to potential purchasers;

(c) checking the Side Letters upon the same being returned to them by the sales agents to ensure that every page was signed and initialled by potential purchasers;

(d) explaining the contents of the OTP to the sales agents (as they were the persons presenting the OTP); and

(e) submitting the Side Letters to LVND in exchange for the OTP.

114 According to the Project I/Cs, the sales process was as follows:

(a) As a general practice, potential purchasers would be provided with a copy of the brochure for the Development when they visited the

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106 NE dated 13 November 2024 at page 3 line 20.

107 LGK at para 4; CYL at para 4; WLH at para 4; PWK at para 4.

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Sales Gallery. The sales agents would present the units to potential purchasers based on the sales kit provided by Huttons or Savills.[108]

(b) The Project I/Cs also instructed the sales agents on how to present information about the unit to potential purchasers.

(i) Both the Huttons' and Savills' sales agents were instructed to not commit to any definitive answers on the potential rental yield of the units and to tell potential purchasers to conduct their own independent inquiries as to rental yield.[109]

(ii) The Project I/Cs also instructed sales agents that potential retailers that might take up a unit in the Development could only be presented as possible tenants when there was confirmation that they would operate in the Development. For example, it was only after LVND informed the Project I/Cs that NTUC Fairprice would be leasing a unit in the Development on 27 January 2014,[110] that they informed the sales agents that such information could be provided to potential purchasers.[111]

(iii) The Project I/Cs instructed their sales agents to inform potential purchasers that the AC ledges for each unit would be located on a different floor from their unit.[112] The Savills Project I/Cs also informed their sales agents that they could refer

108 LGK at paras 6–7; WLH at para 6; PWK at para 5.

109 LGK at para 13; CYL at para 14; PWK at para 6.3.

110 CB at pp 694–695.

111 LGK at para 12; CYL at para 14; PWK at para 6.2.

112 LGK at para 10; CYL at para 12; WLH at para 7.1; PWK at para 6.1.

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potential purchasers to information within the brochure to explain that the area of each unit included the AC ledges.[113] The Project I/Cs' evidence also differed from Mr Mok's in that they did not appear to have instructed sales agents to inform potential purchaser who expressed interest in a unit of the breakdown of the area of said unit. Rather, their evidence was that *if* a potential purchaser asked about the breakdown of the area of each unit, the sales agents could ask them for the same.[114] Ms Allyson Lim noted that none of the Huttons sales agents had asked her for such information.[115]

(c) After a sales agent informed the Project I/Cs that a potential purchaser was interested in purchasing a unit in the Development, the Project I/Cs would then prepare two identical sets of the Side Letter by writing the potential purchasers' details into the Side Letter.[116]

(d) The Side Letter would then be explained to the potential purchasers. The Savills Project I/Cs testified that the Side Letters would be explained by Mr Daniel Phua, with Ms Jen Wong assisting. The Huttons Project I/Cs testified that their sales agents would explain the Sales Letters to the purchaser.[117] The Huttons sales agents were instructed to explain each Annex to the potential purchasers.[118]

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113 LGK at para 10; CYL at para 12; WLH at para 7.1; PWK at para 6.1.

114 LGK at para 10; WLH at para 7.1; PWK at para 6.1.

115 LGK at para 10.

116 LGK at para 16.1; CYL at para 17.1; WLH at para 10; PWK at para 7.1.

117 WLH at para 12; PWK at para 7.3.

118 LGK at para 16.3; CYL at para 18.

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(e) After the potential purchasers had signed both copies of the Side Letter, the Project I/Cs would check each page was signed or initialled, and there were no missing Annexes. Thereafter, they would hand both sets of the Side Letter to Mr Mok, who would check through each page to confirm that they had been signed or initialled and there were no pages missing.[119]

(f) Mr Mok would then issue two sets of the OTP to the Project I/Cs. The OTP was then passed to the sales agents to be explained to the potential purchasers and signed (in the case of Huttons)[120] or explained by the Project I/Cs themselves (in the case of Savills).[121]

(3) Sales agents

115 LVND also called some of the sales agents who had attended to the remaining plaintiffs. Of these, two of the sales agents – Mr Davidz Wan Chee Wai ("Mr Davidz Wan") attended to the fifth plaintiff, and Ms Kit Toh Zhi Qi ("Ms Kit Toh") attended to the 11th and 12th plaintiffs. Mr Davidz Wan and Ms Kit Toh gave evidence on the process of issuing the Side Letter and the OTP. Ms Kit Toh was part of the Savills core team of sales agents for the Development, while Mr Davidz Wan was not.[122]

116 The evidence from both Ms Kit Toh and Mr Davidz Wan corroborated that of Mr Mok and the Project I/Cs, namely, that the Side Letter was provided

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119 LGK at para 16.5; CYL at para 20; WLH at para 16; PWK at para 7.5.

120 LGK at para 16.6; CYL at para 21.

121 WLH at para 17; PWK at para 7.6.

122 NE dated 14 November 2024 at p 56 lines 9–16.

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to purchasers and signed first, and the OTP would only be issued after the Side Letter was signed.[123]

117 Ms Kit Toh also corroborated the evidence of the Savills Project I/Cs that the Project I/Cs, rather than the agents, would present the Side Letter and OTP to the purchasers.[124] Her evidence as regards informing buyers of the breakdown of the area of their units mirrored that of the Project I/Cs, rather than Mr Mok. She made no mention of the instructions suggested by Mr Mok. While she testified that she would inform potential purchasers who expressed interest in a unit of the breakdown of the area of that unit, she explained that was because *she*, personally, wanted buyers to know what they were buying.[125]

118 Based on the above evidence, I am satisfied that LVND had put in place the aforementioned sales process. However, it is open for the remaining plaintiffs to show that something different from the stated process happened in their specific interactions with the sales agents or Project I/Cs. This is an issue that needs to be considered in respect of the facts related to each plaintiff and I address this in detail (see below at [175], [241], [280], [326] and [348]).

Annex E

119 Another point of contention between the parties was whether Annex E was included in the Side Letters provided to them, or if it was signed at a separate point in time. It is common to the remaining plaintiffs' cases that even though they could not personally testify as to the fact that Annex E was not

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123 AEIC of Wan Chee Wai ("WCW") at paras 29–30; AEIC of Toh Zhi Qi ("TZQ") at paras 19–23.

124 TZQ at para 18.

125 NE dated 5 November 2024 at p 11 lines 15–25.

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included in their Side Letters (as their case is that they had not read or paid sufficient attention to their Side Letters at the time of signing: below at [159], [231], [271], [309] and [340]), the documentary evidence showed that Annex E was issued and signed at a different time from their Side Letters. The common points raised by all plaintiffs are as follows:[126]

(a) The shop unit number of the relevant unit in Annex E is printed, whereas the shop unit number in the other sections of the Side Letters are handwritten (namely, on the first page of the Cover Letter, and in Schedule B in Annex G).[127] This suggests that Annex E was produced at a different time from their Side Letters.

(b) Annex E contains an acknowledgment of receipt that is to be signed by the purchaser. Such acknowledgement would only be necessary if Annex E was provided to the purchaser separately from the Side Letter.

(c) Annex E did not provide for a date to be entered, which allegedly allowed LVND to claim that Annex E was issued at the same time as the Side Letter even though it was only issued sometime later.

120 I was not persuaded by these points.

121 In relation to the first point, LVND's explanation as to why the unit number in Annex E was printed is because each unit had a different breakdown of unit particulars (including, amongst other things, in terms of unit size,

126 RCTC at para 38.

127 See, for example, CB at pp 119 and 164.

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location and size of AC ledge). Such information being *unit-specific*, it made sense to prepare and print a different Annex E for each unit, rather than printing a blank Annex E and filling in the particulars of the unit by hand, as this reduced the possibility of errors.[128]

122 The same applied to Annex D, to a more limited extent – the Annex Ds for typical shop units (*ie*, those that came without advertising space) comprised the floorplan of the floor which the unit was located (above at [23]). As such, different Annex Ds were prepared for each floor, rather than for each unit. However, the plans of the advertisement signage (above at [24]) that were included in the Annex Ds for the special shop units (above at [8]) were prepared on a per-unit basis, much like Annex E, as the location, dimensions and shape of the advertising signage was unique to each special shop unit.

123 On the other hand, the contents of the other sections of the Side Letters were not specific to any particular unit. Therefore, it did not make sense to print different versions of the other sections of the Side Letters for *each unit*. Instead, the particulars (including the unit number) in the other generic sections of the Side Letters were left blank, to be later filled in by hand by the Project I/C when a potential purchaser expressed their interest in purchasing a unit.

124 This explanation is logical and I have no reason to doubt it. Hence, I do not accept the remaining plaintiffs' argument that Annex E being printed must suggest that it was issued and signed separately from the rest of the Side Letter.

125 As regards the second and third points, I would note that contrary to what was suggested by the remaining plaintiffs, Annex E is not the only Annex

128 NE dated 4 November 2024 at p 90 lines 3–23.

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in the Side Letter which requires a separate signed acknowledgment of receipt. Annex D requires the same (above at [26]). Much like Annex E, it did not provide for any date to be entered. However, none of the remaining plaintiffs have raised the same complaints in relation to Annex D, as they have with Annex E.[129] As such, I also disagree with the remaining plaintiffs' position that as Annex E requires a separate acknowledgment of receipt, it must mean that it was signed at a different time from the rest of the Side Letter.

The CD-ROMs

126 The remaining plaintiffs allege that no CD-ROMs were provided in their S&P Packages, contrary to the cover letter of their S&P Packages. However, all the remaining plaintiffs testified that they had not looked through their S&P Package before sending it to their solicitors, or that their S&P Package had been sent directly to their solicitors and they had no personal knowledge of it.[130] Hence, their testimony that no CD-ROMs were not included in their S&P Packages holds little weight. Whilst the remaining plaintiffs' evidence on Annex E was similar (*ie.* they did not read or pay attention to the Side Letter, they at least pointed to some documentary evidence as to why they allege Annex E was not originally contained in their Side Letter (above at [119])). That is not the case for the remaining plaintiffs' assertion regarding the alleged missing CD-ROM.

127 I also accept LVND's evidence that the CD-ROMs were provided to the remaining plaintiffs. LVND called one of the legal secretaries, Ms Sally Ang who assisted on the cover letters sent to all the remaining plaintiffs in this matter

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129 PWS at para 193.

130 PWS at para 219.

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as a witness.[131] She testified that in view of the standard practice adopted in relation to sending the S&P Packages, the CD-ROM would have been provided to all the remaining plaintiffs at the same time as the SPAs.[132] She also noted that while she recalled certain purchasers complaining of not being able to access certain documents in the CD-ROM (to which they would send replacement CD-ROMs), there was no mention of any instances where the CD-ROM was inadvertently omitted when sent to the purchasers.[133] Under cross-examination, Ms Sally Ang conceded that she could not recall if she was the legal secretary specifically responsible for the S&P Packages for the remaining plaintiffs. She also conceded that she did not check the contents of each CD-ROM before it was sent to purchasers.[134]

128 These concessions are however not fatal to LVND's position that the CD-ROMs were provided in the S&P Packages. There is no good reason as to why the remaining plaintiffs' respective lawyers (acting for them in the conveyancing) did not write to LVND or their lawyers to ask for the CD-ROM if the CD-ROM had indeed not been provided. No correspondence or documentary evidence had been put forward by the remaining plaintiffs to suggest otherwise. The remaining plaintiffs also did not call their solicitors to testify to the contrary. I therefore conclude that the CD-ROMs had been provided to the remaining plaintiffs as part of their S&P Packages.

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131 AEIC of Ang Sally dated 1 October 2024 ("AS") at para 7.

132 AS at para 6.

133 AS at para 12.

134 NE dated 10 December 2024 at p 16 lines 11–13.

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The alleged fraud

129 The remaining plaintiffs allege that LVND is the perpetrator of a fraudulent scheme – *ie*, to sell off usually unsaleable portions of the Development by packaging them into the accessory lots (especially the AC ledges) to unsuspecting purchasers. In pursuance of this scheme, the AC ledges were made unnecessarily large and placed on the rooftops (*ie*, the unsaleable parts of the Development). The remaining plaintiffs also allege that the documentation prepared by LVND was purposefully prepared to give the false impression that the remaining plaintiffs were aware of the size of the AC ledges. For example, the Side Letter was unnecessarily voluminous to hide the true relevant information within its many pages. To that end, Annex E, which contained the most critical information, was also purposefully not given at the same time as the Side Letter.

130 In contrast, LVND's position is that the provision of the Side Letter (and all the information contained therein) to potential purchasers was not an unknown practice. In fact, it was a standard practice for residential developments. Residential developers were required to detail unit specifications to potential purchasers before entering into purchase options.[135] At the time, even though the Side Letter was not a requirement for commercial developments, according to Mr Terence Goon's evidence, LVND decided to adopt the PDI (Side Letter) approach as a "gold standard" so that potential purchasers of the Development were given more rather than less information about their purchase.[136]

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135 NE dated 6 November 2024 at p 183 line 24–p 184 line 7; NE dated 7 November 2024 at p 11 line 25–p 12 line 18.

136 NE dated 7 November 2024 at p 12 lines 5–18.

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131 Addressing the documentation as a whole first, I accept LVND's position that the manner in which the documentation was presented to the potential purchasers followed a known practice and was not an attempt to obfuscate and defraud the remaining plaintiffs. Mr Terence Goon's evidence on the Side Letter approach being the "gold standard" was corroborated by Mr Derek Mok.[137] Further, Mr Derek Mok provided a detailed and logical explanation as to why the order of the annexes in the Side Letter was structured in that way. It followed the flow of the Development starting from the location of the Development followed by the site plan and then zooming into the building specifications, the unit plan and so on.[138]

132 Finally, this approach is also supported by the project architect, Mr Liu Yaw Lin. In cross-examination, he made the observation that to include all detailed unit information in the brochure would make the brochure a confusing document to read as it would be too cluttered. According to him, that is why the presentation of other information in the Side Letter is complementary with the approach of a brochure as a document that only provides general information to potential purchasers.[139] Mr Liu Yaw Lin adds that with the footnotes in the Brochures addressing the AC ledge, he assumed potential purchasers would be interested as to where those ledges were located.[140]

133 I am not persuaded by the remaining plaintiffs' arguments that LVND's approach to the documentation for the sales of the units in the Development

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137 NE dated 8 November 2024 at p 151 line 18–p 152 line 9.

138 NE dated 8 November 2024 at p 157 line 18–p 158 line 8.

139 NE dated 12 November 2024 at p 58 line 21–p 59 line 4.

140 NE dated 12 November 2024 at p 55 lines 19–22.

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demonstrate fraudulent conduct. In my judgment, there was clearly a logic to LVND's approach to the Side Letter and its contents. It was an approach that was used in other parts of the industry and the reason for adopting that approach had been adequately explained by LVND. The remaining plaintiffs had also presented no evidence that LVND's approach to the Side Letter was unusual. In particular, no expert evidence was presented to demonstrate that LVND's approach was out of the ordinary and raised suspicions of unethical conduct.

134 Turning specifically to the remaining plaintiff's argument on the AC ledges being oversized, in my judgment, it is clear that LVND designed the AC ledges to maximise flexibility for tenant mix. Mr Derek Mok explained that LVND decided that each unit should have its own air-conditioning condenser, rather than a centralised air-conditioning system, as it would offer the owners of the units greater flexibility over the temperature and duration of the air-conditioning in this units. This would offer more control to the owners over the utility costs incurred, which made sense for the Development, being a strata mall and not a mall which has a single owner with all occupants being tenants.[141] The project architect, Mr Liu Yaw Lin corroborated this point when he stated during his cross examination that there was precedent in other malls with split rather than centralised air-conditioning.[142] Both Mr Terence Goon and the project mechanical and engineering consultant, Mr Lau Gek Seng, testified that in a commercial development where food and beverage retailers were more prevalent, there was a need for more flexibility in cooling requirements.[143] For

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141 MMH at para 9.

142 NE dated 12 November 2024 at p 74 line 18–p 75 line 6.

143 NE dated 11 November 2024 at p 23 line 23–p 24 line 5; NE dated 6 November 2024 at p 166 line 10–p 167 line 5.

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example, refrigeration needs would require 24/7 cooling ability and that could only be achieved with multiple air-conditioning condensers.[144]

135 The AC ledges were placed on the roof as there was minimal space within the building to locate the AC ledges. Moreover, many of the units were designed to be located along the perimeter of the building, so the installation of air-conditioning condensers next to each unit would clutter the façade for the building. Installing AC ledges outside the units would also not be possible for internal units without any external facing.[145] Mr Terence Goon confirms in his re-examination evidence that it was not unusual for accessory air-con lots to be located on the roof. Mr Liu Yaw Lin also explained in his re-examination why for aesthetic, environmental and fire safety reasons, the AC ledges were placed on the roof of the Development.[146]

136 The evidence from LVND's witnesses in this regard is entirely logical and I see no reason why I should disbelieve them in favour of attributing a nefarious intention as the remaining plaintiffs suggest. Again, I will point out that the remaining plaintiffs have not offered any contrary evidence from experts in property development, architects or engineers to suggest that LVND's decisions were unusual and motivated by anything other than what LVND's evidence had suggested.

137 To summarise, I find that no fraudulent conduct on LVND's part has been demonstrated by the remaining plaintiffs. What appears to have occurred is that LVND thought best practices should prevail in a situation where they

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144 MMH at para 12.

145 MMH at para 10.

146 NE dated 12 November 2024 at p 162 line 24–p 163 line 14, and p 164 lines 5–17.

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were selling units in a commercial transaction (in a commercial shopping mall context). That being the case, LVND erred on the side of more rather than less detail and documentation. This was not an unfair assumption bearing in mind commercial parties ought to be dealing on an arms-length basis with parties represented by counsel. LVND had also expressly encouraged prospective purchasers who had not yet engaged counsel to seek immediate legal advice on the execution of the SPA by way of the cover letter to the S&P Package.[147] Looking at the same situation from the perspective of the remaining plaintiffs, they were, for the most part, retail parties (albeit also represented by counsel) investing in a commercial transaction. The documentation that was provided by LVND, whilst well intentioned, reached a saturation point that went beyond the boundaries of what the remaining plaintiffs were willing to endure in terms of the time and effort required to absorb the information comprehensively.

Fraudulent misrepresentation

138 Given that I find that the remaining plaintiffs had failed to demonstrate any fraudulent conduct on the part of LVND, I also find that the remaining plaintiffs have failed to make out their claim for fraudulent misrepresentation.

139 In particular, in order to establish fraudulent misrepresentation, a party must establish that the other party made the misrepresentation with the intention that they should act on it (above at [59(b)]). Even if I take the remaining plaintiffs' case at its highest, and assume that LVND or its agents had made the Purported Representations and such constituted actionable misrepresentation, LVND could not have intended for the remaining plaintiffs to act on the misrepresentation.

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147 See CB at p 17; MMH at para 33.

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140 As I noted above, LVND had tried to adopt best practices in relation to disclosure by erring on the side of more detail and documentation. It clearly intended for potential purchasers to rely on this documentation, which corrected the alleged misrepresentations, rather than any of the alleged misrepresentations made by the Brochure or LVND's sales agents.

Negligent misrepresentation

141 Having found that the remaining plaintiffs' claim for fraudulent misrepresentation fails, I then go on to evaluate their claim for negligent misrepresentation under s 2(1) of the MA.

AC Ledge Representation

142 The remaining plaintiffs' arguments in relation to the AC Ledge Representation apply equally to all the remaining plaintiffs. The remaining plaintiffs' case is that the AC Ledge Representation was made by way of the Brochure.[148] The remaining plaintiffs had several complaints with respect to the AC Ledge Representation. They coalesced around the allegations that:

(a) access to the AC ledges on the roof was challenging in that there was no free access (security had to accompany any such access) and the route of access not through a typical door but a window-like access that required a short ladder to reach the access from the inside of the Development;[149]

148 SOC at para 6.

149 PWS at para 107.

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(b) the AC ledges did not rest on the floor of the roof but on metal racks laid on top of the roof and some of the metal racks of one owner overlapped with the racks belonging to another owner;[150] and

(c) there was no exclusive access to each of the AC ledges as accessory lots. Amongst other things, some of the AC ledges had other utilities running across them.[151] In order to access the roof after climbing out the window-like access at [143(a)] above, the first and second plaintiffs also complained that users would have to climb across their AC ledge.[152]

143 As a preliminary point, the arguments put forth by the counsel for the remaining plaintiffs in relation to the AC Ledge Representation are inherently contradictory. In the remaining plaintiffs' written submissions, counsel argues that the misrepresentation was as follows:

(a) "that (even though unknown to the Plaintiffs at the time they purchase [*sic*] their respective shop units,) each of their shop units would come with an air-con ledge";[153] and

(b) "that as the 'ledge' are [*sic*] for ACUs, they would be accessible and fit for purpose".[154]

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150 PWS at para 104.

151 PWS at para 108.

152 NE dated 25 March 2025 at p 11.

153 PWS at para 33(a).

154 PWS at paras 33(b)–33(c).

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144 In other words, the remaining plaintiffs' counsel alleges that it was not known to the remaining plaintiffs that their units included air-con ledges. It is thus difficult to understand how the remaining plaintiffs' counsel can argue that representations were made regarding these air-con ledges when the remaining plaintiffs' position is that they were not informed of the existence of these air-con ledges.

145 At the hearing, the remaining plaintiffs' counsel supplemented this argument by asserting that terms of a contract could also constitute misrepresentations. As such, the terms of the SPAs which stated that the air-con ledges would be made of "[c]ement and sand screed finish" and would be "free from any obstruction and/or storage" constituted false representations of fact which induced the remaining plaintiffs to entering into their respective SPAs.[155] However, he did not put forward any authorities in support of this argument. In any case, I do not see how the alleged misrepresentations could have played a "real and substantial role" in inducing the remaining plaintiffs into entering the SPA (above at [69]). From a purely logical standpoint, it is unclear why a buyer of a shop unit would base their decision on the air-con ledge of the unit, rather than the features of the unit itself.

146 Even if I am wrong that the AC Ledge Representation was not an actionable misrepresentation, in my judgment, LVND had properly answered the allegations raised on the AC ledges (at [143] above).

147 With respect to access, Mr Derek Mok had stated in his cross-examination that the AC ledges were accessible. Even though the

155 NE dated 25 March 2025 at p 12.

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Development's security team kept the key to the access, the security team was available 24-hours a day so access could always be sought.[156] With respect to the ease of access, Mr Derek Mok commented that the roof was a maintenance area so it was only meant for maintenance personnel to access.[157] In any event, he did not see any issues with access as the remaining plaintiffs had been there many times. I had also accessed the roof through the window-like access during the Site Visit and agreed with Mr Derek Mok's commentary.

148 On the point of the metal racks and the lack of exclusive access, Mr Derek Mok pointed to s 15 of the SPA and noted that the plans for the roof had been signed off by the surveyor for the Development in accordance with s 15.1(b) of the SPA as the qualified person.[158] The remaining plaintiffs did not put forward any evidence that challenged this position and specifically any evidence that demonstrated no such survey took place or that the survey was defective in any way. LVND's counsel also pointed out (and I agreed) that if the AC ledges did not fit what was promised to the remaining plaintiffs in the SPA, this was a claim for breach of contract and not one of misrepresentation.[159]

149 For the above reasons, I dismiss the remaining plaintiffs' claims in so far as they relate to the AC Ledge Representations.

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156 NE dated 8 November 2024 at p 69 lines 1–9.

157 NE dated 8 November 2024 at p 70 line 1–3.

158 NE dated 8 November 2024 at p 88 line 17–p 89 line 9.

159 NE dated 25 March 2025 at p 20.

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The first and second plaintiff

Background to the transaction

150 The first and second plaintiffs are the co-owners of unit #02-04.

151 The first plaintiff, Mr Richard Cheung Teck Cheong, is a retiree. He was previously an engineer and businessman involved in the motor trade. The second plaintiff, Mdm Chew Chai Har, is his wife. She is an architectural assistant in an architectural firm. The first plaintiff testified on his own and on his wife's behalf.[160]

152 The first plaintiff learned that shop units in the Development were being offered for sale in early 2014 from his former colleague, Mr James Tay ("Mr Tay").[161] At the time, Mr Tay had just begun a career as a property sales agent with Huttons.[162] The first plaintiff was interested in buying a shop unit for his son to use for a food and beverage business.[163]

153 On 12 February 2014, the first plaintiff, together with his mother, met Mr Tay at LVND's showroom. There, they also met another sales agent by the name of Mr Joe Koh.[164]

154 On 16 February 2014, the first plaintiff made his second visit to the LVND showroom, accompanied this time by the second plaintiff. They again

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160 RCTC at para 8.

161 PACKE at p 5 S/N 2.

162 RCTC at para 24.

163 RCTC at para 24; AEIC of Tay Hak Meng dated 15 August 2024 ("THM") at para 11.

164 PACKE at p 5 S/N 3.

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met with Mr Tay and Mr Koh. The sales agents presented various materials at the sales gallery and the Huttons sales kit to the first and second plaintiffs. In particular, the first and second plaintiffs were issued with a copy of the Brochure.[165]

155 On this day, the first and second plaintiffs agreed to purchase unit #02-04 at a purchase price of $1,866,600. They then received and signed the Option to Purchase for Unit #02-04, as well as the Side Letter with its enclosures. The order in which these documents were received and signed is disputed.[166] Whether Annex E was included amongst the enclosures in the Side Letter is also disputed.[167]

156 The first and second plaintiffs subsequently engaged solicitors to act for them in the sale and purchase of Unit #02-04.[168] The Sale and Purchase Agreement for Unit #02-04 was executed on 14 March 2014.[169]

The first and second plaintiffs' testimony

157 Having already addressed the AC Ledge Representation (above at [142] to [149]), the only Purported Representation that remains to be addressed for the first and second plaintiffs is the Usable Area Representation. Unit #02-04 did not come with an advertising space. The Rental Yield Representation and the Tenant Mix Representation "were not significant" to the first and second

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165 PACKE at p 5 S/N 4.

166 RCTC at para 29; PACKE at p 6–7 S/N 4–5.

167 PACKE at p 6–7 S/N 4–5.

168 PACKE at p 7 S/N 6.

169 PACKE at p 7 S/N 8.

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plaintiffs as they sought a property for long term investment and to provide passive income in retirement (see above at [83]–[84]).[170]

158 In that regard, the first plaintiff's evidence is that on his first visit to the Sales Gallery, Mr Tay had recommended that he purchase unit #02-04, "which was stated in [the Brochure] as well as in a poster on the wall of [the Sales Gallery] as comprising 366 square feet".

159 The first plaintiff alleges that "the LVND staff handed to [the first and second plaintiff] a thick stack of papers where they had written the date and the particulars of shop unit #02-04", *ie*, the Side Letter "[a]t the same time that [he and his wife] signed the OTP". However, the Side Letter was very detailed and much of it could not be digested and understood by either him or his wife on a quick reading. As they "trusted everything was in order", they did not check the Annexes of the Side Letter and proceeded to sign and initial each page as it was turned by "one of the LVND staff".[171] In cross-examination, the first plaintiff then clarified that by "the LVND staff", he was referring to Mr Koh and Mr Tay.[172] The person who turned the pages of the Side Letter was Mr Koh.[173]

160 The first and second plaintiffs engaged solicitors to act for them in the sale and purchase of unit #02-04. Thereafter, the parties' respective lawyers communicated directly with each other on the conveyancing transaction. As the first and second plaintiffs' conveyancing lawyers did not alert them to anything

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170 PRS at para 61.

171 RCTC at para 32.

172 NE dated 15 October 2024 at p 123 at line 19–p 124 at line 3.

173 NE dated 15 October 2024 at p 122 at line 13–p 123 at line 7.

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untoward, it appeared to them that this was a straight-forward conveyancing transaction.[174]

161 The first and second plaintiffs also allege that they received Annex E only after they had entered into the SPA.[175]

162 However, their evidence as to when, precisely, they received Annex E is contradictory. In their Further and Better Particulars of the Statement of Claim ("FBP"), the first and second plaintiffs pleaded that they were told that they needed to collect and sign Annex E "[i]n or around April or May 2014". This was more than a month after they executed the SPA in March.[176] However, in his Affidavit of Evidence-in-Chief ("AEIC"), the first plaintiff then alleged that "a few days after [they] had executed the SPA (possibly on 21 March 2014)", Mr Tay called him to inform him that there was a "copy", a single page document, which was missed out and which he needed the remaining plaintiffs to sign.[177] In cross-examination, the first plaintiff initially testified that he "[did] not know when" Mr Tay called him, but it was after the SPA. It "was not that near" and at least a few weeks or months after.[178] When confronted with his testimony in his AEIC, he explained that he stated that the call was "possibly on 21 March 2014" because "on [his] phone there is a record during this time [Tay] did call [the first plaintiff]".[179] He then confirmed he would "stick to [his]

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174 RCTC at para 33.

175 RCTC at para 35.

176 First and Second Plaintiff's Further and Better Particulars of SOC ("1/2FBPSOC") at para 6.1.1 and 6.1.2.

177 RCTC at para 35.

178 NE dated 16 October 2024 at p 21 lines 10–18.

179 NE dated 16 October at p 22 lines 24–25.

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AEIC" on this point.[180] However, after being referred to his FBP, the first plaintiff testified that his AEIC was incorrect, and he wished to change his evidence in the AEIC to align with the pleading in his FBP.[181]

163 In any case, the first plaintiff asked to meet Mr Tay at Oxley Biz Hub, which was near his workplace at the time. At that point and according to the first plaintiff, Mr Tay gave the first plaintiff an envelope and told him it contained the "copy" that was missed out, and that it was nothing important as it concerned an "aircon ledge", and "HDB and all this also have aircon ledge". The first plaintiff states that Mr Tay asked him to bring the document back to him after he and the second plaintiff had signed it.

164 Later at home, when the first and second plaintiffs perused the document, they saw that it was titled "Annex E", and contained a few lines and no diagram. The first plaintiff's evidence is that they saw the figure "6" and thought that it meant 6 square feet, as all specifications provided previously had been in square feet.[182] They thus thought that the air-con ledge was a small ledge outside the window of the unit, similar to the air-con ledges of other properties they had purchased. They signed the document (Annex E).[183]

165 As the first and second plaintiffs were not told that this Annex E was an annex to the Side Letter, the first plaintiff did not attach it to his copy of the

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180 NE dated 16 October at p 24 line 6.

181 NE dated 16 October at p 30 lines 3–8.

182 NE dated 16 October 2024 at p 59 lines 9–14.

183 RCTC at para 36.

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Side Letter. This is evidenced by the fact that there are no staple marks on his exhibited copy of Annex E.[184]

Defendant's testimony

166 LVND called only Mr Tay as a witness. Mr Tay testified that he is retired.

167 Mr Tay's evidence in relation to the representations were that that Mr Joe Koh had taken the lead in presenting the Development to the first and second plaintiffs, rather than himself. In any case, he agreed that the Mr Joe Koh had presented to the first and second plaintiffs based on the charts, diagrams, models, and catalogues (*ie*, the Brochure) at the Sales Gallery.[185]

168 Mr Tay testified that he had no role in procuring signatures and initials in relation to the Side Letter and OTP, but he was present throughout the process. He testified that it took "maybe" at least an hour for Mr Joe Koh to walk through each page with the first and second plaintiffs.[186] Mr Tay recalled that, upon turning to a new page, Mr Joe Koh would explain what the page was about, and it was up to the first and second plaintiffs to ask questions.[187] Mr Tay also confirmed that the Side Letter was signed before the OTP.

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184 RCTC at para 37.

185 THM at para 10.

186 NE dated 15 November 2024 at p 198 lines 12–13.

187 NE dated 15 November 2024 at p 200 lines 15–21.

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169 However, Mr Tay admitted that as he was not responsible for the Side Letter and OTP, he had not checked if they signed or initialled every page and had no idea how many copies or which Annexes were signed.[188]

170 Mr Tay also testified that he recalled meeting with the first plaintiff at Oxley Bizhub.[189] However, this was because Mr Tay was also the sales agent for the first plaintiff's purchase of a unit at Oxley Bizhub, and they were there to view that unit.[190] Mr Tay did not recall passing the first plaintiff any documents to sign at this meeting.[191]

Factual findings

171 Given that Mr Joe Koh did not testify and Mr Tay's evidence was that he was not involved in the OTP process, we only have the first plaintiff's evidence that he received the Side Letter only after signing the OTP.

172 As Mr Tay's evidence broadly corroborates the first plaintiff's account on how unit #02-04 was presented to him (*ie*, using the Brochure), I accept the first plaintiff's account that the Side Letter was only received by him after the signing of the OTP. However, I still need to determine whether Annex E was signed together with the rest of the Side Letter on 16 February 2014, or sometime after.

188 NE dated 15 November 2024 at p 202 lines 20–21, p 206 lines 17–21.

189 NE dated 15 November 2024 at p 214 lines 8–9.

190 NE dated 15 November 2024 at p 214 lines 11–12.

191 NE dated 15 November 2024 at p 215 lines 1–6.

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173 I am not satisfied that the first plaintiff has made out his case on this point. There are two main issues with his evidence: (i) his inconsistent recollection on the issue of when the meeting occurred (see above at [162]); and (ii) it is not clear from his evidence if he received two copies of Annex E on the day of the meeting. In his testimony, the first plaintiff made various references to "a 'copy'", "one page" or a singular document, which would suggest that he only received one copy of Annex E when he met Mr Tay at Oxley Bizhub.[192] However, the documentary evidence shows otherwise. The Annex E produced by the first plaintiff and the Annex E produced by LVND contain clear differences, most notably in the second plaintiff's signature. It is thus clear that the remaining plaintiffs signed two copies of Annex E. These inconsistencies and discrepancies cast doubt on the first plaintiff's evidence on receiving Annex E the meeting at Oxley Bizhub as a whole.

174 Mr Tay also testified that he did remember meeting the first plaintiff at Oxley Bizhub. However, Mr Tay added that the purpose of the meeting was to view the first plaintiff's factory for rental purposes.[193] Mr Tay noted specifically that he did not recall calling the first plaintiff about a missing document from the Side Letter or passing him any document.[194] As Mr Tay had nothing to gain from his testimony, I accept his evidence.

175 In conclusion, the first and second plaintiffs have not overcome their burden to convince me on a balance of probabilities that Annex E of their Side Letter was only received and signed after the SPA had been executed.

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192 RCTC at para 35–36.

193 NE dated 15 November 2024 at p 214 lines 11–12.

194 NE dated 15 November 2024 at p 215 lines 1–6.

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Usable Floor Area Representation

(1) There was no express or implied representation

176 According to the first plaintiff, the Usable Floor Area Representation was made to the first plaintiff and his wife by way of the First Brochure, as well as by way of oral representations from Mr Tay.

(A) THE BROCHURE

177 As all but the third plaintiff alleged that the Usable Floor Area Representation was made to them by way of the Brochure, counsel for the remaining plaintiffs made their submissions on a general basis – *ie*, counsel did not make separate arguments for each plaintiff, and instead alleged that all the remaining plaintiffs would have derived the Usable Floor Representation from the contents of the Brochure. That being the case, my findings below on whether LVND had made the Usable Area Representation by way of the Brochure apply equally to all the remaining plaintiffs (save for the third plaintiff).

178 First, counsel for the remaining plaintiffs argues that, by way of the following table in the Brochure, LVND had represented to the first plaintiff that the usable floor area was 366 sqft:

Unit	**Area (sqft)**
…	…
#02-04	366

179 This was because it was not mentioned anywhere in the Brochure that by "Area", LVND was referring to the strata area, and not the commercially usable area of the units. Thus, the remaining plaintiffs' counsel submits that

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"[a]ny person looking at [the Brochure] would … naturally conclude that the floor area of the shop unit stated in [the Brochure] was the area of that unit that can be used as a shop".[195]

180 While the Brochure set out that "[u]nit area includes air-con ledge" in small print at the bottom of the page, "[n]othing in this small print suggests that these 'air-con ledges' would form part of the floor areas of the shop units as stated in [the Brochure]". As such, any reasonable reader would conclude that the air-con ledge would not affect the size of the shop units as represented in the Brochure.[196]

181 The Brochure also did not mention that the usable area of these shop units were much smaller on account of "air-con ledges" (and in some cases, "advertisement panel ledges" and "advertisement panel voids"). It then also follows that any reasonable reader would understand "air-con ledge" to refer to a small concrete protrusion from the side of a wall sufficient for an air-con unit to be placed and which would not have a significant effect on the commercially usable area of the shop unit.[197]

182 The remaining plaintiffs' counsel is therefore alleging that the statement that the "area" of unit #02-04 is 366 sqft carries with it the implied representation that the usable floor area was 366 sqft, or that the useable floor area was "reasonably in line" with 366 sqft.

183 I am not persuaded by this argument.

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195 PWS at para 150.

196 PWS at para 155.

197 PWS at para 158.

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184 In determining whether a statement carries with it an implied representation, the court adopts an objective approach. In other words, the court considers what a reasonable person in the representee's position would have understood the statement to mean, based on an objective reading of the statement in question and the surrounding circumstances (*Crystal Beauty* at [29]).

185 First, even if I consider in isolation the statement that the "area" of unit #02-04 is 366 sqft, I do not agree that a reasonable person in the first plaintiff's position would have understood the statement to mean that the usable floor area was 366 sqft. It is not clear or unambiguous that "area" refers to usable floor area rather than strata area. Hence, no reasonable person would have understood "area" to conclusively refer to usable floor area.

186 Second, the small print stating that "[u]nit area includes air-con ledge" clearly indicates that the "area" of 366 sqft includes the commercially unusable area of the air-con ledge. I struggle to see how the remaining plaintiffs could interpret it any other way. This is especially because counsel for the remaining plaintiffs failed to explain why a statement that the "area" includes an AC ledge should accorded an interpretation that directly contradicts its plain meaning.

187 I then turn to the argument that a reasonable person would view a statement that the unit area of 366 sqft, which is inclusive of an air-con ledge, carries with it the implied representation that the area of the air-con ledge would not have a significant effect on the commercially usable area of the shop unit.[198]

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198 PWS at para 158.

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188 I disagree with the remaining plaintiffs' counsel's suggestion that a reasonable person in the remaining plaintiffs' position would interpret "air-con ledge" to mean that the ledge is of an insignificant size.

189 The question to be determined is what a reasonable person would interpret "air-con ledge" to mean. In this regard, the first plaintiff (as did the other plaintiffs) testified that he interpreted it to refer to "a small ledge outside the window of the unit, similar to the air-conditioner ledges of other properties that [they] had purchased". However, this evidence of what the first plaintiff, specifically, had interpreted "air-con ledge" to mean is not determinative of what a reasonable person in his position would understand it to mean.

190 The surrounding circumstances have to be considered. As the Development remained under construction at the time, there is no actual ledge to physically view. There is a footnote in the marketing brochure that the area of the shop unit includes an AC ledge. In my judgment, a reasonable first-buyer of a retail shop space would, at the very least, find ambiguity in this statement and query what is meant by "air-con ledge". Furthermore, the fact that all of the remaining plaintiffs are experienced buyers of real estate (albeit not commercial real estate in a shopping mall (see above at [105]–[106])) is a double-edged sword. The remaining plaintiffs paint themselves as first-time buyers of real estate in a commercial shopping mall and that was why they were tricked by LVND in purchasing the units. However, the opposite is also true. In my judgment, as first-time buyers of real estate in a commercial shopping mall, it is more compelling an argument that the remaining purchasers should be more careful in the purchase. In this regard, the fact that the remaining plaintiffs were all experienced buyers of other types of real estate works against them as it demonstrates their awareness of the shape of real estate investments generally.

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(B) ORAL REPRESENTATION

191 The remaining plaintiffs' counsel also suggests that the sales agents made an explicit oral representation that the usable area of the unit would be 366 sqft. As proof, the remaining plaintiffs' counsel points to testimony provided by the first plaintiff during re-examination that he had asked Mr Tay how big an area of 366 sqft would be, and Mr Tay had provided a rough approximation of such using various landmarks within the showroom.[199]

192 It is pertinent to note that this testimony arose out of questions that were objected to by LVND's counsel, as this exchange was not included in the first plaintiff's AEIC and the first plaintiff had not been cross-examined on what transpired at the two meetings. I had upheld the objection and warned the remaining plaintiffs' counsel against using a backdoor means of introducing evidence.[200] For those reasons, the remaining plaintiffs should not be allowed to rely on such evidence.

193 In any case, the alleged exchange did not contain any representation that unit #02-04 had a usable area of 366 sqft, whether express or implied. The first plaintiff was asking for an estimate of the size of an area of 366 sqft, and not the usable area of #02-04.

194 For those reasons, I find that no false representation was made, whether express or implied, or by way of the Brochure or oral representations.

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199 PWS at para 45.

200 NE dated 17 October 2024 at p 70 lines 4–16.

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(2) LVND had reasonable grounds to believe that the facts represented were true

195 Furthermore, LVND has demonstrated that it had reasonable grounds to believe that the facts represented were true.

196 In making this determination, the court must ascertain the party's subjective state of mind based on an objective standard. LVND first has to show that it subjectively believed in the truth of the representation. It then had to show it had reasonable grounds for that belief (see *RBC Properties* at [68]–[77]).

197 In this case, to LVND's mind, the fact represented to the first and second plaintiffs by way of the Brochure was that it believed or had reasonable grounds to believe that the strata area of unit #02-04 would be 366 sqft (and not the usable floor area). It clearly had reasonable grounds for such a belief at the time and until the SPA was entered into. Pursuant to the Schedule of Strata Area that was approved by the Commissioner of Buildings in 2012 (before it produced the Brochure in 2013), the strata unit of unit #02-04 was 34 sqm, which was subsequently converted to 366 sqft.

(3) The first and second plaintiffs did not rely on the misrepresentation in entering the SPA

198 Even if LVND had made any misrepresentations regarding the usable area of unit #02-04, I found that such misrepresentations could not have induced the first and second plaintiffs into entering into the SPA for unit #02-04.

199 Counsel for LVND argued that even if any false representations regarding the usable area of the unit had been made by LVND or its agents, such

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representations would have been corrected by (i) the Side Letter; (ii) the CD-ROM; and/or (iii) the SPA itself. I will explore each of these arguments below.

(A) THE SIDE LETTER

200 LVND argues that the small print at the bottom of Annex D, which stated that "FLOOR AREA IS INCLUSIVE OF AIR CON LEDGE" (see above at [23]), would have corrected any representation that the area of 366 sqft referred to the usable shop area of the unit. Moreover, Annex E, which set out the breakdown of the area of unit #02-04, including the exact area of the AC ledge (see above at [27]), would have corrected any representation that the area of the AC ledge would not have a significant effect on the usable floor area of the unit.

201 The Side Letter is not a contract. Hence, the Court of Appeal's dicta in *Broadley* that parties should be taken to have read the contracts they sign does not apply to the Side Letter. The onus is on LVND to show that it had brought the portions of the Side Letter that would have corrected the misrepresentations to the first and second plaintiffs' attention, such that they were aware of the correction. It is not sufficient for LVND to show that the first and second plaintiffs could have discovered the truth had they read the Side Letter (*Broadley* at [34]).

202 Nevertheless, I accept that the Side Letter was a document prepared for the benefit of the purchasers of units in the Development (above at [133]). Its purpose was to bring pertinent information about their respective units to potential purchasers' attention before they paid their booking fee and accepted the OTP. Taken in that context, the signatures and/or initials on each page of the Side Letter constitutes the purchasers' acknowledgment that the contents of

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that respective page had been brought to their attention. It thus serves as preliminary evidence that the contents of the Side Letter had been brought to the first and second plaintiffs' attention. The question that remains is the extent to which it has been brought to their attention.

203 While Mr Tay testified that Mr Joe Koh had explained each page of the Side Letter before asking the remaining plaintiffs to sign or initial the page, his memory of the process was vague. He admitted that he did not remember how many copies of the Side Letter were in play, or know if all the Annexes were included in the Side Letter.[201] When asked if Mr Joe Koh had highlighted any clauses in Annex G to the remaining plaintiffs, Mr Tay stated that he could not remember.[202] Further, LVND failed to call Mr Joe Koh as a witness. For these reasons and measured against the first defendant's evidence that the details of the Side Letter were not highlighted to him and he was only told they were standard building and technical details,[203] I find that LVND has not proven that the portions of the Side Letter that would have corrected the Usable Area Representation were brought to the first and second plaintiff's attention.

204 Further, the first plaintiff admitted that while he had read Annex E, he had thought the "6" indicated next to "[a]ir-conditioner ledges" referred to square feet, rather than square metres. As the areas in the Brochure had been in square feet, he had assumed that the same would apply for Annex E. I accept the first plaintiff's evidence on this. His evidence on this issue was clear and consistent between his AEIC and cross-examination. Furthermore, his

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201 NE dated 15 November 2024 at p 202 lines 20–21, p 206 lines 17–21.

202 NE dated 15 November 2024 at p 201 line 1.

203 NE dated 15 October 2024 at p 115 lines 13–18.

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admission that he had read Annex E was against his own interest. By way of this admission, the first plaintiff was also admitting that he was, in fact, aware that the "area" of unit #02-04 included the area of the AC ledge. This would cast doubt on his claim that he understood the "area" of unit #02-04, as stated in the Brochure, to represent only the usable area of the unit.

205 This evidence suggested that Koh had not brought the details of Annex E to the first and second plaintiff's attention, such that they were aware that the area of the AC ledge constituted approximately 17.6% of the total area of unit #02-04.

(B) THE CD-ROM

206 The first and second plaintiff's evidence was that they had not looked through the S&P Package, much less the documents in the CD-ROM. Further, LVND has not adduced any evidence to show that the documents in the CD-ROM had been brought to the first and second plaintiff's attention. As such, LVND has failed to show that the CD-ROM corrected the alleged representations regarding the usable area of the unit.

(C) THE SPA

207 LVND argued that, pursuant to *Broadley*, as the representations regarding the usable area of the unit (assuming they had been made) were dispelled by the express terms of the SPA, the remaining plaintiffs could not have been induced by the representations to enter into the SPA. LVND pointed to Schedule B of the SPAs, as well as the small print in Annexures A and B, which clearly stated that the floor area was inclusive of the AC ledge (see above at [42]).

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208 The arguments made by the remaining plaintiffs' counsel in this regard were also made on a general basis. First, counsel attempted to distinguish *Broadley* (as noted above at [95]). According to the remaining plaintiffs, the subcontractor's position in *Broadley* was patently obvious from the undertaking. The same could not be said of the respective SPAs signed by the remaining plaintiffs. In fact, the SPAs were specifically drafted to prevent the remaining plaintiffs from noticing the pertinent information within the SPA, while still providing LVND with a defence in the event any of its purchasers realised they had been scammed. Second, even if the remaining plaintiffs had read the SPA, they would only have known about the total floor area of their respective shop units and that their units would have an air-conditioning ledge and/or advertisement ledge and void. Nothing in the SPAs would have shed light on the precise areas of these accessory lots. Hence, the SPAs of the remaining plaintiffs did not correct the misrepresentation that the usable area would be reasonably in line with the areas stated in the Brochure.

209 I am not persuaded. I do not agree with the remaining plaintiffs' suggestion that LVND used clever drafting to set up a defence for itself while still somehow hiding all pertinent information from the remaining plaintiffs. Information that would correct any misrepresentations relating to usable area were clearly set out at various parts of the SPA:

(a) the small print at the bottom of the third storey floor plan in Annexure B explicitly states that "FLOOR AREA IS INCLUSIVE OF AIR CON LEDGE";

(b) the particulars set out in Schedule B state that the unit comprises "an estimated floor area of 34 square metres … including Ac Ledge as Accessory Lot";

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(c) the diagrammatic sketch plan includes a to-scale floor plan of both the shop area of unit #02-04 and the AC ledge (marked "Ac"); and

(d) the registered land surveyor's certificate on strata area (which was incorporated by reference) explicitly states that the shop area of unit #02-04 is 28 sqft, while the area of the AC ledge is 6 sqft.

210 Based on the above, I do not see the basis for the remaining plaintiffs' allegation that the information was hidden from them.

211 In my judgment, the SPA in the current case is comparable to the undertaking in *Broadley*. The Court of Appeal held that it was incumbent on the supplier to read and understand the undertaking, and this was especially so because the indemnity clause was not buried in a mass of small print but clearly appeared just above the space for signature by the parties. Much like the indemnity clause in *Broadley*, the particulars set out in Schedule B were not in small print, and appeared just before (on the page before) the space for signature by the parties. In fact, the remaining plaintiffs were in a better position than the supplier in *Broadley*. While the supplier in *Broadley* did not have the benefit of legal advice when signing the undertaking, the remaining plaintiffs were legally represented at the point of signing the SPA. As such, the reasoning in *Broadley* applies with equal, if not more force to the present case.

212 I was also not convinced by the argument that the SPA did not correct the misrepresentation that the usable area would be reasonably in line with the area stated in the Brochure. The remaining plaintiffs' allegation that nothing in the SPA would have shed light on the precise areas of these accessory lots is incorrect. As I noted above, the SPA included a diagrammatic sketch plan of the different shop units and their accessory lots (above at [43]). While I accept that

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the sketch plan did not contain the precise areas of the shop area as compared to the air-con ledge, it is to scale. As such, if the remaining plaintiffs had seen the sketch plans in their respective SPAs, they would have understood the relative size of the air-con ledge as compared to the size of their shop units. Furthermore, the registered land surveyor's certificate on strata area which was incorporated by reference set out the precise areas of the shop area and the accessory lots.

213 I therefore conclude that the first and second plaintiffs' have failed to establish negligent or actionable misrepresentation by LVND.

The third plaintiff

Background facts

214 The third plaintiff, Shan Ming Airconditioning (S) Pte Ltd, is the owner of unit #03-02. The third plaintiff is in the business of supplying and installing air-conditioning systems. Mr Ng See Kim ("Mr SK Ng") and his wife are the directors of the third plaintiff. [204]

215 Mr SK Ng transacted on the third plaintiff's behalf in relation to the purchase of unit #03-02.

216 Mr SK Ng has been in the business of supplying and installing air-conditioning systems for 43 years. Before setting up the third plaintiff, he was the sole proprietor of Shan Ming Metal Engineering. While he has basic

[204] AEIC of Ng See Kim dated 15 August 2024 ("NSK") at para 6.

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comprehension of English, he is not proficient in the language and requires documents in English to be translated for his full understanding.[205]

217 Sometime in 2013, the third plaintiff was interested in purchasing new shop premises for its operations.[206] Mr SK Ng noticed an advertisement for sale of shop units in a proposed development, which would eventually become the Development. He thus visited the Sales Gallery. At the Sales Gallery, he was attended to by a Ms Shirline Chua ("Ms Chia").[207]

218 On 9 September 2013, the third plaintiff decided to purchase unit #03-02. As such, on that day, Mr SK Ng went to the LVND showroom, where he received the Option to Purchase for unit #03-02. Thereafter, on the same day, Ms Chia went to the third plaintiff's representative's office. There, the third plaintiff's representative signed the OTP for unit #03-02 and paid the 5% booking fee. The third plaintiff's representative also received and signed the Side Letter and its enclosures, although when this occurred is in dispute. Whether the enclosures of the Side Letter contained Annex E is also in dispute.[208]

219 Shortly after signing the OTP, the third plaintiff engaged solicitors to handle and execute the sale and purchase of unit #03-02.[209]

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205 NSK at para 6.

206 PACKE at p 9–10 S/N 1.

207 PACKE at p 9–10 S/N 1.

208 PACKE at p 10 S/N 2.

209 PACKE at p 11 S/N 4.

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220 On 13 September 2013, LVND's solicitors sent the S&P Package to the third plaintiff.[210]

221 Subsequently, on 27 September 2013, Mr SK Ng executed the Sale and Purchase Agreement for unit #03-02 on behalf of the third plaintiff.[211]

222 Mr SK Ng collected the keys to unit #03-02 on 9 May 2016.[212]

Third plaintiff's testimony

223 The Purported Representations applicable to the third plaintiff are: (a) the Usable Area Representation; and (b) the Advertising Signage Representation. The Rental Yield Representation and the Tenant Mix Representation did not apply to the third plaintiff as the third plaintiff purchased unit #03-02 for its own use (see above at [83]–[84]).[213]

224 Mr SK Ng visited the Sales Gallery "two to three times" before purchasing unit #03-02.[214] During his first visit to the Sales Gallery, he was accompanied by two friends.[215] He could not recall the second and third visits very clearly.[216] He also could not recall whether he had received the OTP for unit #03-02 at his second or third visit to the Sales Gallery.[217] However, during

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210 PACKE at p 11 S/N 5.

211 PACKE at p 12 S/N 8.

212 PACKE at p 13 S/N 9.

213 PRS at para 61.

214 NE dated 21 October 2024 at p 37 line 19.

215 NE dated 21 October 2024 at p 38 lines 6–8.

216 NE dated 21 October 2024 at p 38 lines 13 and 15–16.

217 NE dated 21 October 2024 at p 39 lines 16–18.

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one of the visits, he was accompanied by his wife. It was during the visit with his wife that he decided to purchase unit #03-02 and received the OTP.[218]

225 Ms Chia attended to Mr SK Ng during his first visit to the Sales Gallery.[219]

226 Mr SK Ng informed Ms Chia that he was looking for premises for the third plaintiff, and given the nature of the third plaintiff's business, it needed at least "35 square metres of shop space". In response, Ms Chia recommended that the third plaintiff purchase unit #03-02.

227 Mr SK Ng's evidence is that Ms Chia also informed him that unit #03-02 would come with a *digital* advertising panel at the exterior wall of the building, which could be rented out. This digital advertising panel was about 1,000 sqft. It would not form part of the strata title floor area of the unit, but would be packaged with the unit. Because of this, unit #03-02 was priced at a premium of $7,500 per sqft, as compared to other units on that floor, which were priced at about $4,000 per sqft.[220]

228 According to Mr SK Ng, after he decided to purchase unit #03-02 (on either his second or third visit to the Sales Gallery), Ms Chia's superior approached him and his wife "to explain the details and ins and outs and the cost of the unit".[221]

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218 NE dated 21 October 2024 at p 39 lines 1–4.

219 NE dated 21 October 2024 at p 38 lines 20–23.

220 NSK at para 13.

221 NE dated 21 October 2014 at p 39 lines 1–4.

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229 Mr SK Ng's evidence is that he and his wife received and signed the OTP before receiving the Side Letter. Mr SK Ng was uncertain whether he had received the Side Letter on the same day as the OTP, or "[w]hether it was a few days later". During cross-examination, Mr SK Ng testified that he did not remember when, exactly, he received and signed the Side Letter. He also doubted the date written by his signature on the Cover Letter "because this date was not put in by [him]". As the cross-examination progressed, however, he then became certain that it was a "few days later" after 9 September 2013, the date that he signed the OTP, that the third plaintiff "received a whole stack of documents in an envelope that were [*sic*] sent … via courier". [222]

230 Mr SK Ng's testimony of how he received the Side Letter and how it came to be signed is also rather confused.

231 Mr SK Ng's evidence in his AEIC is vague – he states that he "received from LVND a thick stack of papers comprising a letter dated 9/9/2013 … together with a stack of papers which appeared to contain numerous descriptions of the building set out in numerous annexes".[223] It is thus unclear how exactly he received the Side Letter. He also noted that "[t]he agent who brought [the] letter to [him] turned each piece of paper and pointed out to the space at which [he] was to sign or initial".[224] He did not specify who this agent was – however, he then clarifies in cross-examination that this agent was Ms Chia.[225] In any case,

222 NE dated 22 October 2014 at p 13 lines 7–13.

223 NSK at para 18.

224 NSK para 18.

225 NE dated 23 October at p 95 line 22–p 96 line 17.

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he alleged no opportunity was given to him to study the Side Letter before signing or initialising it, and "little explanation" was given as to its contents.[226]

232 However, in cross-examination, Mr SK Ng then testified that the Side Letter was sent to him in "two parts", "[o]ne to [his] office, and some … sent to [his] conveyancing lawyer's side".[227] In relation to the part "which [he] received via courier to [his] office, [he] passed it to the conveyancing lawyer". He "did not receive these documents and sign these documents" on 9 September 2013, "when [he] signed the OTP".[228] He "forgot what happened … [a]fter [he] submitted this document to the law firm". He "[could not] remember the process … of the signing and all that".[229]

233 Mr SK Ng's evidence in cross-examination directly contradicts his AEIC evidence. In his AEIC, his evidence is that the Side Letter was brought to him by an "agent" (presumably, Ms Chia), and it was signed then, in the presence of that agent. However, in cross-examination, the Side Letter was sent to him by a courier and he sent the Side Letter to his lawyers before he signed it.

234 Mr SK Ng also alleges that Annex E was not included in the Side Letter. He was "very clear" that "[a] few days" after he had signed the OTP, Ms Chia had called to tell him that there was a "piece of document" (*ie*, Annex E) missing and that he and his wife needed to come to the Sales Gallery to sign it.[230] When

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226 NSK para 18.

227 NE dated 21 October at p 69 lines 9–17.

228 NE dated 21 October 2024 at p 69 lines 9–17.

229 NE dated 22 October 2024 at p 14 lines 1–5.

230 NE dated 21 October 2024 at p 58 lines 1–4.

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they went to the Sales Gallery the next day, Ms Chia gave them a piece of paper, and told them that this was the "missing paper" that they needed to sign. She did not explain the contents of the paper.[231]

235 Finally, Mr SK Ng agrees that the S&P Package was sent to his office via courier. However, he did not look through the S&P Package before sending it to the third plaintiff's solicitors.[232]

Defendant's testimony

236 LVND did not call on Ms Chia to give evidence.

237 The only evidence from LVND relating to the sales process involving the third plaintiff would be the testimony from the development manager and the project I/C about the general sales process. This included where sales agents were instructed to explain the Side Letter to purchasers, and that there was no way that they would have left out Annex E from the signing (see above at [114(d)]).

Factual findings

238 I accept Mr SK Ng's evidence that he had told Ms Chia that the third plaintiff needed "at least 35 square metres of shop space", and that Ms Chia had recommended unit #03-02 in response. LVND had failed to question this aspect of Mr SK Ng's evidence during cross-examination. Therefore, they should not be allowed to cast doubt on this evidence now. It also does not help LVND that

231 NSK at para 23.

232 NE dated 22 October 2024 at p 99 lines 10–18.

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Ms Chia was not present as a witness to explain or contradict this record of their conversation.

239 I also accept Mr SK Ng's evidence that Ms Chia had told him that the advertising panel was digital. Mr SK Ng was able to recall the interaction that resulted in the representation in some detail – namely, he could detail how Ms Chia had introduced the digital advertisement panel to him, and how, after he asked why the unit was so expensive, her superior explained that the price was due to the panel.[233] He also maintained that he had been told that the advertising panel would be digital throughout multiple days of cross-examination.[234] Further, LVND failed to have either Ms Chia or her superior provide any evidence to the contrary.

240 However, I do not accept Mr SK Ng's evidence that the Side Letter was signed after the OTP. As I noted above at [118], I have accepted that the system put in place by LVND was that the Side Letter would be signed *before* the OTP. The issue was thus whether the remaining plaintiffs could produce convincing evidence that the standard procedure had not been followed in their respective cases. Here, given the numerous inconsistencies in Mr SK Ng's evidence regarding the Side Letter, he has failed to convince me that Ms Shirline Chia had diverged from LVND's standard procedure.

241 I accept that Annex E for unit #03-02 was signed at a different time than the rest of the Side Letter. Whilst his evidence on the Side Letter as a whole was more garbled, Mr SK Ng's evidence that he was called down to sign Annex E

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233 NSK at para 13; NE dated 22 October 2024 at p 31 lines 8–23.

234 See, for example, NE dated 22 October 2024 at p 31 lines 17–23; NE dated 23 October 2023 at p 6 lines 7 and 19.

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"a few days later" (after signing the OTP) at the Sales Gallery was clear and remained consistent throughout three days of cross-examination. Further, the documentary evidence suggests that Annex E was signed at a different time from the rest of the Side Letter. Every page of the rest of the Side Letter was initialled. This includes the Cover Letter and Annex D, which were also separately signed by the third plaintiff's representatives. However, Annex E was not initialled. This inconsistency indicates that Annex E and the rest of the Side Letter were signed at different times.

Usable Floor Area Representation

(1) There was a false representation that the usable floor area of unit #03-02 was 35 sqm

242 Having accepted that Mr SK Ng had told Ms Chia that the third plaintiff needed "at least 35 square metres of shop space", and that in response, Ms Chia recommended unit #03-02, I also accept that Ms Chia's response carried with it an implied representation that unit #03-02 had a usable shop area of 35 sqm. Any reasonable person would have understood Ms Chia's recommendation of unit #03-02 in response to being told that the third plaintiff would need at least 35 sqm of shop space as carrying an implied representation that unit #03-02 had a shop space of at least 35 sqm.

(2) Ms Chia had no reasonable grounds to believe that the facts represented were true

243 Given that Ms Chia was not called to give evidence, LVND had failed to prove that Ms Chia had subjective belief in the truth of her oral representations. In any case, it is clear that she would have no reasonable grounds for such a belief. LVND's evidence is that the sales agents were

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informed of the fact that the area of each unit included the AC ledges. As such, she would have had no grounds for believing that the area of unit #03-02 in the Brochure constituted the area of the shop space only.

(3) The third plaintiff did not rely on the Usable Area Representation in entering into the SPA

244 However, I agree with LVND that, following *Broadley*, as the terms of the SPA for unit #03-02 clearly correct the Usable Area Representation for unit #03-02, the Usable Area Representation for unit #03-02 could not have induced the third plaintiff to entering into the SPA.

245 In this regard, the comments and reasoning I made above at [209]–[212] in relation to the first and second plaintiffs apply with equal force here.

246 Any representation that the usable shop space constituted 35 sqm would have been expressly contradicted by Schedule B of the SPA. Schedule B states that "the Unit" is "the Shop on the 2nd and 3rd storeys and roof of the Building, comprising an estimated floor area of 35 square metres (including Ac Ledge as Accessory Lot, *Void, Ac Ledge, Advertisement Signage* as Accessory Lot (where applicable) as shown in the registered land surveyor's certificate on strata area) and which is known or to be known as 401 MACPHERSON ROAD #03-02 MACPHERSON MALL, SINGAPORE 368125" [emphasis added]. As such, it very clearly states that the area of 35 sqm does not just comprise usable floor space, but also the area of the advertisement panel and the area of the air-con ledge. It would also have corrected any misrepresentation that the area of the advertisement panel was not included in the unit area of 35 sqm. The diagrammatic sketch plan of unit #03-02 and its accessory lots also showed the

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relative size of the usable floor area of the unit itself as compared to the various accessory lots.

Advertisement Panel Representation

247 As explained above at [239], I accept that Ms Chia had expressly represented that there would be a digital advertising panel included with the third plaintiff's unit.

248 The representation that the advertisement panel would be digital was undoubtedly false. LVND adduced evidence that while the possibility of digital advertisement panels was considered, it was ultimately disallowed by the URA. It also provided an e-mail from the URA dated 22 March 2013 (*ie*, long before the representation was made in the latter half of 2013) stating that "we do not support any LCD/LED advertisement at the proposed location, in view of the close proximity to residential developments (i.e landed housings) in the vicinity".

249 Much like with the Usable Area Representation, LVND, having failed to call Ms Chia to give evidence, failed to show that Ms Chia even had subjective belief in her representation. Moreover, it is unlikely that she had reasonable grounds to believe in the truth of her representation. As noted above at [248], LVND's position is that the understanding since long before the representation was made, its understanding was that the advertisement panel would not be digital.

250 The issue then is whether the representation was corrected, such that the third plaintiff cannot have relied on it in entering into the SPA.

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251 Annex C of the Side Letter clearly clarifies the representation that the advertising panel would not be digital. It states that "[a]ll advertising signage are accessory lots and should only be static advertisements" (above at [21]). However, LVND still needs to prove that this was drawn to Mr SK Ng's attention (see above at [201]). Given that Mr SK Ng has not admitted to reading this portion of Annex C, and LVND has failed to call Ms Chia to give evidence on whether she had explained the Side Letter or Annex C to him, LVND has failed to discharge its burden of proof in this regard.

252 Nevertheless, the SPA clearly contradicts this representation. Paragraph (k) of the notes in the First Schedule of the SPA (inserted by paragraph 18 of the Second Schedule) states, in plain words, that "[a]ll advertising signage … should only be *static* advertisements" [emphasis added]. Hence, following *Broadley*, the third plaintiff should be taken to have read the SPA and therefore known of this correction. As such, it cannot have been induced by this representation to enter into the SPA.

253 I therefore conclude that the third plaintiff has failed to establish either negligent or actionable misrepresentation by LVND.

The fifth plaintiff

Background facts

254 The fifth plaintiff is the sole owner of unit #01-19.

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255 The fifth plaintiff is Mr Ramachandran Anantharayanan ("Ananth"). He is presently the Chief Executive Officer of the First Abu Dhabi Bank P.J.S.C. (Singapore Branch).[235]

256 The fifth plaintiff learned about the mall through a newspaper advertisement, which touted the Development as a "rare freehold retail space" and that it had a "catchment of 300,000 shoppers within a 2 km radius". It also said that the Paya Lebar airbase would be moved to Changi later in the mid-2020s, thereby "freeing up land for homes, offices and factories". [236]

257 The fifth plaintiff therefore went to the sales gallery of the Development to make further inquiries. There, he was greeted by a sales agent, Mr Davidz Wan. During this meeting, Mr Davidz Wan passed a copy of the Brochure to the fifth defendant. [237]

258 On 23 September 2013, Mr Davidz Wan sent an e-mail to follow up on their meeting. In this e-mail, Mr Davidz Wan recommended that the fifth plaintiff purchase unit #01-19, as it was located by the escalator "where everyone will need to access to [*sic*] 2nd floor and 3rd floor shopping mall", it was near the hotel lobby "where the tourists will step out", it was "surrounded by the F&Bs", where "shoppers [would] walk around" after meals, and he was "confident it can easily achieve a min [*sic*] of 6% rental".[238]

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235 AEIC of Ramachandran Anantharayanan dated 26 August 2024 ("RA") at para 6.

236 RA at para 11; PACKE at p 18 S/N 1.

237 RA at para 12; PACKE at p 18 S/N 2.

238 CB at p 413.

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259 The fifth plaintiff proceeded to enquire more about Wan's recommendation, asking him to give "an indication of PSF rental [rates] for ground, first and second floors".[239]

260 Mr Davidz Wan responded to the fifth plaintiff's queries via a further e-mail the next day. In that e-mail, he provided the fifth plaintiff with the per square foot rental rates of other shopping complexes, along with a table showing the rates the fifth defendant would have to charge to achieve various rental yields.[240]

261 The fifth plaintiff then responded by stating that he was keen to purchase a shop unit in the Development, but had further queries regarding the estimated rental yields of the units.[241]

262 Mr Davidz Wan responded with an e-mail dated 26 September 2013. Mr Davidz Wan informed the fifth plaintiff that he had made an error regarding the areas of the units in his previous table. The corrected table of rates was as follows:[242]

239 CB at p 412.

240 CB at pp 410–411.

241 CB at p 409.

242 CB at p 407.

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Unit No	Purchase Price	Stamp Duty	GST payable	Area (sqft)	4% Yield	5% Yield	**6% Yield**	7% Yield
Ground Floor Units								
#01-19	**$1,764,000**	**$45,684.00**	**$119,196.00**	**280**	**$21.00**	**$26.25**	**$31.50**	**$36.75**
#01-20	$1,702,800	$47,520.00	$123,480.00	280	$22.00	$27.50	$33.00	$38.50
2nd Floor Units								
#02-01	**$1,846,000.00**	**$49,980.00**	**$129,220.00**	**355**	**$17.33**	**$21.67**	**$26.00**	**$30.33**
#02-04	$1,903,200.00	$51,696.00	$133,224.00	366	$17.33	$21.67	$26.00	$30.33
#02-09	$1,866,600.00	$50,598.00	$130,662.00	366	$17.00	$21.25	$25.50	$29.75
#02-28	$1,881,500.00	$51,045.00	$131,705.00	355	$17.67	$22.08	$26.50	$30.92

263 In that same e-mail, Mr Davidz Wan informed the fifth plaintiff that an alternate unit he could consider was unit #01-22, which had a "[s]imilar concept to [unit #01-19]". The total area of unit #01-22 was 398 sqft. Of this total area, 65 sqft could be used for the "kitchen cum preparation area", and "the remainder 333 sqft (based on 65) [could be used] for seating arrangement [*sic*]".[243]

264 On 27 September 2013, the fifth plaintiff informed Mr Davidz Wan (via e-mail) that he had decided to purchase unit #01-19 subject to several factors, namely: (a) a bank loan sanction; (b) the final price of #01-19; and (c) Mr Davidz Wan's assistance in completing the paperwork. Mr Davidz Wan responded with a breakdown of the purchase price that the fifth plaintiff was to pay to LVND.[244]

243 CB at p 407.

244 CB at p 497.

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265 Afterwards, Mr Davidz Wan visited the fifth plaintiff at his home, where the fifth plaintiff told him to go ahead with balloting for a shop unit, and gave him a cheque for the balloting exercise.[245] When the price for the shop units was released on the launch of the Development, Mr Davidz Wan called the fifth plaintiff and was instructed to place the cheque for the ballot for unit #01-19.[246]

266 The fifth plaintiff won the ballot for #01-19.[247] Therefore, on 2 October 2013, Wan went to the fifth plaintiff's home with the OTP for unit #01-19, and two copies of the Side Letter. The fifth plaintiff then signed the OTP and Side Letter. Whether the Side Letter contained Annex E is disputed.[248]

267 Thereafter, the fifth plaintiff engaged solicitors to represent him in the sale and purchase of unit #01-19.[249]

268 On 10 October 2013, LVND's lawyers sent the S&P Package to the fifth plaintiff's conveyancing lawyers. The fifth plaintiff then executed the SPA on that same day.[250]

Fifth plaintiff's testimony

269 The Purported Representations that would apply to the fifth plaintiff would be the Usable Area Representation, the Rental Yield Representation, and the Tenant Mix Representation. This was as the fifth plaintiff had testified that

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245 PACKE at p 21 S/N 9.

246 PACKE at p 21 S/N 11.

247 PACKE at p 22 S/N 12.

248 PACKE at p 22 at S/N 13.

249 RA at para 44.

250 PACKE at p 24 S/N 15.

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his intention in purchasing unit #01-19 was to obtain a small income stream from rental proceeds.[251]

270 According to the fifth plaintiff, in the copy of the Brochure that he received on 22 September 2013, the shop units from #02-22 to #02-29 were labelled as "NTUC", while the shop units from #02-20 were labelled as "Mc (proposed)".[252] These markings were written into his copy of the Brochure. He understood the latter to refer to McDonalds, the fast-food chain. In the course of his conversation with Wan on that same day, Wan informed the fifth defendant that, amongst others, NTUC was going to be a tenant of the Development, along with some learning centres.[253]

271 The fifth plaintiff's evidence regarding the Side Letter is that he signed the OTP before signing and initialling the Side Letter and the Annexes.[254] He then paid the booking fee after signing and initialling the Side Letter and Annexes.[255] The fifth plaintiff also alleged that he did not pay much attention to the Annexes, as he assumed that Mr Davidz Wan would have ensured that the Annexes were in order, and, in any event, he was "being hurried along to put my initials on the pages by Mr Davidz Wan" and thus had no opportunity to check that the Annexes were in order. However, he "eventually came to understand" that Annex E was not provided to him with the Side Letter and the other Annexes.[256] While he cannot remember when Annex E came into his

251 PRS at para 62; RA at para 6.

252 RA at para 13(e).

253 RA at para 15.

254 NE dated 25 October at p 68 lines 15–17.

255 NE dated 25 October p 66 lines 17–19.

256 RA at para 34.

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possession, he "[could] say for certain that it was not attached to the [Side Letter and its Annexes]". This was because: [257]

(a) The particulars of the shop unit in Annex E were printed, whereas the particulars in the other documents were handwritten.

(b) The fifth plaintiff had initialled the bottom right-hand corner of every page of the Side Letter and Annexes. However, Annex E was not similarly initialled.

(c) Annex E contained its own acknowledgment of receipt, which "would be required only if [Annex E] was given to the fifth plaintiff on a separate occasion".

Defendant's testimony

272 LVND called Mr Davidz Wan as one of its witnesses.

273 According to Mr Davidz Wan, during his meeting with the fifth plaintiff, there were no discussions on the brands or tenants that would be taking up space in the Development. This was because the fifth plaintiff was one of the early purchasers of a unit in the Development, and had been granted the OTP before any information on potential tenants was made available. [258]

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257 RA at paras 36–37.

258 WCW at para 12.

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274 Mr Davidz Wan was able to recall the events surrounding the fifth plaintiff's signing of the Side Letter in great detail. He was able to relay how, precisely, he had explained the Side Letter "line by line" to the fifth plaintiff:[259]

> … So when I did to Mr Anant is, number one, I will share with you how do I do usually in my case. I will ask Mr Anant, "Mr Anant, today's date is on 2 October 2013. Can you check your IC number and your name and your address, is it correct?" So Mr Anant said, "Yes", same like any of my buyers could reflected that. So I will just share with him. So, "Mr Anant, today you are buying into 401 Macpherson Road #01-19, hereby" -- "and the postal code Singapore 368125. This is the property you are buying". So I also go into details, like, "Mr Anant, today we are going to enclose the following details: particulars, documents and information relating to this property and the housing project. I'm going to cover number A".
>
> …
>
> It is our duty to explain every line in detail for him. And also Mr Anant is -- is very cautious, so he's also for a finance settle side, so he also -- because I have one set, he has -- I have two sets, one set I pass to him, one set, I actually tell, "Okay, Mr Anant, let's look at clause 1." So we just go -- every page when I explain, I will just explain in detail to him line by line.

275 According to Mr Davidz Wan, this process was very tedious and took up to two hours.[260] After going through the entire Side Letter with the fifth plaintiff and confirming that he had no questions, he then asked the fifth plaintiff to initial and sign the pages of the Side Letter.[261] The fifth plaintiff did not ask any questions regarding the Side Letter.[262]

276 Mr Davidz Wan also confirmed that Annex E had been included with the Side Letter and that he had explained Annex E to the fifth plaintiff. His

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259 NE dated 14 November at p 87 line 19–p 88 line 9, p 94 lines 1–23.

260 NE dated 14 November 2024 at p 98 lines 2–9.

261 NE dated 14 November 2024 at p 7 lines 2–12.

262 NE dated 14 November 2024 at p 99 line 13.

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explanation for why Annex E was not also initialled was that there was no need to separately initial pages which required a signature, as "signatures supersede initials".[263] When asked why Annex D had been initialled and signed, Mr Davidz Wan explained that he did not ask the fifth plaintiff to cross out the initials on Annex D as that would require Mr Davidz Wan to go back to the Sales Gallery to procure a new copy of Annex D for the fifth plaintiff to sign.[264]

Factual findings

277 The fifth plaintiff's evidence in relation to the brochure he received from Mr Davidz Wan in September 2013 was identical to the brochure received by the first plaintiff months later in February 2014, down to the *handwritten markings* in the brochure. However, unlike the first plaintiff, the fifth plaintiff could not produce that brochure. He also could not recall who had made these markings. Furthermore, the fifth plaintiff's evidence that "NTUC" was written into the brochure sometime in 2013 contradicts the evidence from Ms Allyson Lim that the sales agents were only informed that NTUC would be leasing a unit in the Development after 27 January 2014. For those reasons, I do not accept the fifth plaintiff's evidence that the brochure he received contained such handwritten markings.

278 I also accept Mr Davidz Wan's evidence that he had not made any representations regarding potential tenants in the Development to the fifth plaintiff. Mr Davidz Wan's explanation that he could not have given such information to the fifth plaintiff as it was before any information on potential tenants was made available coheres with the above evidence from Ms Allyson

263 NE dated 14 November 2024 at p 97 lines 2–3.

264 NE dated 15 November 2024 at p 25 lines 4–9.

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Lim. Furthermore, if Mr Davidz Wan had indeed made such representations about potential tenants, it is odd that there is no mention of this in the subsequent e-mails sent by him to the fifth plaintiff. In those e-mails, Wan was trying to convince the fifth plaintiff that purchasing a unit in the Development would be a good investment. Such information regarding the tenant mix of the Development would surely be relevant to the potential rental yield of units in the Development.

279 I accept Mr Davidz Wan's evidence regarding the Side Letter, namely, that it was signed before the OTP and that he had explained the Side Letter to the fifth plaintiff line by line. His evidence on this was clear and detailed. During his testimony, he was also able to refer to certain portions of the Side Letter without the need for counsel to point it out to them. It is also plausible that he would remember the events in such detail given his evidence that this process was very frustrating for him, as he had to work from "after 4 pm until late night", driving between the Sales Gallery and the fifth plaintiff's house, without having time for dinner.

280 For the same reasons, I accept Mr Davidz Wan's evidence that Annex E had been included in and signed along with the Side Letter. Though the fifth plaintiff is correct that, unlike the other pages of the Side Letter, Annex E is not initialled, in my view, Mr Davidz Wan has provided an adequate explanation for this discrepancy (above at [276]).

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Usable Area Representation

(1) There was an implied representation that "area" means usable shop area arising from Mr Davidz Wan's E-mail on 26 September

281 The fifth plaintiff's case is that, by way of his e-mail on 26 September 2013, Mr Davidz Wan had represented that the area attributable to the shop units would solely consist of the shop area without any accessory lots.

282 I agreed that Mr Davidz Wan had made an implied representation that when he referred to the "area" of units, he was referring to the usable shop area of such units by way of his e-mail dated 26 September 2013. A reasonable person in the fifth plaintiff's position would have, from Mr Davidz Wan's statement that the "area" of unit #01-22 was 398 sqft and "the remainder 333 sqft (based on 65) [could be used] for seating arrangement", understood that by "area", Mr Davidz Wan was referring to useable floor area.

283 I was not convinced by LVND's suggestion that statements about unit #01-22 could not create an implied representation regarding unit #01-19. That same email contained a table listing the "area" of unit #01-19 as 280 sqft. Given that there was no distinction between this reference to "area" and Mr Davidz Wan's statement that "the total area [of unit #01-22] is 398 sqft", any reasonable person would understand both uses of "area" to carry the same meaning.

284 As such, I find that, by way of his e-mail dated 26 September 2013, Mr Davidz Wan had impliedly represented that the usable area of unit #01-19 was 280 sqft.

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285 Furthermore, this implied representation that the usable area of unit #01-19 was 280 sqft was undoubtedly false.

(2) Mr Davidz Wan did not have reasonable grounds to believe that the facts represented were true

286 Though Mr Davidz Wan was one of LVND's witnesses, he did not give any evidence on whether he had subjective belief in the truth of his representation. Furthermore, Mr Davidz Wan's testimony revealed that he had no reasonable grounds for believing in the truth of his statement. Mr Davidz Wan testified that he had been briefed by the Project I/Cs,[265] meaning that he would have been informed that the area of the units included the area of the AC ledges (see above at [114(b)(iii)]).

(3) The fifth plaintiff did not rely on the Usable Area Representation in entering the SPA

287 Nevertheless, the contents of the Side Letter would have corrected the misrepresentation (above at [200]).

288 As I have accepted Mr Davidz Wan's evidence that he had explained the Side Letter to the fifth plaintiff line by line, I thus find that LVND has shown that it had drawn the relevant portions of the Side Letter to the fifth plaintiff's attention. Therefore, the representation made by Mr Davidz Wan had been corrected even before the fifth plaintiff signed the OTP.

289 In any case, as the SPA clearly corrected this representation, the fifth plaintiff could not have been induced by this representation to enter into the

265 NE dated 14 November 2024 at p 56 line 25–p 57 line 20.

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SPA. In this regard, my findings and reasoning above at [207]–[212] apply equally to this implied representation to the fifth defendant.

Rental Yield Representation

290 Counsel for the remaining plaintiffs clarified that, on rental yield, the operative misrepresentation was not the quantum of the rental which each plaintiff expected to receive from letting out their respective shop units. The misrepresentation was the basis on which the rental yields were calculated, as they were calculated based on strata area rather than the usable shop area of the units. That being the case, the representations to the remaining plaintiffs that they could expect a certain amount of rental revenue, when in fact the actual rentable area of the shop units were much smaller than the rentable area in which the rental yield calculations were made, were misrepresentations.[266]

291 I agree that a representation that unit #01-19 could fetch a rental yield of 6% based on its area of 280 sqft would come with the implied representation that the area of 280 sqft was the actual rentable area of unit #01-19.

292 However, in my judgment, the fifth plaintiff has not established that this representation was false. The fifth plaintiff has not produced any expert evidence to this effect. Moreover, LVND has produced evidence that the full strata area of the units was rentable. Mr Derek Mok noted that one of the considerations in designing the AC ledges was to have "more flexible" AC ledges that would be able to accommodate more air-conditioning condensers to be installed by those unit owners who required them. An example of such occupants would be those operating food and beverage businesses, who might

266 PRS at para 63.

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require additional air-conditioning condensers to cater for heat from cooking or refrigeration.[267] LVND's expert valuer, Mr Png Poh Soon ("Mr Png"), based his own rental calculations on strata area, which indicates that it was not incorrect for Mr Davidz Wan to do the same.[268] Mr Png also opined that Mr Davidz Wan's representation was reasonable.[269]

293 It is also evident that Mr Davidz Wan not only subjectively believed in his representations but also had reasonable grounds for such a belief from his clear and detailed explanations of the basis for his rental estimates in his e-mails to the fifth defendant.

Tenant Mix Representation

294 Given that I do not accept the fifth plaintiff's evidence regarding the brochure he received, and accept Wan's evidence that he had not made any oral representation regarding the tenant mix of the Development, the fifth plaintiff has not established that any kind of Tenant Mix Representation was made to him.

295 As such, the fifth plaintiff has not established any actionable misrepresentation, let alone negligent misrepresentation, on the part of LVND.

The 11th and 12th plaintiffs

296 On or around 2013 or early 2014, the 11th plaintiff learned from newspaper advertisements that shop units in the Development were being

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267 MMH at para 12.

268 AEIC of Png Poh Soon dated 15 August 2024 ("PPS") at p 16.

269 PPS at p 19.

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offered for sale. The 12th plaintiff learned of the Development when the 11th plaintiff informed him of this.[270] The 11th plaintiff and the 12th plaintiff are husband and wife.

297 On 17 April 2014, the 11th plaintiff visited the sales gallery, where she was attended to by a senior sales agent and Ms Kit Toh. Toh presented various units in the Development to the 11th plaintiff. During this exchange, the 11th plaintiff was provided with a copy of the Brochure.[271]

298 The 11th plaintiff then informed Toh that she would bring her husband (*ie*, the 12th plaintiff) to the Sales Gallery.[272]

299 Thereafter, the 11th plaintiff returned to the sales gallery, this time accompanied by the 12th plaintiff. After considering the information that was provided, they decided to buy unit #03-02.

300 On 18 April 2014, Toh issued the 11th and 12th plaintiffs with the OTP for unit #03-02. The 11th and 12th plaintiffs then signed the OTP and paid the booking fee as directed. They also signed and initialled the Side Letter as directed.[273] It is disputed as to whether the OTP or the Side Letter was signed first, as well as whether Annex E was included with the Side Letter.

301 The 11th and 12th plaintiffs then engaged solicitors to act for them in the sale and purchase of unit #03-02. After referring all the documents they had

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270 PACKE at p 31 S/N 1.

271 PACKE at p 32 S/N 2.

272 PACKE at p 32 S/N 3.

273 PACKE at p 32–35 S/N 5–6.

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received to their solicitors, they left their solicitors to liaise with LVND's solicitors.[274]

302 On 23 April 2014, LVND's solicitors sent the S&P Package to the plaintiffs' conveyancing lawyers.[275]

303 The 11th and 12th plaintiffs signed the SPA on 12 May 2014.[276]

11th and 12th plaintiffs' testimony

304 The Purported Representations applicable to the 11th and 12th plaintiffs are: (a) the Usable Area Representation; and (b) the Advertising Signage Representation. The Rental Yield Representation and the Tenant Mix Representation "[were] not significant" to the 11th and 12th plaintiffs as the they had purchased unit #03-02 for their own use (see above at [83]–[84]).[277]

305 The 11th plaintiff alleges that, as she does not speak English, she was totally reliant on the sales agents to prove her with all the necessary information to decide whether to purchase any shop units.[278]

306 On the 11th plaintiff's first visit to the Sales Gallery, she was attended to by a senior sales agent, whose name she could not recall, as well as Ms Kit Toh. The sales agents communicated with the 11th plaintiff in Mandarin. The sales agents drew her attention to the floor areas of the various units in the

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274 PACKE at p 36 S/N 7.

275 PACKE at p 36 S/N 8.

276 PACKE at p 36 S/N 9.

277 PRS at para 61.

278 AEIC of Sun Xihua dated 15 August 2024 ("SXH") at paras 10–11.

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Development, and the various benefits of purchasing shop units in the Development.[279]

307 The sales agents recommended that the 11th plaintiff purchase unit #03-01, which had an area of 409 sqft as stated in the Brochure. The sales agents informed the 11th plaintiff that unit #03-01 would come packaged with an advertising display panel, which "would be free of charge". The advertising display panel could be rented out separately from the unit at $6,000 per month. As unit #03-01 would come packaged with the advertising display panel, it would be priced much higher than other units on the third floor of the mall.[280]

308 During the 11th plaintiff's second visit to the Sales Gallery, where she was now accompanied by her husband, the 12th plaintiff, the agents "repeated to [the 12th plaintiff] what they had earlier told [the 11th plaintiff]".[281]

309 The 11th and 12th plaintiffs' evidence as regards the Side Letter is that it was signed after the OTP, and they were unable to understand the Side Letter as it was in English. Ms Kit Toh had not provided them with any full explanation of what they were signing.[282]

310 The 11th and 12th plaintiffs also allege that "sometime after" they signed the OTP and the Side Letter, Ms Kit Toh called the 11th plaintiff to inform her that one piece of paper was missing. While the 11th and 12th

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279 SXH at para 11.

280 SXH at para 12.

281 SXH at para 13.

282 SXH at para 15.

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plaintiffs do not recall how they came to sign Annex E, "[i]t may well be that sometime after that [they] met her to sign … Annex E".[283]

311 In any case, they allege that the contents of Annex E were never explained to them.[284]

Defendant's testimony

312 LVND called one of the sales agents, Ms Kit Toh, and the two Savills project I/Cs, Ms Jen Wong, and Mr Daniel Phua as its witnesses.

313 According to Ms Kit Toh, the other sales agent was a Ms Candice Ong. However, as Ms Candice Ong was unavailable to meet with the 11th plaintiff on her first visit to the Sales Gallery, Ms Kit Toh attended to the 11th plaintiff on her own. At this first meeting, she had shown the 11th plaintiff various types of units using, *inter alia*, the Brochure. These units included unit #03-01.[285] Ms Kit Toh alleges that she informed the 11th plaintiff that the strata area of the Development comprised a breakdown of different components, such as the advertisement signage and the air-conditioning signage. As Ms Kit Toh did not have the Schedule of Strata Area for unit #03-01, she had to call Ms Jen Wong to request for it. Upon receiving the photograph of the Schedule of Strata Units from Ms Jen Wong, Ms Kit Toh showed the same to the 11th plaintiff and informed her that this was the breakdown of the strata area of the unit.[286]

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283 SXH at paras 38 and 40.

284 SXH at para 41.

285 TZQ at para 6.

286 TZQ at para 10.

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314 Both Ms Candice Ong and Ms Kit Toh attended to the 11th and 12th plaintiffs during the 11th plaintiff's second visit to the Sales Gallery. At this meeting, Ms Candice Ong and Ms Kit Toh showed the 11th and 12th plaintiffs various units in the Development using the show model, the Brochure and the sales kit provided in the show flat to the 12th plaintiff, as this was his first time viewing the units. The 11th and 12th plaintiffs asked why there was a difference in the per square foot pricing of the units that did not contain an advertisement panel, as compared to unit #03-01. Ms Kit Toh informed them that the per square foot price was higher for #03-01 to factor in "the potential additional value and/or benefit that could be derived from the advertisement signage, since the purchasers could either rent out the advertisement signage or use it themselves".[287]

315 The 11th and 12th plaintiffs also asked what the expected rental yield of the advertisement signage would be. To address their query, Ms Kit Toh claims that she "called some advertising companies on the spot and asked for the rough prices of renting an advertisement signage, and showed [the plaintiffs] [her] Google search result that a bus ad could fetch about $5,000 per month". However, she also informed the 11th and 12th plaintiffs that an advertisement on a bus could fetch a higher price than a static advertisement signage, and they could not expect a similar rental yield for unit #03-01's advertisement signage. This was because bus advertisements were constantly on the move and would thus receive greater exposure. Furthermore, bus advertisements "typically comprise more complicated designs". She also informed them that the information was only indicative as the information was derived from Google

[287] TZQ at para 11.

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and she was not a professional in the advertising field. They would need to make their own inquiries and do their own due diligence.[288]

316 Ms Kit Toh's evidence on the signing of the Side Letter was that she had to call the two Savills project I/Cs (*ie*, Ms Jen Wong and Mr Daniel Phua) to handle the issuance and signing of the OTP and the Side Letter.[289] Ms Kit Toh recalled that as Ms Jen Wong had not been on duty that day, Ms Kit Toh had to call her to come to the Sales Gallery.[290]

317 Ms Jen Wong and Mr Daniel Phua presented both sets of the Side Letters to the 11th and 12th plaintiffs. According to both Ms Kit Toh and Ms Jen Wong, Mr Daniel Phua was in charge of explaining the Side Letter to the 11th and 12th plaintiffs, while Ms Jen Wong assisted. Ms Jen Wong and Mr Daniel Phua used a mix of Mandarin and English to explain the Side Letter to the 11th and 12th plaintiffs.[291] While Mr Daniel Phua admitted that he could not specifically recall presenting the Side Letter to the 11th and 12th plaintiffs,[292] the evidence from both Ms Jen Wong and Ms Kit Toh was that the 11th and 12th plaintiffs were in a rush to get home and asked them to speed through their explanations. However, Ms Jen Wong and Mr Daniel Phua insisted that they go through the document in detail.[293]

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288 TZQ at para 15.

289 NE dated 4 November 2024 at p 69 line 23–p 70 line 2.

290 TZQ at para 18; WLH at para 9.

291 NE dated 5 November at p 85 lines 1–7.

292 PWK at para 8.

293 TZQ at para 21; WLH at para 14.

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318 Ms Jen Wong recalled in detail how she had assisted Mr Daniel Phua in explaining Annex E by showing the 11th and 12th plaintiffs her physical copy of the schedule of strata units.[294] She also recalled that after she told them that the total area of 38 sqm was inclusive of the breakdown in the schedule of strata units, she asked them if they understood in Mandarin, and they confirmed that they did.[295]

319 Ms Jen Wong was also able to detail how she had assisted Mr Daniel Phua in explaining the isometric diagram for advertising signage to the 11th and 12th plaintiffs.[296] The isometric diagram for the advertising signage of unit #03-01 is reproduced below:

294 NE dated 5 November 2024 at p 82 lines 20–24, p 88 lines 20–25.

295 NE dated 5 November 2024 at p 90 lines 13–14.

296 NE dated 5 November 2024 at p 128 lines 14–24.

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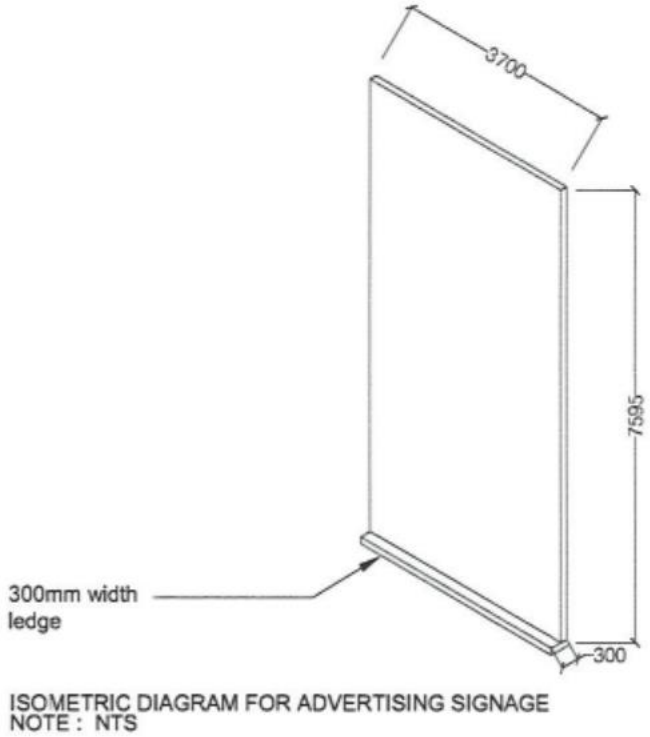

320 The strata area of the advertising signage was recorded as the horizonal, rather than vertical, area of the signage – namely, the "advertising panel ledge", and the "advertising panel void".[297] The advertisement panel ledge was the "300mm width ledge" at the bottom of the isometric diagram.[298] This represented the strata area of the advertisement signage attributable to the second storey. As the panel spanned both the second and third storeys of the Development, some area on the third storey of the Development also had to be

297 NE dated 5 November 2025 at p 128 line 19–p 130 line 13.

298 NE dated 5 November 2024 at p 106 line 25–p 107 line 1.

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attributed to the advertisement signage. This was the "advertising panel void".[299] The advertising panel void was the same size as the advertising panel ledge.[300]

321 Ms Jen Wong also testified that she had checked through every page of both sets of the Side Letters to ensure that they had been signed or initialled and there were no pages missing. This was because if any page was missing or not signed, LVND would not issue the OTP.[301]

Factual findings

322 I prefer the evidence of LVND's witnesses over that of the 11th and 12th plaintiffs.

323 Ms Kit Toh's evidence that the 11th plaintiff had asked her about the breakdown of the strata area was corroborated by Ms Jen Wong. Moreover, there was contemporary documentary evidence in the form of WhatsApp messages. The WhatsApp messages not only showed that Ms Jen Wong had indeed sent Ms Kit Toh a picture of the breakdown of the strata area for unit #03-01, but also included a message from Ms Kit Toh reporting that she "[had] informed [the] buyer".[302] For those reasons, I accept her evidence that Toh had explained the breakdown of the strata area of unit #03-01 to the 11th plaintiff.

324 I accept Ms Kit Toh's evidence in relation to what she had told the 11th and 12th plaintiffs about the expected rental yield of their advertisement

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299 NE dated 5 November 2024 at p 107 at lines 3–4; see also NE dated 5 November 2024 at p 194 at lines 2–5.

300 NE dated 5 November 2024 at p 130 at lines 10–11.

301 WLH at para 15.

302 CB at pp 972–973.

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signage. She was able to recall in detail how she had come to the figure of $5,000 per month, and her answers in cross-examination were consistent with what she had stated in her AEIC.

325 I accept Ms Jen Wong's evidence regarding how she and Mr Daniel Phua had explained the Side Letter to the plaintiffs in detail. She remembered the events surrounding the Side Letter in some detail. Amongst other things, this included how she had to come down to the Sales Gallery on her off-day, how the plaintiffs wanted to rush off and how Ms Kit Toh was there to observe the signing. These details were also corroborated by Ms Kit Toh.

326 Finally, I also accept that Annex E had been provided to the 11th and 12th plaintiffs at the same time as the rest of the Side Letter. Ms Jen Wong was able to recall in detail how she had assisted Mr Daniel Phua in explaining Annex E at the same time as the rest of the Side Letter. In contrast, the 11th and 12th plaintiff's evidence in this regard was unclear. Not only could they not remember when, exactly, Ms Kit Toh had called them to inform them about Annex E being allegedly omitted from the Side Letter at signing, they also could not recall how they came to sign Annex E (see above at [310]).

Usable Area Representation

327 As I have accepted that Ms Kit Toh had explained the breakdown of the strata area of unit #03-01 to the 11th plaintiff, I do not see how there was a representation that: (a) the usable shop area of unit #03-01 was 409 sqft; or that (b) the area of the unit did not include the area of the advertisement signage.

328 In any case, I accept Ms Jen Wong's evidence that she and Mr Daniel Phua had explained the Side Letter, especially Annex E, to the 11th and 12th

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plaintiffs in detail. Thus, even if any such misrepresentations had been made, they would have been corrected when Ms Jen Wong and Mr Daniel Phua explained the breakdown in Annex E to the 11th and 12th plaintiffs.

329 Even if I am wrong on both these counts, my observations above (at [209]–[212]) regarding how the misrepresentations would have been corrected by the SPA also apply with equal force here and any such misrepresentations would have been corrected by the SPA.

Advertisement Signage Representation

330 The 11th and 12th plaintiffs allege that two false representations regarding the advertisement signage were made to them by LVND: (a) that they would receive an advertisement panel with their unit; and (b) that this advertisement panel could be rented out for about $6,000 per month.

331 In relation to the former, there is no dispute that such a representation was made. However, I was not persuaded by the 11th and 12th plaintiffs' argument that this representation was false because they only received an "empty column of air" behind the advertisement panel rather than an advertisement panel. In making this argument, counsel for the remaining plaintiffs is ignoring the fact that the area of the advertisement signage included in unit #03-01 encapsulated the entire width of the panel (as can be seen in the diagram above at [319]). Moreover, the 11th and 12th plaintiff did, in fact, receive an advertisement panel with their unit, as they had succeeded in renting the same out to a car showroom for the sum of $500 per month.[303]

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303 SXH at para 27.

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332 For the same reasons, I find that LVND has shown that the sales agents had reasonable grounds for believing in the truth of the facts represented.

333 As regards the latter representation, as I have accepted Ms Kit Toh's evidence that she had told the plaintiffs that according to Google, a bus advertisement could fetch about $5,000 *and* caveated this by telling them that a bus advertisement was different from a static advertisement, I do not find that there was a representation that the plaintiffs could rent their advertisement panel for $6,000 or even $5,000 per month.

334 As such, I found that the 11th and 12th plaintiffs had failed to establish any negligent or actionable misrepresentation on the part of LVND.

The 15th plaintiff

335 Mr Lim Beng Kiat ("Mr Frankie Lim") is a director of the 15th plaintiff, M2L Holding Investment Private Limited ("M2L"). Mr Frankie Lim also holds 55% of the shares in M2L through his company, Kim Hup Chor Construction Private Limited. As part of his financial planning, Mr Frankie Lim decided to incorporate M2L as a vehicle to purchase unit #02-20.[304]

336 The other shareholders of M2L are Mr Lin Jin Hui ("Mr Lin") and Ms Tiew Chin Nee ("Ms Tiew"). They own 40% and 5% of M2L's shares respectively. At the time that M2L purchased unit #02-20, they were both also directors of M2L. However, at present, Ms Tiew is no longer a director of M2L.[305]

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304 AEIC of Lim Beng Kiat Frankie dated 19 August 2024 ("LBKF") at para 12.

305 LBKF at para 12.

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337 Mr Frankie Lim learned of the Development from Ms Tiew, who was a friend of his and a housing agent of OrangeTee.[306] According to Mr Frankie Lim, Ms Tiew showed him a brochure about the Development (*ie*, the Brochure) and told him it was a good investment.[307]

338 Based on what he saw in the Brochure and oral representations from Ms Tiew, Mr Frankie Lim decided to purchase unit #02-20.[308]

339 Around 18 July 2014, Ms Tiew brought the OTP for unit #02-20 to Mr Frankie Lim's office. She came with another property agent who was representing LVND. The OTP was signed by Mr Lin, in Mr Frankie Lim's presence.[309] After signing the OTP and paying the booking fee, Mr Frankie Lim engaged counsel to act for M2L in the sale and purchase of unit #02-20.[310]

340 Shortly after the signing of the OTP, he and Mr Lin were asked to collect and sign the Side Letter from the Lian Huat Building. Mr Lin alone signed the Side Letter.[311]

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306 PACKE at p 48 S/N 1; NE dated 1 November 2024 p 57 lines 17–19.

307 PACKE at p 48 S/N 1.

308 LBKF at para 10.

309 PACKE at p 48 S/N 2.

310 LBKF at para 16.

311 PACKE at p 48–49 S/N 3–4, LBKF at para 17–18.

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341 On 24 July 2014, LVND's lawyers sent the S&P Package to the 15th plaintiff's conveyancing lawyers.[312] Mr Lin and Ms Tiew then executed the SPA for unit #02-20 on 11 August 2014.[313]

The 15th plaintiff's testimony

342 The Purported Representations that would apply to the 15th plaintiff would be the Usable Area Representation, the Rental Yield Representation, and the Tenant Mix Representation. This was as the 15th plaintiff had testified that his intention in purchasing #02-20 was as an investment and to generate income for M2L.[314]

343 Mr Frankie Lim testified that had chosen to purchase unit #02-20 based on the following reasons: [315]

(a) Upon looking through the Brochure, he noticed unit #02-20 was right at the top of the escalator leading to the second storey of the proposed shopping mall. In his view, that meant that there would be good foot traffic at that location.

(b) Ms Tiew told him that a number of well-known brands would be coming into the Development, including NTUC and McDonalds.

(c) Ms Tiew also informed him of the rental yields of shops in other shopping malls. Mr Frankie Lim noted that the Brochure stated that the

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312 PACKE at p 49 S/N 5.

313 PACKE at p 50 S/N 6.

314 PRS at para 62; LBKF at para 8.

315 LBKF at para 10.

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size of unit #02-20 was 560 sqft. His attention was not drawn to anything in the Brochure suggesting that the "gross floor area" of #02-20 was anything less than 560 sqft. He thus thought that "the rental that [could] be obtained from unit #02-20 would be similar to the rental obtained for similarly sized units in other shopping malls.

344 In relation to the Side Letter, Mr Frankie Lim admits that he did not check through the "thick stack of papers" that constituted the Side Letter. According to Mr Frankie Lim, the persons at Lian Huat Building did not explain the Side Letter to him or Mr Lin and simply asked them to acknowledge receipt of the letter. When Mr Lin signed and initialled the pages of the Side Letter, Mr Frankie Lim did not read the Side Letter carefully or check that the annexes were in order.[316]

345 However, Mr Frankie Lim alleges that Annex E was not part of the Side Letter when it was signed by Mr Lin, and "must therefore have been issued at a time different form the time when the OTP was signed by Mr Lin". This was because:[317]

(a) Annex E had the unit number printed on it, whist the unit number and shop details in the Side Letter itself were handwritten.

(b) Annex E contained its own acknowledgment of receipt, and "[t]here is no reason for anyone to acknowledge receipt of Annex E if it was included as one of the annexes to the [Side Letter]". This is

316 LBFK at paras 18–19.

317 LBFK at para 26.

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especially so as none of the other annexes to that letter contained a separate acknowledgement of receipt.

(c) Annex E contained no initials on each page, whereas every page of the Side Letter and its Annexes were initialled by Mr Lin.

346 The 15th plaintiff did not call Mr Lin as a witness.

Defendant's testimony

347 LVND did not call Ms Tiew as a witness.

Factual findings

348 The 15th plaintiff has not shown that, on a balance of probabilities, Annex E had been signed at a different time from the Side Letter and the other Annexes.

349 Mr Frankie Lim openly admitted that he had not checked through the Side Letter and the Annexes when they were passed to him and Mr Lin. He also admitted that he had not read the Side Letter or the Annexes while Mr Lin was signing them. As such, I do not put any weight on his testimony that Annex E was not part of the Side Letter when it was signed by Lin.

350 The fact that Annex E is not initialled is consistent with the other signed pages (*ie*, the Side Letter and Annex D). As such, I do not agree that it demonstrates that Annex E was signed at a different time from the Side Letter and the other Annexes. Rather, this consistency, in my view, would give the impression that they were signed at the same time.

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351 This is also supported by the fact that in the colour copy of the Side Letter provided by LVND, the signatures in the Side Letter, Annex D, and Annex E are all in black ink, while the company particulars (which were presumably filled in by a sales agent) on those same pages were all written in blue ink. This is an additional point of consistency which suggests that Annex E was issued and signed at the same time as the Side Letter and the other Annexes.

Usable Area Representation

352 The 15th plaintiff alleges that by way of the Brochure, LVND had implicitly represented that the usable area of unit #02-20 was 560 sqft. In this regard, its argument is virtually the same as that of the first and second plaintiffs, and hence, my findings and reasoning at [209]–[212] above apply with equal force here.

Rental Yield Representation

353 The 15th plaintiff's case is that Ms Tiew made representations to its representative, Mr Frankie Lim, regarding the potential rental yield of unit #02-20. However, a fundamental flaw in the 15th plaintiff's case is that it has not established how Ms Tiew is related to LVND. Mr Frankie Lim testified that at the time, Ms Tiew worked for an agency by the name of OrangeTee. However, the evidence before me is that LVND hired Huttons and Savills to market the Development. There was no mention of LVND hiring any agency called OrangeTee.

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354 In any case, the 15th plaintiff's case regarding the Rental Yield Representation is the same as that of the 5th plaintiff. My comments and reasoning above at [291] would apply with equal force here.

355 Furthermore, I am not convinced that any Rental Yield Representation was even made by Ms Tiew to Mr Frankie Lim. Mr Frankie Lim's evidence in this regard is that Ms Tiew informed him of the rental yields for shops in other shopping malls. *Mr Frankie Lim* then noted that the area of unit #02-20 was 560 sqft, and therefore "thought that the rental that can be obtained from unit #02-20 would be similar to the rental obtained for similarly-sized units in other shopping malls". Hence, even taking Mr Frankie Lim's case at its highest, his evidence suggests that Ms Tiew did not make any representation that the entire area of 560 sqm was rentable.

Tenant Mix Representation

356 The 15th plaintiff also claims that representations regarding the tenant mix of the Development were made to it by Ms Tiew. My comments and reasoning above at [353] apply with equal force here.

357 As such, I find that the 15th plaintiff had failed to establish any negligent or actionable misrepresentation on the part of LVND.

Rescission

358 As the remaining plaintiffs have failed to establish any fraudulent or negligent misrepresentation, or even any actionable misrepresentation, they are not entitled to rescission of their respective SPAs or damages for misrepresentation.

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359 However, for completeness, I will briefly address parties' arguments regarding whether the remaining plaintiffs would have been entitled to rescind their respective SPAs had they made out their claims for actionable misrepresentation.

360 LVND contends that that the remaining plaintiffs had affirmed their respective SPAs, and hence rescission was no longer open to them. A binding election to affirm an agreement can be express or implied and requires the injured party to communicate his choice to the other party in clear and unequivocal terms: *Strait Colonies* at [42], citing *Jurong Town Corp v Wishing Star Ltd* [2005] 3 SLR(R) 283 ("*Jurong Town Corp*") at [171(a)]. Election will be implied where the injured party acts in a way which is consistent only with a decision to keep the contract alive or where he exercises rights which would only be available to him if the contract had been affirmed (*Jurong Town Corp* at [171(b)]).

361 LVND alleges the remaining plaintiff's conduct of continuing to alter, rent out, and/or attempt to utilise their respective units even after discovering the alleged misrepresentations in or around 2018 (at the latest) evinced a clear and equivocal intention to affirm their respective SPAs despite the misrepresentations. The alleged plaintiffs also did not attempt to terminate the SPAs with LVND at the material times.[318] The remaining plaintiffs only informed LVND of their intention to rescind their respective SPAs on 6 May 2019, almost a year after most of the remaining plaintiffs had discovered the alleged misrepresentations.[319]

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318 Defence (Amendment No. 1) dated 26 August 2022 ("DAN1") at para 24B.2.9.

319 DAN1 at para 24B.3.

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362 In turn, the remaining plaintiffs argue that they cannot be said to have taken any steps to affirm their respective SPAs. The remaining plaintiffs did not raise issues regarding the misrepresentations with LVND as they "thought there was no point" in doing so.[320] The remaining plaintiffs do not deny that they had attempted to rent out their units. However, they argue that this point is moot, as the remaining plaintiffs (save for the 11th, 12th and 15th plaintiffs), had not been able to actually rent out their units.[321] The fact that the 11th, 12th and 15th plaintiffs had benefited from renting out their units should not operate as a bar to rescission as such benefits can be accounted to LVND in separate proceedings after the SPAs are rescinded.[322] Moreover, the 11th and 12th plaintiffs' had purchased unit #03-01 for their own use. Hence, the fact that they had rented out their unit cannot be taken to be a clear and unequivocal election to affirm their SPA, as it was not their intention from the beginning and was merely their attempt to mitigate their losses.[323]

Whether the remaining plaintiffs had each made a clear and unequivocal election to affirm their respective SPAs

363 I agreed with LVND that the remaining plaintiff's conduct evinced a clear and unequivocal intention to affirm their respective SPAs.

364 In this case, the relevant conduct would be the remaining plaintiff's conduct during the period after they became aware of the knowledge giving rise

320 RCTC at para 62.

321 PRS at paras 101–102.

322 PWS at para 263.

323 PRS at para 103.

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to their alleged right to rescind (*ie*, knowledge of the alleged misrepresentations) but before they indicated that they wished to rescind their respective SPAs.

365 Taking the remaining plaintiffs' case at its highest, the remaining plaintiffs had become fully aware of the alleged misrepresentations by July 2018 at the latest. Sometime in June 2018, the first plaintiff and Mr SK Ng (the third plaintiff's representative) attended the first meeting of the MCST of Macpherson Mall. At said meeting, they, along with a number of other plaintiffs, "raised the issue of the shortfalls in the gross floor areas of the shop units in the Mall as well as the missing 'air-conditioner ledges'", and asked to view the AC ledges.[324] They were then shown their AC ledges on 25 June 2018.[325] "At or around this time", the first plaintiff measured the floor area of his unit and found that it was about 300 sqft, rather than 366 sqft.[326] The third plaintiff had measured the floor area of his unit even earlier on 9 May 2016, when he collected the keys to his unit.[327] The fifth and 15th plaintiffs learned that the area of their units included a "disproportionately sized" AC ledge in June 2018, when the first plaintiff informed them of such.[328] The 11th and 12th plaintiffs were informed of the same by the third plaintiff in July 2018.[329]

366 Despite having known of the alleged misrepresentation, the remaining plaintiffs continued to try to rent out their units. I note that the remaining plaintiffs do not deny this – their only contention is that most of them did not

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324 RCTC at para 49.

325 RCTC at para 50.

326 RCTC at para 56.

327 NSK at paras 33 and 35.

328 RA at para 51; LBKF at paras 35–37; NE dated 25 October 2024 at p 165 lines 21–22.

329 SXH at paras 28–29.

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actually succeed in renting out their units (see above at [362]). However, whether they did or did not succeed in renting out their units is irrelevant. The remaining plaintiffs' right to rent out their units is one that would only be available to them if the SPA had been affirmed. Hence, the remaining plaintiffs' conduct in trying to exercise such a right is consistent only with a decision to keep the contract alive.

The remaining plaintiffs had clearly and unequivocally conveyed this election to LVND by their conduct

367 The remaining plaintiffs raised to LVND issues of possible misrepresentation, through the first MCST meeting. By trying to rent out their units thereafter and without raising any further issues to LVND, the remaining plaintiffs attempted to exercise a right only available to them if their SPAs had been affirmed. This conduct would have clearly and unequivocally indicated to LVND that the remaining plaintiffs intended to affirm the SPAs.

Conclusion

368 For the reasons I have given in this decision, the remaining plaintiffs' claims fail in their entirety.

369 I will hear the parties on costs.

Wong Li Kok, Alex
Judge of the High Court

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