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

[2025] SGHC 93

Originating Claim No 698 of 2023

Between

Yangbum Engineering Pte Ltd

… *Claimant*

And

Liang Xihong

… *Defendant*

GROUNDS OF DECISION

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

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Yangbum Engineering Pte Ltd
v
Liang Xihong

[2025] SGHC 93

General Division of the High Court — Originating Claim No 698 of 2023
Chua Lee Ming J
17, 18, 20, 21, 27 February, 4, 7, 14, 21 March, 11 April 2025

15 May 2025

Chua Lee Ming J:

Introduction

1 The defendant, Ms Liang Xihong ("Sandy"), and her ex-husband, Mr Loong Soo Min ("Sam") are equal shareholders in the claimant, Yangbum Engineering Pte Ltd ("Yangbum"). Sandy is the sole registered shareholder of the shares in three companies, Ace Class Precision Engineering Pte Ltd ("Ace Class"), Apex Precision Engineering Pte Ltd ("Apex Precision") and Qing Lian Precision Pte Ltd ("QL Precision") (together, the "Three Companies"). The Three Companies were subcontractors to Yangbum until Sandy placed them under liquidation in March 2020.

2 In previous proceedings in HC/S 345/2020 ("S 345"), which was heard together with HC/S 275/2020 ("S 275"), Sam claimed, among other things, that Sandy held her shares in the Three Companies (the "Shares") on trust for him

whilst Sandy claimed that the Shares were her investments in the Three Companies. In my judgment in those proceedings, I found, among other things, that neither Sam nor Sandy owned the beneficial interests in the Shares: *Liang Xihong v Loong Soo Min and another and another suit* [2023] SGHC 80 (the "Judgment") at [171], [177] and [185].

3 The present action was the sequel to the Judgment. In this action, Yangbum claimed that Sandy holds the Shares on resulting trust, alternatively, common intention constructive trust for it.

4 I found that Sandy holds the Shares on resulting trust for Yangbum. Sandy has appealed against my decision.

Facts

5 On 21 June 1994, Sam registered a sole proprietorship known as Yangbum Engineering, which was in the business of manufacturing fabricated metal products, excluding machinery and equipment.

6 On 27 July 1994, Sam and Sandy were married.

7 On 19 June 1997, Sam incorporated Yangbum, with Sandy owning 51% of the shares and Sam owning the remaining 49%. Both were also appointed as directors of Yangbum. Subsequently, there were some changes to Sam's and Sandy's respective shareholding in Yangbum. However, since 2003, Sam and Sandy have been equal shareholders in Yangbum.

8 On 15 September 2005, Sandy resigned as a director of Yangbum and Sam has been the sole director of Yangbum ever since.

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9 In early 2008, the Ministry of Manpower ("MOM") penalised Yangbum for hiring eight foreign workers without the necessary approval from MOM. MOM imposed a ban on Yangbum and companies in which Sam was a director or shareholder, from hiring foreign workers for two years (the "MOM Ban").

10 On 1 July 2008, Ace Class and Apex Precision were incorporated with Sandy as the sole shareholder of both companies. Two senior employees of Yangbum were appointed as nominee directors in Ace Class and Apex Precision respectively.

11 Ace Class and Apex Precision acted exclusively as subcontractors to Yangbum. Yangbum outsourced some of its work to Ace Class and Apex Precision.

12 On 8 October 2008, QL Precision was incorporated, with Sandy's cousin, Ms Liang Qing Lian ("LQL") as the sole shareholder. Sandy and LQL were appointed as directors of QL Precision. The reason for incorporating QL Precision was to help LQL (a Chinese national) with her application for a work permit to work in Singapore. It was not disputed that LQL did not hold the beneficial interest in the shares in QL Precision.

13 Subsequently, QL Precision, too, acted exclusively as another subcontractor to Yangbum.

14 Yangbum provided the know-how, resources and infrastructure to support the operations of the Three Companies. The human resources, administrative, finance and bookkeeping functions of the Three Companies were outsourced to Yangbum. The machinery and employees of the Three Companies were housed in the same building as those of Yangbum. Sam made

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all the key decisions, and the nominee directors of the Three Companies acted in accordance with his instructions.[1] Operation-wise, there was no change in the way that the work was carried out.

15 On 5 October 2009, LQL resigned as a director of QL Precision and transferred her shares in the company to Sandy. Another employee of Yangbum as appointed as a director in LQL's stead. On 9 November 2009, Sandy ceased to be a director of QL Precision, leaving the Yangbum employee as the sole director.

16 In 2013, Sandy started having an affair with one Mr Zhang Shengqiang ("Zhang"), a traditional Chinese medicine practitioner, whom she had sought treatment from when she was in China in late 2009. In late 2013, Sandy asked Sam for a divorce.

17 On 3 April 2014, Sam and Sandy entered into a Deed of Settlement relating to their divorce, division of assets and maintenance (the "Deed of Settlement"). The Deed of Settlement did not deal with the shares in the Three Companies.

18 On 15 May 2014, Sandy commenced divorce proceedings against Sam in FC/D 2222/2014 ("D 2222"). On 10 July 2014, interim judgment was entered in D 2222 (the "IJ") and included orders made by consent, which were mostly in line with the terms of the Deed of Settlement. Like the Deed of Settlement, the IJ did not deal with the shares in the Three Companies. On 28 October 2014, the IJ was made final.

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[1] Defendant's Lead Counsel's Statement, at III(10).

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19 On 31 October 2018, Sandy asked Sam to have the shares in (among others) the Three Companies transferred to another shareholder; alternatively, Sandy suggested closing the Three Companies down. However, the shares in the Three Companies were not transferred because the Three Companies would lose certain benefits that they had under the Productivity and Innovation Credit Scheme in the event of a transfer of more than 50% of the share capital. The Three Companies continued to operate; Sandy remained the registered shareholder.

20 On 24 February 2020, Sandy filed FC/SUM 550/2020 in D 2222 in which she sought to vary para 3(d)(1) of the IJ. Paragraph 3(d)(1) of the IJ stated that her share of the matrimonial assets was $9.3m and that $3.7m had been paid to her. Sandy sought to vary para 3(d)(1) to state that only $1.9m had been paid to her.

21 On 12 March 2020, Sandy appointed Zhang and herself as directors of the Three Companies, without the knowledge of Sam or the directors of the Three Companies.

22 On 20 March 2020, Sandy issued notices of directors' meetings of the Three Companies to be held on 27 March 2020 to (among other things) convene Extraordinary General Meetings ("EGMs") for each of the companies for the purpose of passing special resolutions to wind up the companies.

23 On 25 March 2020, Sandy commenced S 275 in which she complained that Sam engaged in acts that amounted to oppression and/or unfair discrimination and/or unfair prejudice and in disregard of her interests as a shareholder of Yangbum. Sandy sought relief under s 216 of the Companies Act 1967 (2020 Rev Ed), including an order that Sam buys her shares in Yangbum.

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24 On 27 March 2020, the directors' meetings of the Three Companies were held with Sandy and Zhang in attendance. The resolutions to convene EGMs to wind up each of the companies were passed.

25 On 30 March 2020, the EGMs of each of the Three Companies were held (with Sandy consenting to the holding of the EGMs without full notice) and the requisite resolutions to wind up the companies were passed.

26 On 13 April 2020, Sam commenced S 345 in which Sam alleged (among other things) that:

(a) Sandy held the Shares on trust for him.

(b) Sandy acted in breach of trust with respect to appointing Zhang and herself as directors of the Three Companies and to the liquidation of the Three Companies.

(c) Zhang dishonestly assisted Sandy in her breaches of trust.

(d) Sandy and Zhang conspired to injure Sam by liquidating the Three Companies.

27 Sandy denied holding the Shares on trust for Sam and claimed (among other things) that she owned the Shares absolutely and that even if she held the Shares on trust for Sam, the trusts were unenforceable because they were illegal or tainted with illegality.

28 On 30 June 2020, Sam filed FC/SUM 1731/2020 in D 2222, seeking, among other things, to set aside the entire para 3 of the IJ, on the ground of Sandy's "fraudulent and material non-disclosure" of the fact that Sam was not

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their eldest child's biological father. Paragraph 3 of the IJ comprised the consent orders on division of matrimonial assets and maintenance.

29 On 3 December 2021, the Family Court:

(a) set aside para 3 of the IJ in its entirety on the ground that Sandy did not disclose to Sam before 4 May 2020 that he was not the biological father of their eldest child; and

(b) made no orders on FC/SUM 550/2020 (see [20] above) since it was predicated upon the continued existence of para 3 of the IJ.

Sandy filed an appeal but subsequently withdrew her appeal.

30 On 31 March 2023, I delivered the Judgment. I dismissed Sandy's claims in S 275. I also dismissed Sam's claims in S 345. I made the following findings (among others) in S 345:

(a) Sandy did not hold the Shares on trust for Sam. It was therefore unnecessary for me to deal with Sandy's submission that the trusts were unenforceable on the ground of illegality.

(b) Sandy did not own the Shares absolutely; the Shares were not investments by her in the Three Companies.

(c) When the Three Companies were incorporated, it was not intended that Sandy would own the beneficial interests in the Three Companies (whether directly or through LQL). However, Sam and Sandy did not discuss who the beneficial owner of the Shares was.

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I also commented, in passing, that had Sam and Sandy thought about the question of beneficial ownership, they may well have agreed that Yangbum should be the beneficial owner of the Shares (at [185]).

31 Sandy did not appeal against any of my findings in the Judgment. Sam appealed against my decision dismissing his claims in S 345. Sam succeeded on his appeal with respect to one of my findings in S 345, in which I had dismissed his claim for a sum of $188,000 that had been withdrawn by Sandy from an account in their joint names. The Appellate Division ordered Sandy to refund to Sam a sum of $59,237. The point on which Sam succeeded in his appeal was not material to the present case.

Parties' cases in the present action

32 Yangbum's case was that:

(a) Sandy held the shares in Ace Class and Apex Precision on resulting trusts, alternatively, on common intention constructive trusts, for Yangbum.

(b) LQL, and subsequently, Sandy, held the shares in QL Precision on resulting trust, alternatively, on common intention constructive trust for Yangbum.

33 In her Defence, Sandy pleaded that she incorporated Ace Class and Apex Precision as her personal investments and that QL Precision formed part of her personal investments.[2] This was contrary to my finding in the Judgment. Before me, Sandy confirmed that she was not challenging my finding in the Judgment that she was not the beneficial owner of the Shares.

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[2] Defence, at paras 14(c) and 20(a).

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34 Sandy denied Yangbum's claims that she held the Shares on resulting trusts, alternatively, on common intention constructive trusts for Yangbum. Her case was that: (a) Yangbum had to discharge its burden of proving the resulting trusts, alternatively, the common intention constructive trusts; and (b) as Yangbum had failed to do so, the beneficial interests in the Shares should follow the legal interests, which were held by her.

35 Sandy's alternative defence was that in any event, the trusts were unenforceable because the Three Companies were created for an illegal purpose, *ie*, to contravene the MOM Ban.[3]

The law on resulting trusts and common intention constructive trusts

36 It is trite that a legal owner of property may hold all or part of the beneficial interest in the property on a resulting trust or a common intention constructive trust for another person.

37 The principles that are applicable, in a dispute as to whether a legal owner of property ("Y") holds all or part of the beneficial interest in the property on a resulting trust or a common intention constructive trust for another person ("X"), were discussed extensively in *Chan Yuen Lan v See Fong Mun* [2014] 3 SLR 1048 ("*Chan Yuen Lan*"). In *Su Emmanuel v Emmanuel Priya Ethel Anne and another* [2016] 3 SLR 1222 ("*Su Emmanuel*"), the Court of Appeal discussed and clarified *Chan Yuen Lan*.

38 Where the evidence shows that the transferor or the payor of the purchase price intended to transfer or vest the beneficial interest in the legal owner of the property, no question of common intention constructive trust or

[3] Defendant's Skeletal Submissions, at paras 63–64.

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resulting trust would arise. Thus, if the court finds that X paid a larger part of the purchase price and intended to benefit Y with the entire amount that he paid, X would be considered to have made a gift to Y of that larger sum and Y will be entitled to the entire beneficial interest in the property: *Chan Yuen Lan* at [160(d)].

39 However, where the evidence is insufficient to support a finding that X intended to benefit Y, the question arises as to whether Y holds the property on a common intention constructive trust or a resulting trust for X. If there is insufficient evidence to support a common intention constructive trust or a resulting trust, the parties will hold the beneficial interest in the property in the same manner as that in which they hold the legal interest: *Chan Yuen Lan* at [160(c)].

40 A common intention constructive trust is a remedy applied where there is a common intention among the parties as to how their beneficial interests are to be held: *Su Emmanuel* at [83]. The following principles apply:

(a) The common intention may be express or inferred but the court may not impute a common intention to the parties where one did not in fact exist: *Chan Yuen Lan* at [160(b)]; *Su Emmanuel* at [83].

(b) There must be sufficient and compelling evidence of the express or inferred common intention: *Su Emmanuel* at [83].

(c) The common intention must exist at the time the property is acquired; however, the quantification of the beneficial interest (held at the time of acquisition) may be varied by a subsequent expressed or inferred common intention to that effect: *Chan Yuen Lan* at [160(f)];

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Mahmud Ebrahim Kasam Munshi v Mohamed Saleh [2023] SGHC 309 at [98].

41 In the absence of any evidence of a common intention as to how the beneficial interest in the property concerned is to be held, the resulting trust remains the default analysis: *Su Emmanuel* at [83]. The following principles apply:

(a) A resulting trust crystallises at the time the property is acquired: *Chan Yuen Lan* at [53].

(b) A resulting trust may arise independently of the presumption of resulting trust so long as it can be shown that the transfer was not intended to benefit the recipient: *Chan Yuen Lan* at [43]. If there is sufficient evidence for the court to find that the transferor or the payor of the purchase price did not intend to benefit the recipient, a resulting trust arises and it is not necessary to invoke the presumption of a resulting trust.

(c) The doctrinal basis for the presumption of resulting trust is that an intention on the part of the payor of the purchase price to benefit the recipient (who receives property in his legal name but who has not paid for the property) will not be readily inferred; the resulting trust arises by operation of law: *Su Emmanuel* at [78].

(d) Where the presumption of a resulting trust is invoked, it is the lack of intention to benefit the recipient of the property that is being inferred; the presumption of resulting trust will not be called in aid when the evidence adequately reveals the true intention of the transferor: *Su Emmanuel* at [79].

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(e) When a person makes a voluntary payment to another person or pays (wholly or in part) for the purchase of property which is vested in the other person, the latter is *presumed* to hold the property on resulting trust for the former: *Su Emmanuel* at [77], citing *Chan Yuen Lan* at [36]. Where parties have made financial contributions to the purchase price of the property, it will be presumed that the parties hold the beneficial interest in the property in proportion to their respective contributions to the purchase price: *Chan Yuen Lan* at [160(a)].

(f) The presumption of resulting trust will be rebutted if the court finds that the presumption of advancement operates: *Chan Yuen Lan* at [160(e)].

42 Where the property in question comprises shares in a company, the resulting trust analysis is to be applied at the moment that the shares were called into existence as property. Proprietary rights in the shares of a corporation vest upon its incorporation, specifically when the corporation is brought into existence by incorporation under law and co-instantaneously by the issue of capital stock according to a system of registration established by the corporation as issuer: *Kotagaralahalli Peddappaiah Nagaraja v Moussa Salem and others* [2023] SGHC 6 ("*Kotagaralahalli*") at [60].

Whether the Shares were held on common intention constructive trusts for Yangbum

43 Yangbum's case relied on inferred common intention constructive trusts.[4] The law is clear: a common intention may be inferred but it may not be imputed where one did not in fact exist (see [40(a)] above).

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4 Claimant's Skeletal Closing Submissions, at para 15.

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44 It was common ground that there was no discussion between Sam and Sandy about the beneficial interest of the shares in the Three Companies. I had also made a finding to this effect in the Judgment. The mere fact that there was no such discussion did not mean that the common intention did not exist. Thus, despite the lack of such discussions, common intention constructive trusts over the Shares could still be inferred if there was sufficient evidence of the common intention. The question was whether such a common intention could be inferred from the evidence.

45 Sam's evidence proved fatal to Yangbum's common intention constructive trust claims. During cross-examination, Sam was asked whether there were discussions about the beneficial interests in the Shares at the time the Three Companies were incorporated. Sam answered: "I cannot recall and *I have never thought about it at the time*" [emphasis added].[5]

46 I agreed with Sandy that Sam's evidence meant that no common intention between Yangbum (acting through Sam) and Sandy as to the beneficial interests in the Shares existed at the material time. Thus, there was no room to infer the requisite common intention and the requisite common could not be imputed either.

47 Accordingly, Yangbum's claims based on common intention constructive trusts failed.

Whether the Shares were held on resulting trusts for Yangbum

48 Yangbum's pleaded case was that Sandy holds the Shares on resulting trust for Yangbum because: (a) the presumption of resulting trust arose in

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5 NE, 17 February 2025, at 33:13 – 34:2.

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Yangbum's favour; and alternatively, (b) there was an absence of intention on Yangbum's part for the beneficial interests in the Shares to be owned by Sandy.[6]

Presumption of resulting trust

49 A resulting trust crystallises at the time the property is acquired (see [41(a)] above). I agreed with Sandy that the resulting trust analysis was to be applied at the time that the Three Companies were incorporated because that was when the Shares came into existence as property (see [42] above). Thus, if Yangbum paid for Sandy's acquisition of the shares in Ace Class and Apex Precision and for LQL's acquisition of the shares in QL Precision at the time of incorporation of the Three Companies, Sandy and LQL would be presumed to hold the relevant shares on resulting trusts for Yangbum (see [41(e)] above).

50 The costs of acquisition of the Shares were the payments towards the share capital in each of the Three Companies and payment of other expenses incurred in connection with the incorporation of each of the Three Companies (the "Incorporation Costs"). These were the payments that resulted in the Shares coming into existence as property.

51 Yangbum submitted that (other than the Incorporation Costs) its provision of know-how, resources, infrastructure support, machinery and employees to the Three Companies constituted contributions by it that could also give rise to the presumption of resulting trusts. I disagreed. These contributions did not result in the Shares coming into existence as property and therefore could not be said to be payments that resulted in the acquisition of the Shares.

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6 Statement of Claim (Amendment No. 1), at para 27.

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52 Ace Class and Apex Precision were incorporated on 1 July 2008 whilst QL Precision was incorporated on 8 October 2008. It was not disputed that Sandy did not pay for the Incorporation Costs *at the time each of the Three Companies were incorporated*. Sandy's case was that she paid for the Incorporation Costs *after* the Three Companies had been incorporated. Sandy claimed that she made out a cheque to "Qing Lian" for $50,000 (the "$50,000 Cheque") because Ms Chin Shuling ("Chin") (Yangbum's accounting staff) asked her to pay the Incorporation Costs of the Three Companies and Ken Precision (a company of which the shares are not in dispute here).[7] Yangbum disputed Sandy's claim.

53 The following questions arose:

(a) Whether the Incorporation Costs of each of the Three Companies were paid at the time of incorporation?

(b) If so, whether Yangbum paid the Incorporation Costs at the time of incorporation?

(c) What was the effect of the $50,000 Cheque?

The Incorporation Costs were paid at the time of incorporation.

54 In my view, the Incorporation Costs of the Three Companies must have been paid when each of the Three Companies was incorporated. It was *not* Sandy's case that the Incorporation Costs were not in fact paid at the time that each of the Three Companies was incorporated. Further, there was no reason to think that the Incorporation Costs were not so paid. The Shares were fully paid.[8]

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7 NE, 27 February 2025, at 14:10–15:6.

8 3 AB 427 (note 7) and 526 (note 7); 4 AB 25 (note 7).

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There was nothing to suggest that they were not paid up when issued. In addition, fees had to be paid for the incorporation of each of the Three Companies.

Yangbum paid the Incorporation Costs at the time of incorporation

55 The next question then was who paid the Incorporation Costs of the Three Companies at the time of incorporation? It was *not* Sandy's case that she paid the Incorporation Costs *at the time of incorporation*. Her case was that she paid the Incorporation Costs of the Three Companies (together with those of a fourth company, Ken Precision, which was incorporated on 28 July 2008) sometime between 24 October 2008 and 2 December 2008, *ie*, after the respective companies were incorporated.[9]

56 Yangbum submitted that it paid the Incorporation Costs of the Three Companies. Sandy submitted that Yangbum had not proved that it contributed towards the Incorporation Costs of the Three Companies. Sandy relied on (among other things):[10]

(a) Sam's evidence that he was unable to recall how the Incorporation Costs of the Three Companies were paid.[11]

(b) Chin, who was Yangbum's only accounting staff in 2008, was unable to remember whether Yangbum paid the Incorporation Costs of the Three Companies.[12]

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9 Sandy's AEIC, at para 151.

10 Defendant's Skeletal Submissions, at para 4(a).

11 Sam's AEIC, at paras 20 and 31.

12 NE, 20 February 2025, at 7:25–8:4.

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(c) The absence of invoicing records or testimonial evidence from Yangbum's external corporate secretarial company who handled the incorporation of the Three Companies.

57 In my view, Sam's and Chin's inability to recall specifically whether Yangbum had paid the Incorporation Costs was understandable. These were events that took place in 2008. Further, Chin testified that the accounting records for 2008 were no longer available.[13] As for the absence of evidence from Yangbum's corporate secretarial company, an adverse inference could not be drawn against Yangbum because Sam was not cross-examined on this.

58 Although direct evidence was not available, in my view, the evidence supported an inference that it was Yangbum who paid the Incorporation Costs of the Three Companies at the time of incorporation.

59 First, it was not disputed that:

(a) Ace Class and Apex Precision were incorporated in response to the MOM Ban.[14] Ace Class and Apex Precision acted as exclusive sub-contractors to Yangbum.

(b) QL Precision was incorporated to help LQL with her work permit application.[15] Although LQL was the sole shareholder of QL Precision, she was not the beneficial owner of the shares.[16] QL Precision became one of Yangbum's exclusive sub-contractors.

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13 NE, 20 February 2025, at 8:5–23.

14 Defence, at para 11.

15 Defence, at para 20; Sandy's AEIC, at para 142.

16 Defendant's Lead Counsel's Statement, at III(7).

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(c) Sam had instructed the finance department of Yangbum to oversee the incorporation of the Three Companies and Ken Precision.[17]

(d) Employees of Yangbum were appointed as directors of Ace Class and Apex Precision when they were incorporated.[18]

(e) The Three Companies were exclusive sub-contractors to Yangbum. Yangbum provided the know-how, resources and infrastructure to support the operations of the Three Companies. The human resources, administrative, finance and bookkeeping functions of the Three Companies were outsourced to Yangbum. The machinery and employees of the Three Companies were housed in the same building as those of Yangbum. Sam made all the key decisions, and the nominee directors of the Three Companies acted in accordance with his instructions.

(f) Sandy did not pay the Incorporation Costs of the Three Companies at the time of incorporation.

60 Second, it was clear that Ace Class and Apex Precision were incorporated for Yangbum's purposes. As for QL Precision, although the impetus for its incorporation was to help LQL with her work permit application, QL Precision thereafter served Yangbum's purposes in the same way that Ace Class and Apex Precision did.

61 Third, Sandy implicitly accepted that Yangbum had paid for the Incorporation Costs at the time the Three Companies were incorporated. As

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17 Sandy's AEIC in S 345, at para 152(f).

18 Defence, at paras 15–16.

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stated in [52] above, her evidence was that she issued the $50,000 Cheque because Chin asked her to pay the Incorporation Costs of Three Companies and Ken Precision. During cross-examination of Sam, Sandy's counsel described the $50,000 Cheque as a "refund" and reiterated that it was Sandy's evidence in S 345 that she issued the $50,000 Cheque because Yangbum's accounts department handled the incorporation first and requested for a refund subsequently.[19]

62 In my view, the logical inference was that Yangbum must have paid the Incorporation Costs of the Three Companies when they were incorporated. Accordingly, Sandy was presumed to hold her shares in Ace Class and Apex Precision on resulting trusts for Yangbum, and LQL was presumed to have held her shares in QL Precision on resulting trust for Yangbum. LQL transferred her shares in QL Precision to Sandy on 5 October 2009, but LQL could only transfer the legal interest in the shares to Sandy. It followed that Sandy would also hold the shares in QL Precision on resulting trust for Yangbum.

The effect of the $50,000 Cheque

63 As stated in [55] above, Sandy's case was that she paid the Incorporation Costs *after* each of the Three Companies were incorporated. Sandy claimed that the $50,000 Cheque was payment for the share capital of $10,000 in each of the Three Companies and Ken Precision, and other incorporation expenses. Sandy did not provide details of these other incorporation expenses.

64 In my judgment, the $50,000 Cheque had no effect on the presumption of resulting trust in Yangbum's favour.

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[19] NE, 18 February 2025, at 21:7–15.

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65 First, in my judgment, Sandy failed to prove her claim that the $50,000 Cheque was in fact payment for the share capital of each of the Three Companies and Ken Precision (at $10,000 each) and other incorporation expenses. Sandy relied on an entry in the cheque book for a joint account (in Sam's and Sandy's names) which showed that a cheque was made out to "Qing Lian" for $50,000.[20] However, there were no details of the alleged other incorporation expenses. There was also no explanation as to why the cheque was drawn only after 24 October 2008 when Ace Class, Apex Precision and Ken Precision were incorporated much earlier, in July 2008.

66 Sandy's evidence as to the purpose of the $50,000 Cheque was also inconsistent. Sandy's case was that the $50,000 Cheque was payment for the share capital and other incorporation expenses of the Three Companies and Ken Precision. However, in her AEIC, Sandy said that the $50,000 Cheque "was for the purposes of funding the share capital of the Three Companies".[21] On the stand, she corrected some parts of her AEIC, but she did not correct this statement.

67 More importantly, according to Sandy, the $50,000 Cheque was made out to QL Precision.[22] There was no explanation as to why the $50,000 Cheque was made payable to *QL Precision*. QL Precision could not have paid for the Incorporation Costs of Ace Class, Apex Precision and Ken Precision since it did not exist then.

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20 3 BAEIC 92–93.

21 Sandy's AEIC, at para 151(c).

22 Sandy's AEIC, at para 151(a).

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68 Sandy claimed that she issued the $50,000 Cheque because Chin asked her to do so to pay for the Incorporation Costs of the Three Companies and Ken Precision.[23] However, this was not put to Chin when she was on the stand. Further, Chin was handling finance in Yangbum. It was doubtful that she would have asked Sandy to draw a cheque payable to QL Precision (instead of Yangbum) if it was meant to pay the Incorporation Costs of the Three Companies and Ken Precision. Conversely, if indeed the $50,000 Cheque was drawn at Chin's request, it was doubtful that it would have been for the purpose of paying the Incorporation Costs of the Three Companies and Ken Precision.

69 Second, I had found that Yangbum paid the Incorporation Costs at the time each of the Three Companies was incorporated. The law is that a resulting trust crystallises at the time the property is acquired (see [41(a)]). Sandy's own case was that the resulting trust analysis had to be applied at the time of incorporation of the Three Companies.

70 *Even if it was true* that the $50,000 Cheque was payment for the Incorporation Costs, that payment was irrelevant to the resulting trust analysis unless Yangbum had paid the Incorporation Costs on Sandy's behalf. Obviously, if Yangbum had paid the Incorporation Costs on Sandy's behalf, the presumption of resulting trust would not arise in favour of Yangbum. On the other hand, if Yangbum had paid the Incorporation Costs on its own behalf, the presumption of resulting trust in favour of Yangbum applied and the mere subsequent payment by Sandy would not displace the presumption.

71 It was *not* Sandy's case that Yangbum paid the Incorporation Costs on her behalf and that the $50,000 Cheque was to reimburse Yangbum for having

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[23] NE, 27 February 2025, at 14:18–15:6

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done so. It was also not put to Sam and Chin that Yangbum had paid the Incorporation Costs on Sandy's behalf.

72 In any event, the evidence did not prove that Yangbum paid the Incorporation Costs *on Sandy's behalf*. The $50,000 Cheque payment did not necessarily mean that Sandy was reimbursing Yangbum for having paid the Incorporation Costs on her behalf. It was possible that it was required to balance Yangbum's books. After all, there was no reason why the Incorporation Costs should appear as an expense in Yangbum's books when the Shares were not in Yangbum's name.

Yangbum's pleadings

73 Yangbum's case was that the Incorporation Costs of the Three Companies and the costs of getting the Three Companies up and running came from Yangbum.[24] However, in its Statement of Claim (Amendment No. 1), Yangbum did not expressly plead that it had paid the Incorporation Costs of the Three Companies.

74 The general rule is that parties are bound by their pleading; however, the law permits the departure from the general rule in limited circumstances, where no prejudice is caused to the other party in the trial or where it would be clearly unjust for the court not to do so: *V Nithia (co-administratrix of the estate of Ponnusamy Sivapakiam, deceased) v Buthmanaban s/o Vaithilingam and another* [2015] 5 SLR 1422 at [38] and [40].

75 In my view, allowing Yangbum to rely on its submission that it paid the Incorporation Costs of the Three Companies did not cause any prejudice to

[24] NE, 14 March 2025, at 6:23–7:4.

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Sandy. First, it was clear from Sandy's oral opening statement that she was well aware that Yangbum's resulting trust claims were also based on its payment of the Incorporation Costs of the Three Companies.[25] It was also clear that Sandy knew that Yangbum's contribution by way of resources and infrastructure was Yangbum's *alternate* case.[26] It could not be said that Sandy was taken by surprise. Second, the issue was examined at the trial. Sandy's counsel cross-examined Sam on whether Yangbum paid for the Incorporation Costs.[27] Third, during closing submissions, the question as to whether Yangbum paid for the Incorporation Costs when the Three Companies were incorporated was discussed.[28] Sandy did not object or argue that Yangbum had not pleaded that it paid the Incorporation Costs.

No intention to benefit Sandy

76 In *Chan Yuen Lan*, the Court of Appeal held that a resulting trust may arise independently of the presumption of resulting trust so long as it can be shown that the transfer was not intended to benefit the recipient (see [41(b)] above).

77 Yangbum's alternate case was that Sandy held the Shares on resulting trust for Yangbum because there was an absence of intention on Yangbum's part for the beneficial interests in the Shares to be owned by Sandy.

78 However, Sam's evidence was that he did not think about the beneficial interests of the Shares at the material time (see [45] above). In my view, the

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25 NE, 21 February 2025, at 57:5–17 and 58:7–11.

26 NE, 21 February 2025, at 59:1–4.

27 NE, 18 February 2025, at 7:12–8:1 and 9:2–6.

28 NE, 14 March 2025, at 40:3–42:13.

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evidence could not support a finding that Yangbum did not intend to benefit Sandy when the Shares were vested in her.

Whether the trusts over the Shares were unenforceable on the ground of illegality

79 In *Ochroid Trading Ltd and another v Chua Siok Lui (trading as VIE Import & Export) and another* [2018] 1 SLR 363 ("*Ochroid*"), the Court of Appeal set out a two-stage framework in analysing the doctrine of illegality in contracts:

(a) In the analysis under the first stage (at [20]–[40] and [64]):

(i) if a contract is prohibited, whether by statute (expressly or impliedly) or under one of the established heads of common law public policy, the contract is void and unenforceable;

(ii) if a contract is not prohibited by statute or under common law public policy but has been entered into with the object of committing an illegal act, the enforceability of the contract is subject to the principle of proportionality; and

(iii) the factors relevant to assessing proportionality include: (A) whether allowing the claim would undermine the purpose of the prohibiting rule; (B) the seriousness of the offence; (C) the causal connection between the claim and the illegal conduct; (D) the conduct of the parties; and (E) the proportionality of denying the claim.

(b) In the analysis under the second stage, a party who has transferred benefits, pursuant to a contract that is prohibited by statute or under common law public policy, might be able to recover those

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benefits on a restitutionary basis. There are at least three possible legal avenues for such recovery (at [42]–[60] and [65]):

(i) where the parties are not *in pari delicto*, *ie*, the claimant is less blameworthy than the defendant;

(ii) the *locus poenitentiae* doctrine, *ie*, the doctrine of repentance; or

(iii) where the claimant has an independent cause of action for the recovery of the benefits conferred under the illegal contract.

80 In *Lau Sheng Jan Alistair v Lau Cheok Joo Richard and another* [2023] 5 SLR 1703 ("*Alistair Lau*"), the High Court decided that the first stage of the *Ochroid* framework is applicable where a claimant seeks to enforce his rights under a trust arising in his favour, whether the trust was constituted through an express intent or by operation of law (such as in the case of constructive and resulting trusts, *etc*). Thus:

(a) the trust in question is void and unenforceable if it is prohibited by statute (expressly or impliedly) or where it falls into an established category of trusts which have historically been held to be void and unenforceable (at [71] and [76]);

(b) a trust which is not in itself illegal, but is created for an illegal purpose, or which arises as an incidental consequence of the illegal purpose, is subject to the proportionality analysis (at [74]–[76])

81 For completeness, the High Court also decided (at [77]) that the second stage of the *Ochroid* framework should not apply where the claim is for the

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enforcement of a proprietary interest. This issue does not arise in the present case.

82 In the present case, Sandy submitted that even if the Shares were held on trusts for Yangbum, the trusts were unenforceable as they were created for an illegal purpose, *ie*, to circumvent the MOM Ban. Sandy, relying on *Alistair Lau*, accepted that the proportionality analysis was applicable.

83 The burden was on Sandy to prove that the trusts were created to circumvent the MOM Ban and that rendering the trusts unenforceable would not be disproportionate.

84 However, although it was not disputed that Ace Class and Apex Precision were incorporated in response to the MOM Ban, there was no evidence as to the precise scope of the MOM Ban. There was no evidence as to what the MOM Ban actually stated. Sandy did not even identify the statutory provisions pursuant to which the MOM Ban was issued. It was also not clear whether the MOM Ban extended to companies in which Yangbum (not Sam) was the beneficial owner.

85 In the circumstances, it was impossible for this court to determine whether the trusts over the shares in Ace Class and Apex Precision in favour of Yangbum were created for an illegal purpose, and if so, how the principle of proportionality should be applied. Nevertheless, I noted Yangbum's submission that the MOM Ban (which was for two years) had long since lapsed. In the absence of other evidence relevant to the assessment of proportionality, the fact that the MOM Ban expired in 2010 leaned in favour of the trusts (assuming they did circumvent the MOM Ban) being enforced. Denying enforceability would have meant that there is no beneficial owner of the Shares or, worse, that Sandy

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would enjoy the benefits of the beneficial interests in the Shares when she has been found not to be the beneficial owner.

86 Sandy sought to rely on *Public Prosecutor v Garett Alphonsus Lin Jia Qing* [2012] SGDC 83 ("*Garett Lin*"). In that case, the accused was the director of a company ("Sarskil") whose business was providing cleaning services. The accused signed agreements with one Chong which purported to sub-contract cleaning contracts from Sarskil to two entities ("Danieltown" and "Bravotown"). The accused also furnished details of some of Sarskil's local workers to Chong who then arranged for Danieltown and Bravotown to pay the CPF contributions of these workers.

87 The CPF contributions were used in determining Danieltown's and Bravotown's foreign worker entitlement. The arrangement between the accused and Chong thus enabled Chong to apply for work permits for foreign workers, on behalf of Danieltown and Bravotown using the quotas obtained from making the CPF contributions. The work permit applications contained declarations by Chong that only CPF contributions made to persons actively employed by Danieltown and Bravotown were included for the purpose of determining the local workforce and foreign worker entitlement.

88 The prosecution's case was that Sarskil's employees for whom Danieltown and Bravotown made CPF contributions were not actively employed by these entities and therefore the declarations in the work permit applications were false. The accused was charged with abetting Chong to make false statements in the work permit applications. The defence argued that the accused had outsourced Sarskil's cleaning contracts together with its workers to Danieltown and Bravotown.

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89 The District Court found that the agreements that the accused had signed with Chong were sham arrangements intended to cover up their illegal schemes and convicted the accused. In sentencing the accused, the District Court referred (at [80]) to *Abu Syeed Chowdhury v Public Prosecutor* [2002] 1 SLR(R) 182 ("*Abu Syeed Chowdhury*") in which the High Court said that a custodial sentence in cases involving false declarations to the Controller of Work Passes was necessary to send a strong message of deterrence to immigration offenders.

90 Sandy relied on *Garett Lin* in support of her submission that the principle of proportionality weighed in favour of the trusts being unenforceable because of the nature and gravity of the illegality in the present case. Sandy argued that the Three Companies in the present case were shell companies incorporated for the purpose of getting quotas for foreign workers similar to Danieltown and Bravotown in *Garett Lin*.

91 In my view, *Garett Lin* was of no assistance to Sandy's case. The facts in that case were clearly different. The application of the proportionality principle is fact-dependent. *Garett Lin* (and *Abu Syeed Chowdhury*) involved offences relating to making false declarations to the Controller of Work Passes in applications for work permits. In the present case, there was no evidence as to the precise scope of the MOM Ban. Unlike in *Garett Lin*, there was no evidence relating to the alleged illegal purpose or the factors to be considered in assessing proportionality in the present case.

92 As for QL Precision, it was incorporated to help with LQL's work permit application. It was not incorporated in response to the MOM Ban although it was subsequently used as one of Yangbum's exclusive sub-contractors similar to Ace Class and Apex Precision. However, this distinction was immaterial

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given the lack of evidence relating to the alleged illegal purpose or the factors to be considered in assessing proportionality in the present case.

93 Accordingly, I found that Sandy's defence of illegality failed.

Liquidators' sanction for transfer of the Shares to Yangbum

94 On 21 March 2025, I gave my decision that Yangbum succeeded in its claim based on resulting trusts and made a declaratory order that Sandy holds the legal title in the Shares on trust for Yangbum.

95 One of the reliefs sought by Yangbum was the transfer of the legal title in the Shares to Yangbum. The Three Companies were under voluntary winding up. Sandy pointed out that under s 162(3) of the Insolvency, Restructuring and Dissolution Act 2018 (2020 Rev Ed), any transfer of the Shares would be void if not sanctioned by the liquidators. The matter was thus adjourned.

96 On 3 April 2025, Yangbum's lawyers informed the court that the liquidators' position was that subject to any appeal or stay of enforcement proceedings or any other interim orders, the liquidators would sanction the transfer of the Shares provided that an order was made by the court to that effect.

97 At the resumed hearing on 11 April 2025, I confirmed the declaratory order that I made on 21 March 2025 and ordered Sandy to transfer the legal title in the Shares to Yangbum within five weeks.

Costs and disbursements

98 As the successful party, Yangbum was entitled to costs. I agreed with Yangbum that Sandy had acted unreasonably by adducing evidence that was irrelevant and challenging findings that had been made against her in the

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Judgment. I agreed with Yangbum that costs should be ordered against Sandy on an indemnity basis.

99 In assessing the costs, I took into consideration the fact that Yangbum failed in its common intention constructive trust claim. I assessed costs on an indemnity basis at $233,000.

100 Sandy's unreasonable conduct in these proceedings extended to her objections to some of the disbursements claimed by Yangbum. Sandy objected to disbursements incurred by Yangbum for transport, printing, searches and part of the translation fees.

101 Sandy's objection to the disbursements for translation fees was that these were expenses that Yangbum had to incur to prove its case. I rejected Sandy's objection. It was wholly unmeritorious. Sandy's submission amounted to a concession that the disbursements were reasonably incurred.

102 As for the disbursements for transport and searches, Sandy then decided to leave these disbursements to the court. As Sandy offered no basis for her objections, I allowed these items as claimed.

103 Sandy then withdrew her objections to the disbursements for printing and I allowed the item as claimed.

104 I fixed the total disbursements to be paid by Sandy at $54,733.60.

Conclusion

105 For the above reasons, I found that Yangbum succeeded on its claims based on resulting trusts. I made the following orders:

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(a) A declaration that the defendant holds the legal title in the Shares on trust for the claimant.

(b) An order that the defendant was to transfer the legal title in the Shares to Yangbum within five weeks.

106 I ordered Sandy to pay costs to Yangbum on an indemnity basis fixed at $233,000 plus disbursements fixed at $54,733.60.

Chua Lee Ming
Judge of the High Court

Tan Zhengxian, Jordan (Chen Zhengxian, Jordan), Leong Hoi Seng, Victor (Liang Kaisheng), Lim Jun Heng (Audent Chambers LLC) (instructed), Han Guangyuan, Keith and Korycinska Joanna Karolina (Oon & Bazul LLP) for the claimant;
Trent Ng Yong En, Madeline Chan Yuen Hun and Wong Chiun Yun, Emily (Fortress Law Corporation) for the defendant.

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