IN THE SINGAPORE INTERNATIONAL COMMERCIAL COURT
OF THE REPUBLIC OF SINGAPORE

[2026] SGHC(I) 24

Originating Application No 6 of 2026 (Summons No 46 of 2026)

Between

(1) Lim Yew Cheng
(2) Lin Minghan

… *Claimants*

And

(1) Stephen Le Ee Boon
(2) Chia Seok Eng
(3) Pebblebay Capital Corp

… *Defendants*

GROUNDS OF DECISION

[Civil Procedure — Amendments — Relation back rule]

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Lim Yew Cheng and another
v
Stephen Le Ee Boon and others

[2026] SGHC(I) 24

Singapore International Commercial Court — Originating Application No 6 of 2026 (Summons No 46 of 2026)
Alex Wong Li Kok J, Roger Giles IJ and Sir Vivian Ramsey IJ
17 September 2026

23 October 2026

Roger Giles IJ (delivering the grounds of decision of the court):

Introduction

1 The claimants applied to amend their Statement of Claim.[1] The defendants opposed some of the amendments ("contested amendments") on the ground that they raised new causes of action which were time-barred as at the date of the application.[2] If that were so, ordinarily the contested amendments would not be allowed because they would relate back to and take effect on the date of commencement of the proceedings and the defendants would be prejudiced. Taking the conventional course, the court would consider the

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1 1st and 2nd Claimants' Written Submissions dated 6 August 2026 ("CWS") at para 1; Affidavit of Lim Yew Cheng dated 24 June 2026 ("LYC") at para 3.

2 1st Defendant's Written Submissions (Amendment Application) dated 6 August 2026 ("1DWS") at para 3; 2nd and 3rd Defendants' Written Submissions dated 6 August 2026 ("2D3DWS") at para 2.

limitation issues and any prejudice occasioned by the relation back in determining whether the contested amendments should be allowed.

2 In circumstances later described, we were invited to consider whether the contested amendments could be allowed on the basis that they did not relate back but took effect on the date of the amendment application, with the limitation issues left for the hearing of the proceedings.[3] It appeared that this course had not previously been considered in Singapore.[4]

3 Could this be done, more specifically the course of allowing the contested amendments with an order that they take effect on the date of the amendment application? If so, it was common ground that we should take the new course.[5]

4 In our view, it could be done. Orders were made accordingly, with reasons to be provided later. These are our reasons.

The proceedings

5 The proceedings were commenced by an Originating Claim filed in the General Division of the High Court on 29 November 2024 as HC/OC 937/2024 ("OC").[6] The Statement of Claim was filed on 20 March 2025,[7] and a Statement

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3 1DWS at para 5.

4 Minute Sheet for SIC/SUM 46/2026 (2nd Case Management Conference) ("Minute Sheet") at pp 8–9.

5 Minute Sheet at pp 3–4.

6 Originating Claim dated 29 November 2024; LYC at para 9.

7 1st and 2nd Claimants' Statement of Claim dated 20 March 2025.

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of Claim (Amendment No 1) ("SOC A1") was filed on 11 September 2025.[8] Defences to the initial Statement of Claim were filed followed by Defences to SOC A1 on 25 September 2025,[9] and the Replies to those Defences on 5 December 2025.[10]

6 The proceedings were transferred to the Singapore International Commercial Court ("SICC") on 21 January 2026.[11]

7 The first claimant, Mr Lim Yew Cheng ("LYC"), is a Singaporean businessman, based in China for some years and with business interests in that country.[12] The second claimant, Mr Lin Minghan ("LMH"), is his son.[13]

8 The first defendant, Mr Stephen Le Ee Boon ("Stephen"), has been a partner at MBK Partners, a private equity firm in South Korea, since in or around September 2017.[14] Prior to that position, he was a Managing Director and Co-head of the Asia Pacific Credit Division for Deutsche Bank AG.[15] The

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8 1st and 2nd Claimants' Statement of Claim (Amendment No 1) dated 11 September 2025 ("SOC A1"); LYC at para 3.

9 Defence of the 1st Defendant (Amendment No 1) dated 25 September 2025 ("1DD A1"); Defence of the 2nd and 3rd Defendants (Amendment No 1) dated 25 September 2025 ("2D3DD A1").

10 1st and 2nd Claimants' Reply to the Defence of the 1st Defendant (Amendment No. 1) dated 5 December 2025 ("Reply to 1DD A1"); 1st and 2nd Claimants' Reply to the Defence of the 2nd and 3rd Defendants (Amendment No. 1) dated 5 December 2025 ("Reply to 2D3DD A1").

11 LYC at para 9.

12 SOC A1 at para 2.

13 LYC at para 6; SOC A1 at para 3.

14 SOC A1 at para 4.

15 SOC A1 at para 4.

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second defendant, Mdm Chia Seok Eng ("Mdm Chia") is Stephen's mother.[16] The third defendant, Pebblebay Capital Corp ("PCC"), is a company incorporated in the British Virgin Islands.[17] Mdm Chia is PCC's sole director and shareholder.[18] The claimants say that she holds her shares as Stephen's nominee and Stephen is the beneficial owner of PCC,[19] and that she acts in accordance with his directions in relation to its affairs;[20] the defendants deny this, and say that Mdm Chia is the beneficial owner of PCC and its controlling mind.[21] Stephen on the one hand, and PCC and Mdm Chia on the other hand, are separately represented in the proceedings.[22]

9 At the heart of the claimants' case is the allegation that Stephen became LYC's advisor on his financial affairs in around 2008, and was his close and trusted financial advisor for over 15 years until around 2023.[23] It is alleged that he owed to LYC a number of fiduciary duties, widely framed but essentially to act honestly and in good faith in the best interests of LYC in relation to his financial affairs;[24] to avoid any conflict between LYC's interests and his own interests and those of third parties;[25] and not to act for his own benefit or that of

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16 SOC A1 at para 5.

17 SOC A1 at para 6.

18 SOC A1 at para 7.1.

19 SOC A1 at para 7.2.

20 SOC A1 at para 7.3.

21 1DD A1 at para 20; 2D3DD A1 at para 12.

22 1DD A1 at para 1; 2D3DD A1 at para 1.

23 SOC A1 at para 9.

24 SOC A1 at para 13.1.

25 SOC A1 at para 13.2.

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a third party or profit from his fiduciary position or through information obtained in the course of acting as fiduciary.[26]

10 In a brief summary of the elaborate pleading in SOC A1, it is alleged that a number of what are at one point collectively called "financial arrangements, investments and/or loan agreements" were entered into by LYC, LMH and/or companies in which LYC held direct or indirect interests ("transactions").[27] The transactions are described, and it is alleged that they were on disadvantageous terms and that Stephen, PCC and Mdm Chia benefited from them.[28] It is alleged, again in summary, that the transactions were:

(a) through Stephen exploiting his relationship of trust and confidence with LYC and in breach of his fiduciary duties;[29]

(b) through the exercise by Stephen of undue influence over LYC;[30]

(c) by inducement of LYC by Stephen's fraudulent and/or negligent misrepresentations;[31]

(d) a lawful or unlawful means conspiracy between two or more of Stephen, PCC and Mdm Chia;[32]

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26 SOC A1 at para 13.4.

27 SOC A1 at paras 15–16.

28 SOC A1 at paras 14–16.

29 SOC A1 at paras 16 and 148.

30 SOC A1 at paras 158 and 161.

31 SOC A1 at paras 165–171.

32 SOC A1 at paras 172–175.

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(e) with dishonest assistance by PCC and/or Mdm Chia in Stephen's breaches of his fiduciary duties;[33] and

(f) with knowing receipt by PCC of LYC's assets transferred to it in breach of Stephen's fiduciary duties.[34]

11 The relief claimed from this raft of causes of action encompasses rescission or setting aside of a number of agreements, guarantees and other dealings part of the transactions; a declaration that a number of assets are held on trust by Stephen or by Mdm Chia and PCC; orders for accounting and accounts; equitable compensation; and damages.[35] For the purposes of these reasons, it is not necessary to attempt a more detailed description of the claims and the grounds for them.

12 The Defences, correspondingly elaborate (Stephen's defence to SOC A1 occupies 262 pages), deny the basic allegation that Stephen was LYC's close and trusted financial advisor and deny any wrongdoing.[36] Of present relevance, they include that various claims for breach of fiduciary duty, undue influence, misrepresentation, conspiracy, and dishonest assistance are statute-barred.[37] The limitation defences are contested in the Replies, including by the contention that the running of the limitation period was concealed by the fraud of Stephen, PCC and/or Mdm Chia.[38]

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33 SOC A1 at paras 150–153.

34 SOC A1 at paras 155–156.

35 SOC A1 at Reliefs.

36 1DD A1 at paras 22 and 31; 2D3DD A1 at para 23.

37 1DD A1 at paras 211, 227, 235 and 241; 2D3DD A1 at para 202, 217, 225 and 231.

38 Reply to 1DD A1 at paras 4–16; Reply to 2D3DD A1 at paras 4–15.

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The amendment application

13 By SIC/SUM 46/2026 filed on 24 June 2026 ("SUM 46"), the claimants applied to amend SOC A1 to the form of Draft Statement of Claim (Amendment No 2) ("SOC A2") as set out in Annex A to the summons.[39]

14 The amendments were extensive. The defendants did not object to many of them, but as earlier indicated said that the contested amendments raised new causes of action which were time-barred when the application was made but may not have been time-barred when the proceedings were commenced on 29 November 2024.[40]

15 In the contested amendments, first a number of added paragraphs set out events that took place after 29 November 2018 but before 24 June 2020 ("relevant events").[41]

16 The relevant events are concerned with the extensions of two loan agreements. The entry into the loan agreements is the subject of existing allegations in SOC A1 of breach of fiduciary duties and other wrongs.[42] In short, in relation to those extensions, it is alleged that:

> (a) in reliance on Stephen's advice and his representation that the loan agreements would be repeatedly extended every three months provided certain accrued interest and fees were paid, the interest and fees

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39 1st and 2nd Claimants' Summons for Permission to Amend Statement of Claim dated 24 June 2026.

40 Affidavit of Stephen Le Ee Boon dated 14 July 2026 ("SLEB") at para 6.

41 1st and 2nd Claimants' Statement of Claim (Amendment No 2) dated 24 September 2026 ("SOC A2") at paras 131R–131Y; SLEB at para 7(a).

42 SOC A1 at paras 15–18.

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were paid and in January 2020 extension documents for three month extensions of the loan agreements were executed (with an extension fee added to the loan amount);[43]

(b) then in reliance on Stephen's advice and his representation that the loan agreements would be repeatedly extended every three months provided certain additional security including guarantees were given, in April 2020 extension documents for further three month extensions of the loan agreements were executed (with an extension fee added to the loan amount) and the additional security and guarantees were given.[44]

17 The new paragraphs alleging the relevant events are to be read with other paragraphs of SOC A2, some existing in SOC A1 and some being amendments to which objection is not taken, in which it is alleged that (after 24 June 2020) further three month extensions were refused, there was default under the loan agreements, and the lenders resorted to and enforced the security and guarantees.[45] The limitation issues in the contested amendments in part involve whether loss was suffered when the extension documents were executed prior to 24 June 2020 or when, after that date, further extensions were refused and there was default under the loan agreements.

18 Returning to the contested amendments, subsequent groups of added paragraphs then set out how the relevant events allegedly gave rise to claims for breaches of Stephen's fiduciary duties;[46] for undue influence exercised by

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43 LYC at paras 26(a)–26(b); SOC A2 at paras 131U–131V.

44 LYC at paras 26(c)–26(d); SOC A2 at paras 131X–131Y.

45 LYC at para 28; SOC A2 at paras 131Z–131GG.

46 SOC A2 at paras 134.1E–134.1H, 134.1J, 134.2–134.3 and 134.4.2.

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Stephen over LYC;[47] for fraudulent and/or negligent misrepresentations made by Stephen to LYC;[48] and for lawful and/or unlawful conspiracy as between Stephen and other named entities.[49]

The conventional course

19 Order 16 r 3 of the SICC Rules 2021 ("SICC Rules") relevantly provides:

> 3.—(1) Subject to Order 10, Rules 5, 6, 17 and 18, and paragraphs (2) and (3), the Court may, on the application of a party, allow that party to amend its Originating Application, pleading or memorial.
>
> (2) …
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> (3) Where an application for permission to amend under paragraph (1) is made after the relevant limitation period has expired, the Court may allow the amendment in the following circumstances:
>
> > (*a*) an amendment to correct the name of a party even if its alleged effect will be to substitute a new party, if it was a genuine mistake and was not misleading as to the identity of the party in question;
> >
> > (*b*) an amendment to alter the capacity in which a party sues, if the party might have sued in that capacity at the time the Originating Application was issued or the counterclaim was made;
> >
> > (*c*) an amendment to add or substitute a new cause of action, if the new cause of action arises out of the same or substantially the same facts or substantially the same facts as an existing cause of action for which relief has already been claimed in the same action.
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> (4) …
>
> (5) …

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47 SOC A2 at paras 158.7, 161.5–161.6 and 162.8.

48 SOC A2 at paras 165.3, 165.5–165.6, 168B, 168D–168E and 169.4.

49 SOC A2 at paras 175A–175D.

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20 The explanation of O 20 r 5 of the Rules of Court (2014 Rev Ed) by the Court of Appeal in *Management Corporation Strata Title Plan No 3322 v Mer Vue Development Pte Ltd* [2016] 4 SLR 351 ("*Mer Vue*") is applicable to O 16 r 3. As translated to it, O 16 r 3(1) confers a general power to permit amendment, while O 16 r 3(3) deals specifically with amendment after a relevant limitation period has expired and confers power to permit amendment under the limited circumstances there stated: *Mer Vue* at [31]–[33]. However, in determining whether O 16 r 3(1) or O 16 r 3(3) is engaged, it is not just a question of whether the relevant limitation period has expired. Rather, the question is whether allowing the amendment would prejudice the defendant's limitation defence. If no prejudice would be caused, O 16 r 3(1) applies even if the relevant limitation period may have expired: *Mer Vue* at [42(b)]; see also *Symphony Ventures Pte Ltd v DNB Bank ASA, Singapore Branch* [2021] 5 SLR 1213 ("*Symphony Ventures*") at [10]. But if the amendment would prejudice the defendant's limitation defence, it can only be permitted under O 16 r 3(3): *ibid.*

21 The paradigm occasion for prejudice to a limitation defence is the ordinary position that an amendment to a pleading relates back to and takes effect from the commencement of the proceedings ("relation back rule"). So it was said in the Court of Appeal in *Multistar Holdings Ltd v Geocon Piling & Engineering Pte Ltd* [2016] 2 SLR 1 at [33], speaking of refusal of an amendment if the effect would be to set up a statute-barred cause of action:

> 33 … The reason for this position is obvious. Permitting the claimant to introduce a new cause of action against the defendant by way of an amendment instead of bringing a fresh suit would, in effect, allow him to circumvent the Limitation Act because the new claim, having been introduced into the statement of claim, will be treated as having been instituted, not on the date of the amendment, but on the date of the original writ. The operation of this concept of relation back would prejudice the defendant in that he would be deprived of

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> his right to raise a limitation defence which would otherwise have availed to him had the claimant commenced fresh proceedings against him in respect of the new claim. …

22 The prejudice stems from the relation back rule. Unless it can bring itself within O 16 r 3(3), if it persists with the claim by the new cause of action the claimant must bring fresh proceedings. And it is *the right to raise the limitation defence* that is prejudiced, so an arguable limitation defence is sufficient: see *Geocon Piling & Engineering Pte Ltd v Multistar Holdings Ltd* [2015] 3 SLR 1213 at [134]; *Symphony Ventures* at [13].

23 The conventional course is then as summarised in *Mer Vue* at [48] as the operation of O 20 r 5. Translated to O 16 r 3, the court first determines whether the amendment, if allowed, would prejudice the other party's limitation defence, a question of fact in which the key consideration "is whether the amendment *effectively* allows the plaintiff to prosecute a claim which would otherwise have been time-barred if it were brought under a new writ" [emphasis in original]. If it would not, the court considers whether it would be just to allow the amendment under O 16 r 3(1). If it would, the amendment can only be allowed if it falls within one of the categories in O 16 r 3(3), and if it does not, the amendment must be disallowed.

The new course

24 If the relation back rule is displaced, and instead the amendment takes effect on the date of the application to amend or the date of the order giving leave to amend, it may be said that the defendant will not be prejudiced by relation back and (if it were otherwise just to allow the amendment) the amendment can be allowed under O 16 r 3(1). The limitation issues can then be determined at the trial, rather than addressed (possibly only to the point of arguability) in the amendment application.

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25 This was the course we were invited to consider. That it could be taken came to be a joint submission, with the displacement of the relation back rule by an order that the contested amendments take effect on the date of the amendment application.[50]

26 That the only issue was over the contested amendments was known from correspondence between the parties prior to the filing of SUM 46. The correspondence included the defendants' position that, although they said that the contested amendments raised statute-barred causes of action, they would not object to them provided they took effect on the date SOC A2 was filed and served.[51] The claimants did not agree, and said that the amendments should take effect from the date of commencement of the proceedings.[52]

27 In line with that stance, in SUM 46, the claimants sought unqualified permission to amend SOC A2, without mention of when the amendments would take effect.[53] The orders sought by the claimants did not include as a possible alternative an order that the contested amendments take effect when SOC A2 was filed, or any time other than the commencement of the proceedings.[54]

28 The claimants' written submissions in support of SUM 46 were correspondingly unqualified. They said that the contested amendments did not raise new causes of action, but only served to clarify and/or particularise facts already pleaded in the endorsement to the OC and in SOC A1;[55] but that if they

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50 Minute Sheet at pp 3–4.

51 LYC at Tab 4, pp 371–373.

52 LYC at Tab 4, p 375.

53 Minute Sheet at pp 4–5.

54 Minute Sheet at pp 5–7.

55 CWS at paras 11, 13 and 26–31.

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did, the limitation periods for the causes of action arising from the contested amendments had not expired when SUM 46 was filed on 24 June 2026, so the defendants would not be prejudiced by the relation back,[56] and that the court's discretion to permit the amendments should be exercised in their favour under O 16 r 3(1).[57] There was no mention of when the amendments would take effect.

29 In the defendants' written submissions, their primary position was that we should adopt the course taken in recent decisions of courts in England and Hong Kong, that of allowing an amendment whilst preserving any limitation defence available as at the date of the application to amend, and should do so by ordering that the amendments take effect on the date of filing of the application to amend.[58] If that course was not to be taken, they submitted that the contested amendments raised new causes of action and that the new causes of action were, or were at least arguably, statute-barred and the contested amendments should be refused.[59]

30 At the hearing of SUM 46, the claimants took a different position from that in their written submissions. They proposed that the court determine as a "preliminary issue" whether, as submitted by the defendants, the contested amendments could be allowed on the basis that they not relate back but take effect from the date of the application in SUM 46, with the issues of limitation to be addressed at the trial.[60] They said that, if that course was open, they

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56 CWS at paras 11 and 15–25.

57 CWS at paras 32–34.

58 1DWS at paras 5 and 51; 2D3DWS at para 1.

59 1DWS at paras 7, 40–47 and 51; 2D3DWS at para 1.

60 Minute Sheet at p 3.

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considered it "a sensible one" with which they would be content.[61] Unsurprisingly, the defendants agreed.[62]

31 We heard the parties on whether it was open to the Court to take the proposed course, without going into the competing contentions of whether the contested amendments raised new causes of action and whether the new causes of action were statute-barred. All parties submitted that the new course was available, and we were invited to take it.[63]

The cases in England and Hong Kong

The English cases

32 The cases should be seen in their limitations landscape, namely:

(a) s 35 of the Limitation Act 1980 (c 58) (UK) ("English Limitation Act") provided:

(i) that any "new claim" made in the course of any action, which included the addition or substitution of a new cause of action, should be deemed to have been commenced on the same date as the original action (s 35(1));

(ii) that the court should not allow a new claim to be made in any action "after the expiry of any time limit under this Act which would affect a new action to enforce that claim" (s 35(3));

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61 Minute Sheet at p 3.

62 Minute Sheet at p 4.

63 Minute Sheet at pp 3–11.

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(iii) but that rules of court may permit a new claim under (ii) to be made if the new claim arose out of the same or substantially the same facts as were already in issue in any existing claim (s 35(4), (5)); and

(b) the Civil Procedure Rules 1998 (SI 1998 No 3132) (UK) ("CPR") r 17.4 gave effect to the permission in (iii), providing that an amendment to add or substitute a new claim could be allowed, but only if the new claim arose out of the same facts or substantially the same facts as an existing claim.

33 The line of cases begins with the decision of Field J in *WM Morrison Supermarkets plc v MasterCard Incorporated* [2013] EWHC 3271 (Comm) ("*MasterCard (1)*"). The amendment was to allege a continuing infringement of competition law, with some causes of action arising before the relevant limitation date and others arising thereafter. As recorded in the judgment, the claimant accepted that there could be an amendment whose effect was limited to a six year limitation period. Field J said that this was a sensible approach as it would be an unnecessary waste of costs for a separate claim to have to be brought and then consolidated with the present claim, and gave (at [21]):

> leave for an amendment to plead the new claim on the basis that its effect is not to achieve a relation back to the start of the limitation period of the pre-existing claim but merely relates back to six years from today's date ….

34 *Mastercard Inc v Deutsche Bahn AG* [2017] EWCA Civ 272 ("*Mastercard (2)*") concerned a similar amendment. At first instance, it was held that the amendment could be allowed with the benefit of relation back because the new claim arose out of the same facts or substantially the same facts as the claims already made in the proceedings. On appeal, the court disagreed

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with this basis for amendment. The amendment was nonetheless allowed, but relating back to the date on which the amendment application was served.

35 As recorded at [3]–[4] *of Mastercard (2)*, it was common ground that there was at least a *prima facie* case that the defendant had a limitation defence for part of the new claim if there were relation back, and the defendant accepted that the new claim could be introduced as an amendment relating back to when the application to amend was served.

36 The court approved this course. Sales LJ (with whom King and Arden LJJ agreed) said (at [4]) that this was the approach which had been adopted by Field J to avoid the necessity of the claimants there having to commence a new claim with resultant waste of costs, and:

> … This result can be achieved either by the court refusing permission for an amendment unless the new pleaded claim itself in terms pleads the new cause of action only from that date or by the court making an order stipulating the relevant date for limitation purposes, which is what both sides invited the judge to do and again invite us to do …

37 In *Libyan Investment Authority v King* [2021] 1 WLR 2659 ("*Libyan*"), when referring to an earlier amendment as part of the history of the proceedings, Nugee LJ said that the amendment was not opposed on the "*Mastercard* basis … that for limitation purposes the amendments should be deemed not to date back to the issue of the claim form but to the date of the application to amend", and added (at [22], his parentheses):

> (This is a useful practice which avoids the need to issue a fresh action, and can have other uses; indeed in one of the last cases I heard in the High Court it was used to avoid what would otherwise have been a lengthy and costly interlocutory battle on CPR r 17.4(2) by the parties being persuaded to consent to an order permitting the amendment on terms that it would relate back either to the issue of the claim form or to a later date depending on whether the trial judge, who would be in a much

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> better position to determine the point, concluded that it did or did not fall within CPR r 17.4(2)).

38 In these cases, it appears that the parties accepted that for limitation purposes the amendment could be made to relate back to a date other than the commencement of the proceedings. In *Advanced Control Systems Inc v Efacec Engenharia E Sistemas SA* [2021] EWHC 914 (TCC) ("*Advanced Control Systems*") the claimant accepted that some of the claims put forward may be statute-barred and proposed that the order allowing them should provide that the amendment take effect from the date of the application to amend, but the defendant opposed that course. It submitted that to allow amendment on the terms proposed would contravene s 35 of the English Limitation Act.

39 Mr Roger Ter Haar QC, sitting as a Deputy High Court Judge, said:

> 41. As Sales L.J. said in *Mastercard v Deutsche Bahn,* the effect of the statute can be avoided either by having a statement in the pleading which pleads the new cause of action from a particular date or by the court making an order stipulating the relevant date for limitation purposes.
>
> 42. There can be no doubt that if the pleading says in terms that no claim is put forward in respect of a cause of action arising before a stipulated date, the problem under Section 35 of the Act can be avoided. However, none of the three cases [*MasterCard (1), Mastercard (2)* and *Libyan*] explains the basis upon which an order of the Court has the effect of avoiding the problem presented by Section 35, but I would infer that it is that the pleading is to be read with the order and therefore as containing an express reservation equivalent to the terms of the order.
>
> 43. What is clear is that there is authority in the two cases in the Court of Appeal that an amendment can be allowed on the basis that it does not 'relate back' to a date earlier than that fixed by the court.
>
> 44. I do not understand the reasoning of the Court in any of the three cases to limit the circumstances in which this course can be permitted to cases where there is agreement between the relevant parties: indeed the agreement of the parties could not validate a manner of proceeding if it were prohibited by statute.

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> 45. …
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> 46. Accordingly, I regard it as open to me in principle to permit amendments upon the basis that the Court orders that the doctrine of relation back is limited to a particular date.

40 The Deputy High Court Judge made an order in the terms proposed by the defendant, saying that requiring the claimant to bring separate proceedings would be "an almost entirely wasteful exercise" (at [48]) and permitting the amendments would also (for reasons to do with Brexit which we pass over) advantage the claimant's enforcement of any judgment.

41 In *DR Jones Yeovil Ltd v Drayton Beaumont Services Ltd* (2021) 197 (TCC) ConLR 167 ("*DR Jones*"), what was called the *Mastercard* basis of amendment was recognised, but it was said that it should not be adopted when the defendant had a serious argument that the whole of the new claim was statute-barred as distinct from when there was ongoing accrual of the cause of action, as in *MasterCard (1)* and *Mastercard (2).* The reasoning appears to have been that that course was a means of defining the non-barred claims which could be added by amendment.

42 A contrary view was taken in *Duke of Sussex v News Group Newspapers Ltd* [2024] EWHC 1208 (Ch) ("*Duke of Sussex*"), in which it was said that this may be too narrow an approach, and:

> [88] …. the court ought to have power to permit an amendment in [*Advanced Control Systems*] form where (but only where) that is just and convenient, even if a relevant party does not consent, because it gives effect to the purpose of s.35 and may be more convenient than requiring a new claim to be issued. Mr Hudson did not argue that the Court could not do it, only that it should not do so on the fact of this case. It is, in my view, nevertheless a power that should be exercised with caution, given its potential to subvert the purpose underlying the Limitation Act.

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43 In *IBM United Kingdom Ltd v LzLabs GmbH* [2023] EWHC 3015 (TCC), O'Farrell J adopted what she referred to as the practice endorsed by the Court of Appeal in *MasterCard (2)* and *Libyan*, to restrict the new claims to such claims as were not statute-barred under the English Limitation Act so as to ensure that the claimant would gain no advantage from the relation back rule. The amendments were allowed, but to include statements and an undertaking to the effect that the claimant did not pursue any statute-barred claims.

44 Finally, in *Viegas v Cutrale* [2025] 1 WLR 1467, an application to disallow an amendment was refused notwithstanding recognition of prejudice by relation back, because (at [62]):

> … In the course of the hearing before us, the claimants said that, if this were necessary for the amendments made to the Viegas Claim Form on 22 November 2019 and 23 January 2020 to be allowed to stand, they were willing to undertake to the court that they would not rely on relation back and would treat the amendments as effective from the dates that they were respectively made. On that basis, there can be no danger of relation back depriving the defendants of any limitation defence. …

The Hong Kong case

45 In *BGA Holdings Ltd v Chu Kong* [2025] HKLRD 422 ("*BGA Holdings*"), it was accepted that there was an arguable limitation defence to the cause of action sought to be raised by an amendment joining and making a new claim against a new defendant. The plaintiff proposed that the new defendant be joined on the basis that the claim related back to the date of the joinder application or the date of the order to be made, as opposed to the date of the writ, or alternatively that he be joined on the basis of an undertaking not to pursue any claims against him if it were found at trial that the claim had become time-barred as at the later dates. At first instance, it was held that the proposal could not be adopted. On appeal, the issue was described (at [6]) as:

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> … whether the party seeking to amend its claim in such a situation can disavow its reliance on the 'relation-back rule' so that the other party would not be prejudiced by not being able to rely on the limitation defence.

46 After examination of the line of English cases, the Court of Appeal held that what they called the "new approach" was not precluded by s 35 of the Limitation Ordinance (Cap 347) (Hong Kong), *in pari materia* to s 35 of the English Limitation Act, when any prejudice to the other party was removed by the amending party not relying on relation back. It was said (at [37]) that it was "legitimate to sidestep the 'relation-back rule' in such a way", and with respect to the English cases:

(a) at [39], that the *MasterCard* cases "unequivocally show that it is open to the Court to disapply the 'relation-back rule' notwithstanding the mandatory terms under s 35(1)(b)", and "clearly establish that the Court has jurisdiction to order the 'relation-back rule' not to take effect on granting amendments with limitation issues";

(b) at [41], that the new approach "is not confined to the agreement of the parties, but also includes an order made by the Court, disallowing the 'relation-back rule'" or "by the undertaking of the party seeking amendment"; and

(c) at [44], that the view of the Deputy High Court Judge in *DR Jones* that "the conventional view should not be side-stepped when the defendant contends it has a reasonably arguable limitation defence to the entirety of the new cause of action sought to be introduced" was too "narrow", and they "[did] not subscribe to it".

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47 The amendment was allowed on the first basis proposed by the plaintiff, and it was additionally required that that term be expressly stated in the amended pleadings.

The new course can be taken

48 In the English and Hong Kong cases, the concern was whether the provisions of s 35 of the respective limitation legislation precluded what might be called the *MasterCard* approach, and it was considered that it did not. Singapore's Limitation Act 1959 (2020 Rev Ed) contains no similar provisions, and that does not arise.

49 Order 16 r 3(3) at first sight could preclude amendment other than in the stated circumstances where a relevant limitation period has expired, and so require determination that there is not an expired limitation period before amendment can be allowed. However, since there must also be prejudice (*Mer Vue*), removal of prejudice by displacement of the relation back rule will allow amendment under O 16 r 3(1). In our view, allowing an amendment notwithstanding that it brings in a new cause of action which is or may be time-barred is therefore an available course if the relation back rule can be displaced and the prejudice to the defendant is negated. The question becomes whether and how it can be displaced.

50 The English and Hong Kong cases show a variety of means of displacement of the relation back rule. Some involve action by the claimant, which the court accepts as allowable and sufficient to have that result: that the amendment states that it does not relate back; that the amendment states that it takes effect from a later date; that the amendment states that the claimant does not pursue any statute-barred claims; or that the claimant undertakes not to rely

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on relation back or not to pursue any statute-barred claims. Others may be, but are not necessarily, imposed by the court: that the amendment is allowed on the basis that it not relate back or is deemed not to relate back, or ultimately that the court orders that the amendment not relate back.

51 In these cases, it appears that it was accepted that the amendment was or was arguably exposed to a limitation defence. The *MasterCard* course was taken effectively as case management to avoid the waste of commencement of fresh proceedings and consolidation with the existing proceedings. That is seen most fully in *BGA Holdings* at [37] where, after stating that it is legitimate to sidestep the relation back rule, the court continued:

> … Time has moved on and in an era when the Courts are expected to take a proactive role in case management, the Courts are entitled to adopt a more flexible approach in amendment applications involving limitation issues. The stricture requiring a party to issue a fresh writ with the consequence of creating duplicity of cases and wasteful costs is clearly a relevant factor in favour of the Courts allowing the 'relation-back rule' to be sidestepped. The new approach avoids the wasteful nature of duplicity of proceedings and costs.

52 In the present case, the claimants did not concede that the contested amendments were exposed to limitation defences – as noted earlier, they contended that they did not raise new causes of action at all, and that if they did, the causes of action were not time-barred.[64] Nor have we determined whether or not the defendants have, or have arguable, limitation defences – that was not gone into at the hearing of SUM 46.

53 We do not think that affects the guidance to be obtained from the English and Hong Kong cases. If the court has power in relation to displacement of the

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64 CWS at paras 15–25 and 28.

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relation back rule, whether by acceptance of the claimant's action or ultimately by court order, it has that power whether the occasion for exercising it is case management in circumstances of exposure to a limitation defence or other circumstances making the exercise appropriate.

54 In the present case, the claimants did not offer displacement of the relation back rule by their action, such as a statement in SOC A2 that the contested amendments take effect from the date of the amendment application or an undertaking in the event that the contested amendments were held to raise new causes of action which were time-barred as at the date of the amendment application. The nearest they went was that they were "prepared to consider" a suitable undertaking.[65] The question can be narrowed to one of power to order that the contested amendments not relate back, but take effect on the date of the application.

55 There is acceptance in *Mastercard (2)*, *Advanced Control Systems*, *Duke of Sussex* and *BGA Holdings* that the court has power to make such an order, even where displacement of the relation back rule is not a matter of agreement. The source of the power is not made clear.

56 In the absence of a new cause of action, an amendment to a document can be seen as changing something already in existence and taking up the status, including its date of creation, of that document. That may be the explanation for the relation back rule, and (not without being questioned, see *Liff v Peasley* [1980] 1 WLR 781 at 799 *per* Brandon LJ) it became the position also when the amendment raises a new cause of action. It is not a matter of principle such that there cannot be departure from it in the exercise of the court's inherent powers,

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[65] Minute Sheet at p 8.

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and quite apart from the cases considered above departure from it has been permitted, see *Sneade v Wotherton Barytes and Lead Mining Company, Limited* [1904] 1 KB 295 at 297 referring to amendment on terms to the contrary of relation back. The exercise of an accepted inherent power in an essentially procedural matter may explain why the cases do not make clear the source of the power.

57 However, we do not need to come to a concluded view on the basis for the relation back rule and the source of the power as recognised in these cases, and it would not be appropriate to do so when the parties' submissions did not address those questions. In the present case, quite apart from the Court's inherent powers, power to order that the contested amendments take effect on the date of the amendment application can be found in the SICC Rules.

58 Order 1 r 11(1) of the SICC Rules relevantly provides:

> 11.—(1) Despite any provision of these Rules … the Court may, if it considers that doing so is necessary or desirable for the just, expeditious and economical disposal of any proceedings in the Court —
>
> > (*a*) make such order as the Court considers just and appropriate….

59 This is a generous power, to be exercised with circumspection, but displacement of the relation back rule can fall within it. If there is an issue over allowing an amendment because of prejudice stemming from the relation back rule, it may be found to be "necessary or desirable for the just, expeditious and economical disposal of the proceedings" to allow the amendment with displacement of the relation back rule and thereby deferral of the determination of the issue to the trial. (We note that, in *BGA Holdings* at [38], the court observed that it may be said that what they called the new approach is "simply based on the 'just and convenient' ground".)

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60 In our view O 1 r 11(1) is available, and applies in the present case. A number of considerations bring this conclusion.

61 Significant in our coming to the conclusion is the parties' positions. The defendants' primary position was that we should adopt the course taken in the English and Hong Kong cases.[66] A defendant will not necessarily take that position. It may wish to have the amendment application determined according to the conventional course, hoping to defeat it and be spared the additional expense and peril of litigating additional claims at the trial. Implicit in the defendants' position, however, is that they are content to deal with what they say are new causes of action on their merits at the trial, together with contending that the causes of action are time-barred. It may be that a claimant wishes to have the amendment application determined in the conventional manner, and if it is unsuccessful not go to the expense of litigating the additional claims at the trial, but that was not the claimants' position either; as earlier noted, they said that if the proposed course was open, they considered it a sensible one with which they would be content.[67]

62 The parties retain their rights. The defendants will plead in amended Defences that the claims founded on the relevant events are statute-barred, and remain able to resist the claims on that ground. It may be that the claimants will plead in amended Replies that there was concealment by fraud – that is foreshadowed in the correspondence, although not adverted to in the written submissions. If at trial, claims founded on the relevant events are established and it is held that they are not statute-barred, the claimants did not suggest that

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66 1DWS at para 5; 2D3DWS at para 1; Minute Sheet at pp 3–4.

67 Minute Sheet at p 3.

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it would matter to them that the contested amendments took effect on 24 June 2026 rather than 29 November 2024.

63 The possibility of an appeal from interlocutory determination of the limitation issues, delaying bringing the proceedings to trial, is removed. Importantly, the trial court will be in a much better position to determine the limitation issues arising from the contested amendments than if they were determined in SUM 46 (and one possibility is that they will not have to be determined at all, if the claims founded on the relevant events are not established). The trial court will already have to determine limitation issues in relation to existing claims, issues which are likely to include questions which will arise also in relation to claims founded on the relevant events (what we have said [17] above indicates some possible questions). They may include findings as to fraudulent concealment, which can scarcely be considered divorced from the question of fraud raised by the claims for fraudulent misrepresentation.

64 The trial court will do so with the benefit of final fact-finding, rather than on the facts alleged in SOC A2 which may not be fully borne out at trial and will likely be more fully found. We note and respectfully echo the reference by Toohey J in the High Court of Australia in *Wardley Australia Ltd v State of Western Australia* (1992) 175 CLR 514 at [41] to "the difficulty and undesirability of trying to determine a limitation point in interlocutory proceedings, unless the position is clear beyond peradventure".

65 In our view, the proposed course is "desirable … for the just, economic and expeditious disposal of the proceedings", and the order that the contested amendments take effect on the date of the application to amend can and should be made.

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Conclusion

66 The substantive orders made at the hearing of SUM 46 were: [68]

> 1. Subject to Order (2), grant leave to amend the Statement of Claim as set out in Annex A to the summons.
>
> 2. Order that the relevant amendments, as described in Tab 1 of the affidavit of Stephen Le Ee Boon, filed on 14 July 2026, take effect on 24 June 2026.
>
> 3. Order that the amended Statement of Claim be filed and served within seven days.
>
> 4. Order that the amended Defences responding to the amended Statement of Claim be filed and served within a further 14 days.
>
> 5. Order that the amended Reply responding to the amended Defences be filed and served within a further 14 days.

67 We heard the parties on costs. The defendants said that the claimant should pay the costs of SUM 46.[69] The claimants said that the costs should be costs in the cause.[70]

68 The claimants submitted that in the correspondence they had proposed to the defendants that the court should be asked to determine the limited issue of the date on which the contested amendments should take effect,[71] but that the defendants' response was such that it was necessary to go into the merits of whether the amendments should be allowed.[72]

69 However, for the so-called limited issue the claimants said in the correspondence that the contested amendments should take effect on the date of

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68 Minute Sheet at p 12.

69 Minute Sheet at pp 14–15.

70 Minute Sheet at p 14.

71 Minute Sheet at p 13.

72 Minute Sheet at p 13.

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commencement of the proceedings, which required going into the merits.[73] They went into the merits in their written submissions, without mention of the defendants' proposal in the correspondence (with reference to *BGA Holdings*) that they take effect at the later date. The claimants changed their position. The work of the defendants in addressing the merits was wasted, and the defendants' primary position was upheld.

70 The claimants should pay the defendants' costs of SUM 46. If the parties are unable to agree on the amount of the costs within 14 days, written submissions should be filed and exchanged 14 days later, not exceeding three pages excluding any schedules, and we will determine the amount on the papers. The claimants should also pay the defendants' costs of and occasioned by the amendments.

Alex Wong Li Kok
Judge of the High Court

Roger Giles
International Judge

Sir Vivian Ramsey
International Judge

[73] Minute Sheet at pp 13–14.

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