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DISTRICT JUDGE TEO GUAN KEE
17 NOVEMBER 2025

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGMC 71

Magistrate's Court Originating Claim No 8129 of 2023

Between

CWX Pte. Ltd.

… *Claimant*

And

1. Lim Thian Huat
2. Yew Shi Wen

… *Defendants*

JUDGMENT

Building And Construction Contracts – renovation contracts and contracts for minor works

TABLE OF CONTENTS

FACTS **1**

THE PARTIES 1

CHRONOLOGY OF EVENTS 2

CLAIMANT'S CLAIM **7**

DID THE PARTIES AGREE TO MAKE THE EXPRESS TERM A TERM OF THE CONTRACT? 7

WHAT WERE THE TERMS OF THE AGREEMENT? 12

THE FINAL PRICE FOR THE WORKS 16

CONTRACTUAL INTEREST 18

CONCLUSION: CLAIMANT'S CLAIM 22

DEFENDANTS' COUNTERCLAIM **22**

EXISTENCE OF DEFECTS: EVIDENCE 22

QUANTIFICATION OF DAMAGES 26

CONCLUSION: DEFENDANTS' COUNTERCLAIM 28

JUDGMENT **28**

CWX Pte. Ltd.
v
Lim Thian Huat & another

[2025] SGMC 71

Magistrate's Court Originating Claim No 8129 of 2023
District Judge Teo Guan Kee

28 February 2025, 2 April 2025, 17 June 2025

17 November 2025 Judgment reserved.

District Judge Teo Guan Kee:

Facts

The parties

1 The Claimant is a company providing, *inter alia*, renovation services.

2 The two Defendants are the owners of a Housing and Development Board ("**HDB**") flat (the "**Flat**") in respect of which the Claimant had agreed to carry out renovation works (the "**Works**").

3 It is not disputed that there existed a contract between the Claimant and the Defendants for the Works (the "**Agreement**"). However, the parties disagree on what the terms of this Agreement were.

4 The Claimant's claim against the Defendants herein is for a sum of $42,480, being the allegedly outstanding sum due to the Claimant for the Works carried out, and contractual interest on the same.

5 The Defendants deny that any further sum remains to be paid to the Claimant because, allegedly:

(a) the parties agreed to cap the contract price for the Works at $55,000; and

(b) the Works carried out by the Claimant were defective.

6 The Defendants have now also sought to argue that the Claimant is not entitled to charge them contractual interest provided for in quotations issued by the Claimant to the Defendants.

7 In addition, the Defendants have brought a counterclaim against the Claimant, alleging that, in breach of the Agreement, the Works carried out by the Claimant were defective and that the Defendants have been put to cost and expense in having to procure third party contractors to carry out rectification works. The Defendants have claimed a sum of $14,731.20 or such other sum as may be assessed.

Chronology of events

8 The Defendants averred, in their Defence and Counterclaim ("**D&CC**"), that at a meeting between the Defendants and the Claimant's representatives on 19 March 2022, the Defendants had emphasised to the Claimant that their budget for the Works was $55,000.[1] In the 2nd Defendant's ("**2D**") Affidavit of

[1] D&CC at paragraph 9.

Evidence-in-Chief ("**AEIC**"), she identified the Claimant's representatives who attended this meeting as the Claimant's Managing Director Lee Wei Xin (also known as "**Wilson**"), Ho Meng Keong ("**Derrick**") and Arvy Faikal.[2]

9 The Defendants further aver that, acting in accordance with this knowledge, the Claimant issued its Quotation No. CWX/Quot/0322/684 (the "**First Quotation**") on 25 March 2022.[3] This First Quotation contained a contract price of $56,525.

10 It is not disputed that this First Quotation was subsequently revised and a fresh quotation, carrying the same quotation number and date as the First Quotation (the "**Revised First Quotation**"), was issued by the Claimant to the Defendants. This Revised First Quotation contained a modified scope of Works to be carried out and also set out a contract price of $55,670.

11 The Defendants assert that the Revised First Quotation was issued on 30 March 2022, after a site visit by representatives of the Claimant to the Flat on 29 March 2022.[4]

12 Whilst Wilson claimed in his AEIC that the Revised First Quotation was not issued on 30 March 2022,[5] it is not entirely clear from his AEIC when he would say the Revised First Quotation had been issued.

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[2] 2D's AEIC at paragraph 16.

[3] D&CC at paragraph 10.

[4] 2D's AEIC at paragraph 19.

[5] Wilson's AEIC at paragraph 24(6).

13 At trial, Wilson accepted that the First Quotation and Revised First Quotation had been "given on a [*sic*] separate days",[6] but otherwise gave no evidence pertinent to when the Revised First Quotation had been sent to the Defendants.

14 The Defendants' son, Edmund Lim Jia Wei ("**Edmund**"), exhibited in his AEIC a series of WhatsApp messages which he exchanged with Wilson, one of which, dated 30 March 2022, appeared to contain a .PDF attachment containing the word "Quotation" in its title and which Edmund described as a quotation supposedly "aligned" with the Defendants' budget of $55,000.[7]

15 In the premises, on the issue of when the Revised First Quotation was issued, I prefer the evidence of the Defendants and find that it was sent by the Claimant to the Defendants on 30 March 2022.

16 Further discussions took place between the parties after the Revised First Quotation was issued. Based on the Defendants' own Closing Submissions dated 17 June 2025 (the "**DCS**"), between 2 April 2022 and 5 May 2022, the Defendants engaged representatives of the Claimant on matters pertaining to the Works.

17 Thereafter, on 6 May 2022, the Claimant issued a revised Quotation No. CWX/Quot/0322/684R2 dated 6 May 2022 (the "**Second Quotation**") to the Defendants. The contract price provided for in this Second Quotation was $68,070.

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[6] NE 28 February 2025 17/10-18.

[7] Edmund's AEIC at paragraph 20.

18 The Defendants assert that they were dissatisfied with the contract price provided for in the Second Quotation and sought a meeting with the Claimant.

19 It is the Defendants' position that they, together with Edmund, attended a meeting with Wilson and Derrick at the Claimant's offices on 7 May 2022.[8] The Defendants further assert that at this meeting, Wilson agreed to give the Defendants a "huge" discount such that the final cost of the Works would be approximately $55,000.[9]

20 Wilson, however, denied altogether in his AEIC that he had met the Defendants on 7 May 2022.[10] Instead, at trial, he gave evidence that the meeting had taken place on 10 May 2022.[11] Nevertheless, he continued to maintain that he did not agree to any discount on the price of the Works.

21 Derrick, supposedly the other representative of the Claimant present at the meeting on 7 May 2022, did not address that meeting at all in his AEIC, although I note that he generally confirmed the evidence in Wilson's AEIC "regarding the Contract between the Claimant and the Defendant…".[12]

22 In the premises, what is at least clear on the evidence is that within at most three or four days after the Second Quotation was sent to the Defendants, the parties attended a meeting (the "**Second Quotation Meeting**") to discuss the same.

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[8] 1st Defendant's ("**1D**") AEIC at paragraph 24 and 2D's AEIC at paragraph 23.

[9] 1D's AEIC at paragraph 26 and 2D's AEIC at paragraph 25.

[10] Wilson's AEIC at paragraph 24(13).

[11] NE 28 February 2025 24/13-28.

[12] Derrick's AEIC at paragraph 4.

23 The question of what the parties discussed at this meeting is one key issue to be decided in these proceedings, for it is the Defendants' case, as set out in the DCS, that at this meeting Wilson made what the Defendants say was a legally enforceable verbal promise (referred to as the "**Express Term**") that the price of the Works would ultimately be adjusted to "approximately $55,000".[13]

24 This issue will be considered in more detail later in these Grounds.

25 After the Second Quotation Meeting, the Defendants decided to proceed with the Works.[14]

26 The Works commenced on or around 10 May 2022, as evidenced by forms submitted by the Claimant to the HDB as well as the Building and Construction Authority ("**BCA**") dated 10 May 2022.[15]

27 On 1 July 2022, the Defendants made a first payment for the Works in the sum of $30,000 to the Claimant.[16]

28 Whilst the parties broadly agreed on when the Works began, they disagreed as to when the Works ended.

29 As far as the Claimant is concerned, the Works were completed on 22 August 2022.[17]

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[13] Claimant's Closing Submissions ("**CCS**") at paragraph 20.

[14] NE 28 February 2025 28/29-29/4.

[15] 1BA138 and 1BA139.

[16] Wilson's AEIC at paragraph 25(1)(g).

[17] Wilson's AEIC at paragraphs 26(12) and 32.

30 The Defendants, however, take the position that the Works continued into mid-September 2022, and even then some parts of the Works had still not been properly carried out.[18] These allegedly defective Works formed the subject matter of the Defendants' counterclaim in this Suit.

31 On 19 January 2023, the Claimant issued an invoice for a sum of $72,480 (the "**Invoice**") to the Defendants, supposedly the total amount due to the Claimant for the Works actually carried out. After deducting the deposit of $30,000 paid by the Defendants, this leaves a balance of $42,480, being the sum claimed by the Claimant in these proceedings.

Claimant's claim

Did the parties agree to make the Express Term a term of the contract?

32 At the outset, it is pertinent to point out that neither the Claimant nor the Defendants are asserting that the parties did not enter into any contractual relationship at all. The Statement of Claim ("**SOC**") expressly pleads that the claim is for the "balance of the contract price" due to the Claimant[19], and in the Defence and Counterclaim, the Defendants themselves referred to the Claimant's promise to cap the contract price as a "contractual term" and even averred that the Claimant had agreed to provide the Works at a "contract price" of $55,670.

33 As previously mentioned, the Defendants have averred that it is a term of the Agreement that, notwithstanding the prices documented on the quotations provided by the Claimant, the Claimant would reduce the ultimate sum which

[18] 1D's AEIC at paragraphs 35 and 42.

[19] SOC at paragraph 2.

the Claimant would charge the Defendants for the Works to "approximately $55,000".

34 Given that the Express Term was one asserted by the Defendants, it was incumbent on them to prove the existence of such a term.

35 In my view, the Defendants have not discharged this burden of proof.

36 To begin, whilst the Defendants claim to have "repeatedly" informed the Claimant that their budget for the Works was $55,000, this alleged budget was not documented in any of the messages exchanged between the parties until almost eight months after the Invoice of 19 January 2023.

37 That being said, Wilson did accept at trial that, at the Second Quotation Meeting, the Defendants did "highlight" that the figure of $68,070 set out in the Second Quotation was outside their budget.[20]

38 I am not convinced, however, that the parties left that meeting with a common understanding that the Express Term was to be a condition of the contract for the performance of the Works.

39 Immediately or very shortly after the Second Quotation Meeting, the Defendants signed off on application forms which were required for the Works themselves to begin. In their AEICs, both the Defendants stated that the Works commenced on or around 9 May 2022.[21]

[20] NE 28 February 2025 23/21-23.

[21] 1D's AEIC at paragraph 30 and 2D's AEIC at paragraph 29.

40 Bearing in mind that neither party has alleged that it was labouring under a legally operative mistake, this strongly suggests that parties did reach an understanding as to the terms on which the Works would be carried out, at the latest, shortly after the Second Quotation Meeting.

41 However, when one looks to the communications exchanged between the parties immediately after the Second Quotation Meeting, there is no reference at all to a reduction in the price of the Works or to any agreement by the Claimant to cap the contract price.

42 Instead, the only documented terms exchanged between the parties as of 9 May 2022, when the Works began, were those contained in the Second Quotation. In my view, this placed the onus on the Defendants to prove that the terms in the Second Quotation had been displaced in favour of other terms, such as the Express Term.

43 However, beyond the fact that the Defendants did not sign the Second Quotation, the Defendants have not identified any evidence that the parties had agreed on the Express Term.

44 The fact that the Defendants did not sign the Second Quotation is at best *equivocal* as to the terms agreed by the parties at the Second Quotation Meeting. Whilst the Defendants' position is that the Second Quotation was not signed because the contract price of $68,070 provided therein was too high, the Claimant put forth an equally plausible explanation, which was that the Second Quotation had not been signed because Wilson had informed the Defendants

that if they wanted to reduce the contract price, they were at liberty to do so by removing items from the scope of the Works.[22]

45 Further, if, as the Defendants assert, they had informed the Claimant's representatives as early on as 19 March 2022 that their budget was $55,000 and the Claimant's representatives had "assured" the Defendants that they would try to keep to that budget,[23] then it is altogether strange that this budget was not mentioned when the Second Quotation was sent to the Defendants and they asked for a meeting. Whilst the evidence does support the Defendants' assertion that the Second Quotation Meeting was called shortly after receipt of that quotation, none of the messages sent by or on behalf of the Defendants evinced any dissatisfaction with the price set out in the Second Quotation, in the period immediately prior to and after the Second Quotation Meeting or made reference to any applicable budget.

46 The Defendants' counsel has argued that the Claimant's failure to challenge the Defendants' assertion, contained in Edmund's message of 12 September 2023, that they had earlier communicated a budget of $55,000 is probative of the Express Term. I disagree.

47 First, the Claimant's response to Edmund's message in September 2023 was sent within 3 hours of Edmund's message, and expressly stated that the Claimant would "not accept anything less than [its] invoiced amount."[24] With due respect, this *was* a clear challenge to the position taken in Edmund's message.

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[22] NE 28 February 2025 25/7-18.

[23] 2D's AEIC at paragraph 17.

[24] 1BA211.

48 In any event, in order for the Express Term to be enforceable against the Claimant, the Defendants have to show that the Claimant had *agreed* to be bound by the same. Simply showing that they had communicated it to the Claimant's representatives at the Second Quotation Meeting is not enough.

49 This is because, based on the D&CC and the DCS, the Claimant's obligation to effectively cap the contract price for the Works at $55,000 rested on a wholly *contractual* basis, and no other basis was raised for the imposition of such an obligation.

50 In order for a communication about the Defendants' budget to give rise to the Express Term, generally speaking, the Claimant must have agreed to be bound by such a term and have been provided with consideration for agreeing to be so bound.

51 The Defendants' counsel has conveniently glossed over these requirements in the DCS and simply relied on supposed communication of the Defendants' budget as sufficient to give rise to the Express Term.

52 For completeness, there was also a suggestion in both the Defendants' AEICs that the deposit of $30,000 paid by the Defendants on 1 July 2022 was somehow probative of the Express Term.[25] According to the 2D, this was because the sum of $30,000 could be split into two parts, the first comprising $22,000 being the 40% (of $55,000) downpayment "upon confirmation" required by the quotations sent by the Claimant, and the remaining $8,000 representing 25% of the remaining contract sum of $55,000, reflecting that 25%

[25] See for instance 2D's AEIC at paragraph 33.

of the Works had been completed as of 14 June 2022, when the Claimant had requested such a payment.

53 I do not accept this submission. There is no contemporaneous evidence to support the 2D's assertion that the payment of $30,000 had been arrived at on the basis which she put forward. There was not even any objective evidence that 25% of the Works had been completed as of 14 June 2022.

54 Such evidence is important because, in the absence of a link to objective facts present at the time, the Defendants could, using simple arithmetic, retrospectively rationalise their payment in a way that supports the narrative which they wish this Court to adopt.

55 By virtue of the foregoing, I find that the Defendants' have not proven the existence of the Express Term.

What were the terms of the Agreement?

56 As already mentioned, both parties accept that there was some sort of contractual arrangement between them in relation to the performance of the Works.

57 Having found that the Express Term was not a term of the Agreement, a question still remains as to what the terms of the Agreement were.

58 In this regard, for reasons which I will explain below, I am satisfied that the terms of the Agreement between the parties were as recorded in the Second Quotation.

59 I begin by observing that it is not very clear to this Court what the Defendants' position is insofar as the specific terms agreed between the parties are concerned.

60 In the DCS, the Defendants asserted that the Claimant did not contest the fact that the First Quotation, the Revised First Quotation and the Second Quotation were not signed.[26] The Defendants then went on to deny that they had agreed at any time to accept the Second Quotation.[27]

61 For completeness, the Defendants also did not accept the Invoice as setting out the terms of the Agreement, based on paragraph 2 of the D&CC.

62 Having renounced all the documents issued by the Claimant, the Defendants did not then go on to identify, in the DCS, where the terms of the Agreement with the Claimant are to be found. The only clue contained in the DCS itself are repeated references to the Defendants having only agreed to an "oral agreement" with the Claimant to carry out certain unspecified "renovation works, subject to the Express Term".[28]

63 My first difficulty with this position is that it is not clear what the "renovation works" in question were, bearing in mind that the Defendants denied in the DCS having accepted the First Quotation, the Revised First Quotation and the Second Quotation.

64 Further, this position is inconsistent with the Defendants' pleaded position which was, as stated in paragraph 19 of the D&CC, that they had

[26] DCS at paragraph 40.

[27] DCS at paragraph 42.

[28] DCS at paragraph 42.

"accepted the terms of the [Second Quotation] on the basis that the Express Term was included in the [Agreement]."

65 In summary, the position taken by the Defendants in the DCS was not consistent with their pleaded position. It was also an inchoate position, insofar as the DCS did not properly identify where the terms of the Agreement were to be found, if not in the First Quotation, Revised First Quotation, Second Quotation or the Invoice.

66 Taking therefore, the Defendants' *pleaded* position, which is that they accepted the Second Quotation subject to the Express Term, along with my finding earlier that the so-called Express Term was not in fact part of the contract, it would become apparent that the Defendants' position is not far from that of the Claimant.

67 The Claimant's position is that the Works were carried out pursuant to the terms and conditions of the Second Quotation,[29] save that, stemming from additional works provided by the Claimant at the request of the Defendants, the contract price was eventually increased to $72,480.

68 In my view, the available contemporaneous evidence supports the conclusion that the Second Quotation was accepted by both the Claimant and the Defendants following the Second Quotation Meeting.

69 It is not controversial to say that the courts generally apply an objective test to determine whether parties have reached an agreement.

[29] CCS at paragraph 8.

70 On 10 May 2022, which would have been immediately or very shortly after the Second Quotation Meeting, the Defendants signed off on application forms to both the HDB and the BCA which had to be submitted for the Works to be carried out.

71 According to the Defendants themselves, the Works commenced on or around 9 May 2022.[30]

72 Following the commencement of the Works, there is no evidence from the Defendants that they continued to discuss contractual matters (as opposed to technical aspects of the Works) with the Claimant until, at the earliest, 14 June 2022, when the Claimant asked the Defendants to make the first payment for the Works, which they eventually made in early July. There was no suggestion by the Defendants, in June 2022, that they had not agreed on the price for the Works.

73 In my view, this sequence of events, which is not seriously disputed by the parties, is ample, albeit circumstantial, evidence of the Claimant's assertion that the Second Quotation formed the basis of the understanding between the parties as to the contractual arrangements for the Works, certainly at least when objectively ascertained.

74 The Defendants' counsel has tried to make the argument that the Claimant did not plead that the Defendants had accepted the Second Quotation by conduct.[31] With respect, I do not see how this omission, even if it was a material one, could have taken the Defendants by surprise or prejudiced them in the conduct of their defence herein. This is because the Defendants had

[30] 1D's AEIC at paragraph 30 and 2D's AEIC at paragraph 29.

[31] DCS at paragraph 41.

always known that they did not sign the Second Quotation but that the Claimant nevertheless had pleaded in the SOC that the Defendants had accepted the Second Quotation.[32]

75 I will therefore proceed on the basis that the Second Quotation set out the terms of the Agreement between the parties, including but not limited to the price that was to have been paid for the same.

The final price for the Works

76 In considering the total amount payable for the Works, the following provisions in the Second Quotation are pertinent:

(a) "Grand total: $68,070.00"[33]

(b) "Any alteration or additional works involved and are not included in the specification of description of work, invoices will then be rendered to you accordingly."[34] I will refer to this as the **Additional Work Clause**.

77 As a starting point, the price for the Works described in the Second Quotation was $68,070.

78 Further, whilst the Additional Work Clause is not felicitously drafted, it can reasonably be interpreted to mean that additional works beyond the scope of those provided in the Second Quotation would be charged to the Defendants.

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[32] SOC at paragraph 2(2).

[33] 1BA135.

[34] 1BA136.

79 Apparently in reliance upon the Additional Work Clause, the Claimant has now sought to assert, in these proceedings, that the final price for the Works should be that stated in the Invoice, being $72,480, on account of additional works carried out.

80 Beyond this, however, in my view the Claimant's counsel's chosen means of establishing the Claimant's entitlement to the increased sum mentioned in the Invoice is lacking in a number of aspects.

81 First, the Claimant has not identified exactly what additional or altered works it carried out and how such works translated to the increased amount it sought to charge in the Invoice.

82 Whilst the Claimant's Closing Submissions dated 16 June 2025 (the "**CCS**") contain descriptions of some of the works carried out by the Claimant, there was no attempt by the Claimant's witnesses or counsel to identify any specific works carried out as additional work for which the Claimant was entitled charge sums over and above those provided for in the Second Quotation.

83 Secondly, the Claimant has not adduced evidence to prove that it did carry out the additional work in question.

84 Lastly, Wilson also admitted at trial, in relation to any alleged additional or alteration works carried out to justify the Invoice amount of $72,480, that:

(a) The Defendants had not been asked by the Claimant to approve any additional works;[35] and

[35] NE 28 February 2025 35/30-36/3.

(b) The first time the Defendants were informed of the additional works resulting in the increased price in the Invoice was when this document was sent to them.[36]

85 In my view, the foregoing deficiencies in the Claimant's case fatally undermined its claim for the sum specified in the Invoice.

86 I am therefore of the view that the Claimant would only be entitled to the lower sum set out in the Second Quotation, subject to my findings in relation to the Defendants' counterclaim.

Contractual interest

87 Before turning to consider the Defendants' counterclaim, I will deal with an objection raised by the Defendants to the Claimant's claim for contractual interest at a rate of 3% per month (the "**Interest Claim**").

88 This rate was provided for in all three of the quotations issued by the Claimant to the Defendants and the pertinent clause (the "**Interest Clause**") provided as follows:

> If payment is not made after 7 days (Credit Grant Period) of the invoice date. A penalty of 3% interest per month will be charged. The penalty will be calculated on a daily basis starting from the 8th day of the invoice date till full payment is made.

89 In the DCS,[37] the Defendants have submitted that even if the Claimant is entitled to any sum for the Works, the Interest Claim should be dismissed because:

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[36] NE 28 February 2025 37/23-30.

[37] DCS at paragraphs 79 and 80.

(a) The Defendants did not sign the any of the three quotations issued by the Claimant.

(b) It would be against public policy to allow the Interest Claim as the rate is "extortionate" and the quotations describe the interest as a "penalty".

90 As I will explain below, I am unable to accept this submission.

91 To begin, as the Claimant's counsel has pointed out, the Defendants did not plead any objection to the Interest Claim in the D&CC.

92 To the contrary, in response to the Claimant's averment in paragraph 4 of the SOC setting out the Interest Clause, the Defendants averred in the D&CC that

> 40. Paragraph 4 of the SOC is admitted insofar as it accurately reproduces the relevant clause in the Revised Quotation.

93 Subsequently, in response to an averment in paragraph 5 of the SOC that under the contract between the parties, the Defendants were obliged to pay "contractual interests [*sic*] for late payment at the rate of 3% per month on the sum of S$42,480.00 commencing 27th January 2023", the Defendants pleaded in the D&CC that

> Defence to Paragraph 5 of the SOC
>
> 42. Paragraph 4 [*sic*] of the SOC is only **admitted insofar as it accurately summarizes the relevant clause in the Revised Quotation which stipulates that contractual interests for late payment is fixed at the rate of 3% per month**. The Defendants deny that the Claimant is owed the sum of S$42,480.00. The Defendants aver that, in accordance with the Express Term, the initial sum due and owing to the Claimant is S$25,000, being the agreed sum of S$55,000 less the deposit of S$30,000 which had already been paid.

(Emphasis added)

94 With respect, even if this court does not view the averments in paragraphs 40 and 42 of the D&CC as admitting the Interest Claim, at the very least they were instances of express acknowledgment by the Defendants of the Interest Clause as well as the Interest Claim, *coupled with* a conspicuous failure to raise any objection to the enforceability of the same.

95 I would add that the Defendants did not raise any objection to the Interest Claim in their AEICs or their Opening Statement either.

96 As highlighted by the Claimant's counsel, the question of whether a clause is an unenforceable penalty is *not* determined solely by reference to the words of the clause in question.

97 As the Court of Appeal explained in *Ethoz Capital Ltd v Im8ex Pte Ltd and others* [2023] 1 SLR 922 ("***Ethoz Capital***") at [33], a contractual provision is an unenforceable penalty where it creates a secondary obligation triggered by a breach of contract that requires the defaulting party to pay a sum that seeks to hold the defaulting party *in terrorem* to their primary obligations.

98 In *Ethoz Capital*, the Court of Appeal evinced a preference for a "substance over form approach – in line with the contextual approach to contractual interpretation" in considering whether an obligation was a primary or secondary obligation.[38] The Court also made reference to factors such as "the overall context in which the bargain in the clause was struck", "any particular reasons for the inclusion of the clause" and "whether the clause was

[38] *Ethoz Capital* at [53].

contemplated to form part of the parties' primary obligations to secure some independent commercial purpose".[39]

99 The practical effect of the Defendants' failure to make their objections to the Interest Claim part of their pleadings is that the Claimant has been denied the *opportunity* of introducing evidence pertinent to the considerations I have just listed.

100 This is exacerbated by the skimpy nature of the Defendants' own submissions on this issue. In the DCS, beyond asserting baldly that allowing the Interest Claim would be contrary to public policy and characterising the Interest Clause as "extortionate", the Defendants' counsel has not addressed any of the substantive requirements laid out in cases like *Ethoz Capital* at all. Indeed, in the face of the Claimant's more substantive submissions on this issue, in which decisions such as *Ethoz Capital* and *VeriFone, Inc v Firemane Pte Ltd* [2024] SGHC 264 were discussed, the Defendants agreed with the Claimant that they would not file submissions responding to the CCS.

101 As for the assertion that the Defendants did not sign any of the quotations, including the Second Quotation, given my finding earlier that the terms of this document were accepted by the Defendants notwithstanding their failure to sign this document, this argument cannot succeed.

102 In summary, I am constrained to reject the Defendants' objections to the Interest Claim and the Interest Claim will be allowed.

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[39] *Ethoz Capital* at [52].

Conclusion: Claimant's claim

103 By virtue of the foregoing, the Claimant's claim is allowed to the extent of $38,070, being the contract price set out in the Second Quotation less the sum of $30,000 already paid by the Defendants, but subject to my decision in relation to the Defendants' counterclaim.

104 The Defendants are liable to pay the Claimant interest on the sum outstanding at the rate of 3% per month, commencing 27 January 2023, as pleaded in the SOC.

Defendants' counterclaim

105 As mentioned earlier, the Defendants' counterclaim herein is for damages stemming from unrectified defects remaining in the Flat following the carrying out of the Works by the Claimant.

106 In the D&CC, the Defendants have pleaded a sum of $14,731.20 as representing the costs of procuring third-party contractors to rectify the said defects.[40] However, in the DCS, the Defendants have submitted that a larger sum of $15,130 should be awarded, on the basis of the report prepared by the Single Joint Expert.

Existence of defects: Evidence

107 I begin by considering the evidence available to this court as to whether any part of the Works was defective.

[40] D&CC at paragraph 49.

108 A Single Joint Expert, Eddie Loke Jun Wei (the "**SJE**"), was appointed to address alleged defects and workmanship issues in connection with the Works. The SJE is a chartered building surveyor.[41]

109 At the trial before me, parties agreed to record a consent order dispensing with the SJE's attendance at trial and admitting his AEIC into evidence.

110 As such, the SJE's evidence was effectively unchallenged by either party.

111 In his report (the "**SJE Report**"), the SJE stated that he had carried out a site visit to the Flat on 10 October 2024 following his appointment.[42]

112 The SJE Report identified various instances of defects in the Flat and also identified the Claimant as the party likely responsible for them. The SJE provided reasons for identifying the issues listed in his report as defects, set out his opinion on the likely causes of the same and provided recommendations for rectifying the defects as well as estimates as to the costs of rectifying each issue identified. [43]

113 The SJE Report also:

(a) annexed photographs of each defect identified, with annotations clearly identifying the defects in question;[44]

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[41] SJE's AEIC at page 26.

[42] SJE's AEIC at page 8, paragraph 1.5.

[43] SJE's AEIC at pages 10 to 23.

[44] SJE's AEIC at pages 32 to 68.

(b) contained extensive extracts of documents setting out industry standards which had been referred to by the SJE;[45] and

(c) annexed quotations from third party contractors which had been referred to by the SJE in coming up with his estimates of rectification costs.[46]

114 In agreeing to dispense with the SJE's attendance, the Claimant's counsel effectively agreed that the SJE would not be required to answer any questions about any of these aspects of his evidence.

115 Notwithstanding the foregoing, the Claimant's counsel sought to undermine the value of the SJE's evidence by asserting that:

(a) some of the allegedly defective works set out in the SJE Report had not been part of the Works or had been chosen or approved by the Defendants;[47]

(b) some of the issues identified by the SJE were not defects but the result of wear and tear;[48] and

(c) the SJE Report did not prove that the Defendants were willing and able to incur the costs and expenses of rectifying defects.[49]

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[45] SJE's AEIC at pages 69 to 566.

[46] SJE's AEIC at pages 567 to 573.

[47] CCS at paragraph 49(2).

[48] CCS at paragraph 49(3).

[49] CCS at paragraph 49(4).

116 I deal first with the first two submissions, being that some defects identified were not linked to the Works and some were the result of wear and tear.

117 With respect, given the Claimant's decision not to require the SJE to attend trial to answer questions, including questions about the allegations now being raised, it is far too late for the Claimant to make these complaints.

118 Even if the Claimant's position is that the SJE could not speak to questions of what the scope of the Works entailed and whether issues could have arisen from wear and tear, which I do not accept is necessarily correct, the Claimant's counsel also did not put to the Defendants' witnesses who did attend at trial, namely, the Defendants and their son, its case that the alleged defects were not part of the Works, had been approved by the Defendants or were the result of wear and tear. This was notwithstanding that the *Defendants'* counsel had *earlier* raised the issue of wear and tear with Wilson in the course of the latter's cross-examination.[50]

119 I should also note that the Claimant's evidence, in support of its allegations that works were outside of the scope of the Agreement or that alleged defects arose from wear and tear, was itself quite limited.

120 Derrick did not address the Defendants' counterclaim in his AEIC.

121 Wilson did address the Defendants' counterclaim in his AEIC. However, unlike the SJE, Wilson did not offer any evidence to support his assertions. They were also plainly self-serving.

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[50] See for instance NE 28 February 2025 68/10-69/11 and 80/24-81/10.

122 In the premises, in my view the SJE's unchallenged evidence pertaining to the defects is clearly more objective, independent and well supported than Wilson's evidence.

123 I am accordingly satisfied that the Defendants have proven the existence of defects in the Works and that these defects are as set out in the SJE Report. The Defendants are thus entitled to damages for these defects.

Quantification of damages

124 The Defendants have quantified their claim for damages for the defective Works by reference to the costs of rectification.

125 Specifically, in reliance upon a draft quotation issued by a third-party contractor known as WHST Design Creative Pte Ltd (the "**WHST Quote**"), the Defendants have given evidence that the estimated cost of rectifying the outstanding defects is $14,731.20.[51]

126 As for the SJE, he estimated rectification costs at $15,130. Whilst the SJE Report does not explicitly state this, it appears that in coming to this figure the SJE had regard to certain quotations set out in Appendix 9 of the SJE Report.[52] The WHST Quote was also one of the quotations included in Appendix 9, and the SJE did not make any criticism of the same.

127 As mentioned earlier, the Claimant has submitted that the SJE Report does not show that the Defendants are willing and able to incur the costs of rectification works.

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[51] D&CC at paragraph 49 and 2D's AEIC at paragraph 52.

[52] SJE's AEIC at pages 567 to 573.

128 With respect, I cannot accept this submission as being relevant to my decision on the counterclaim.

129 Damages awarded for the counterclaim are, generally speaking, meant to compensate the Defendants for the loss they have suffered as a result of the Claimant's breach of contract in the form of any defective Works. Such loss would have been suffered so long as the Works carried out by the Claimant were defective as alleged by the Defendants.

130 The costs of rectification are merely the means by which the Defendants' counsel are submitting such loss can be *quantified*. It is therefore not necessary for the Defendants to demonstrate that they would be willing to engage WHST Design Creative Pte Ltd or other contractors to carry out rectification works before the Defendants would be entitled to damages. The question is whether the costs of rectification, as reflected in the WHST Quote, represents an accurate proxy for the Defendants' loss.

131 In this regard, the SJE has, in proffering an expert opinion on the estimated costs of rectification, *considered* the WHST Quote and arrived at a figure which is *consistent* with (and in fact slightly higher than) the WHST Quote.

132 As such, I consider that there is ample evidence for me to form the view that the sum of $14,731.20 *does* represent a reasonable estimate of the loss suffered by the Defendants and, hence, an appropriate sum to order the Claimant to pay the Defendants as damages for the Defendants' counterclaim.

133 For completeness, in my view, it would not be appropriate to award the higher sum of $15,130 set out in the SJE's report. The sum of $15,130 is higher

than the estimated rectification costs maintained by the Defendants in paragraph 49 of the D&CC. Further, the Defendants' own evidence[53] is that the WHST Quote for the sum of $14,731.20 constituted the evidence as to the estimated cost of rectifying the outstanding defects and the SJE has not explained why his estimate was higher than the figure set out in the WHST Quote.

Conclusion: Defendants' counterclaim

134 By reason of the foregoing, I find that the Defendants are entitled to the sum of $14,731.20 as damages for their counterclaim.

135 I will also order the Claimant to pay interest on the sum of $14,731.20 at the rate of 5.33% per annum, starting from the filing date of the Defence and Counterclaim, in the absence of any submissions from the Defendants' counsel on interest.

Judgment

136 Final judgment is entered in the following terms:

(a) The Defendants are to pay to the Claimant the sum of $38,070, together with interest thereon at 3% per month from 27 January 2023.

(b) The Claimant is to pay to the Defendants the sum of $14,731.20, together with interest thereon at 5.33% per annum from the date of filing of the D&CC, being 8 December 2023.

137 The costs and disbursements of this suit are to be fixed by this Court if the parties are unable to agree on the same. The parties are to file and exchange

[53] 2D's AEIC at paragraph 52.

their respective written submissions on costs and disbursements within 14 days hereof, limited to six pages, if required.

Teo Guan Kee
District Judge

Mr Liew Tuck Yin, David [Messrs David Liew Law Practice] for the claimant;
Mr Ng Lip Chih [Messrs NLC Law Asia LLC] for the defendants.