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

[2026] SGHCR 15

Originating Claim No 262 of 2025 (Summons No 733 of 2026)

Between

(1) Laguna National Golf and Country Club Ltd (in liquidation)
(2) Cameron Lindsay Duncan
(3) David Dong-Won Kim

… *Claimants*

And

(1) Peter Kwee Seng Chio
(2) Kwee Chin Wei Kevin
(3) Laguna Hotel Holdings Pte Ltd
(4) Kwee Hui Ling, Karen, a Bankrupt

… *Defendants*

GROUNDS OF DECISION

[Civil Procedure — Amendments — Judgments — Default judgment]
[Civil Procedure — Discontinuance — With leave]

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Laguna National Golf and Country Club Ltd (in liquidation) and others
v
Kwee Seng Chio Peter and others

[2026] SGHCR 15

General Division of the High Court — Originating Claim No 262 of 2025
(Summons No 733 of 2026)
AR Isabel Chan
25 March, 16 April 2026

13 May 2026

AR Isabel Chan:

Introduction

1 This was the claimants' application, following an amendment to their statement of claim, to amend a default judgment entered against the fourth defendant in HC/OC 262/2025 ("OC 262"). In brief, OC 262 is a claim commenced by the liquidators of Laguna National Golf and Country Club Ltd ("LNGCC") against the former directors of LNGCC, including the fourth defendant, for breaches of fiduciary duties in causing LNGCC to enter into a sale and purchase agreement with Laguna Hotel Holdings Pte Ltd ("Laguna Hotel"), among other things. Although the sale and purchase agreement was originally said to be in respect of a land lease agreement between LNGCC and the Singapore Land Authority ("SLA"), the claimants subsequently applied to amend their statement of claim to reflect that the subject matter of the sale and

purchase agreement comprised not just the lease but also a right to develop a hotel on the land and operate and derive revenue therefrom. At the time the statement of claim was amended, judgment in default of appearance had already been entered against the fourth defendant in respect of, among other things, an award of substitutive compensation for the misapplication of LNGCC's property in the lease. The claimants therefore applied to amend the default judgment to reflect that the fourth defendant would be liable for substitutive compensation for the lease *and* the right to develop the hotel and operate and derive revenue from it.

2 However, after the amendment application was heard and the court reserved judgment, the claimants applied for permission to withdraw the amendment application. Since the fourth defendant's private trustee in bankruptcy ("PTIB") did not take a position in the amendment application, I considered there to be no ostensible prejudice caused to the PTIB if the request for withdrawal were granted and so ordered.

3 Notwithstanding this, I was of the view that it was appropriate to issue judgment in this instance because the application raised legal points of general interest and significance that were in the public interest to ventilate. At first blush, the proposed amendment appeared to broaden the scope of the claim and alter the substantive rights of the parties after default judgment had already been entered. This raised concerns as to whether such an amendment was permissible under the Rules of Court. Of additional concern was the fact that while the old Rules of Court (2014 Rev Ed) ("ROC 2014") contained express provisions regarding the ambit of the court's power to amend default judgments and/or judgments generally, there are no equivalent provisions under the Rules of Court 2021 ("ROC 2021"). In this regard, the claimants suggested that the court's power to amend judgments had been expanded under the ROC 2021.

This gave rise to the opportunity to clarify the principles regarding the scope of the court's power to amend judgments as they stood under the ROC 2014 and consider their continued applicability in the context of the new ROC 2021.

4 A second, but ancillary, point was that unlike the previous cases where the amendment of a default judgment was sought or considered as an alternative to a defendant's application to set aside the default judgment, there was no such setting-aside application in the present case. The issue of whether to amend the default judgment thus stood as a discrete inquiry. This raised questions as to the applicability and transposability of the previous principles that had been developed in relation to the setting aside of default judgments (and the alternative remedy of amendment), as well as what alternative recourses may be available to the claimants if the amendment application was not granted.

Facts and procedural history

5 As OC 262 is still pending trial before the General Division of the High Court and is heavily contested by the first to third defendants, nothing in this judgment is to be taken as a finding of conclusive fact on the matter. Instead, this section simply sets out the claimants' account of the facts, as pleaded in their statement of claim.

6 The first claimant in OC 262 is LNGCC, which is said to have operated and owned a members' recreational club ("Club") with two 18-hole golf courses on the land at 11 Laguna Golf Green Singapore 488047 ("Land").[1] According to the claimants, the Land on which the Club was operated was subject to a state

[1] Statement of Claim (Amendment No. 2) dated 9 February 2026 ("SOC (A2)") at para 1.

lease which commenced on 12 June 1991 for a term of 30 years ("First Lease").[2] On 31 August 2012, LNGCC entered into an agreement with the SLA to surrender the First Lease and accept a fresh lease from 7 August 2012 to 15 December 2040 ("Fresh Lease").[3] In 2015, part of the Land was surrendered to the Singapore Government and, as a result, LNGCC received $1.288m as compensation.[4] LNGCC was ordered to be wound up on 13 February 2023, and fell under the joint and several control of liquidators – the second and third claimants (collectively, the "Liquidators").[5]

7 The first, second and fourth defendants are the former directors of LNGCC (collectively, the "Kwee Directors") and the third defendant, Laguna Hotel.[6] In OC 262, the claimants allege, among other things, that the Kwee Directors had breached their fiduciary duties to LNGCC by entering into a sale and purchase agreement with Laguna Hotel. The claim was originally filed against the first to third defendants, and the claimants subsequently applied and were granted permission to join the fourth defendant, Ms Kwee Hui Ling Karen ("Ms Kwee"), to the action. Following the addition of Ms Kwee to the action, the claimants filed an amended originating claim and amended statement of claim on 20 August 2025 ("SOC (Amendment No. 1)"), setting out the relevant facts concerning the sale and purchase agreement as follows:[7]

> 20. On 19 April 2016, LNGCC entered into a sale and purchase agreement ("SPA") with [Laguna Hotel], ***to sell the***

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2 SOC (A2) at para 15.

3 SOC (A2) at para 16.

4 SOC (A2) at para 18.

5 SOC (A2) at paras 2–3. HC/ORC 915/2023.

6 SOC (A2) at paras 6–11.

7 Statement of Claim (Amendment No. 1) dated 20 August 2025 ("SOC (A1)") at paras 20–21.

> ***Fresh Lease to [Laguna Hotel] for the sum of S$130 million*** ("SPA Consideration"). …
>
> 21. The material terms of the SPA are:
>
> a. Clause 1:
>
> *[LNGCC] shall sell and [Laguna Hotel] shall purchase free from all encumbrances the remainder of the leasehold estate for a term commencing from 7 August 2012 and expiring on 15 December 2040 ("the Lease") in the property described in the Schedule hereto* (hereinafter referred to as "the Property") subject to the Building Agreement dated 31 August 2012 ("the Building Agreement") entered into between the President of the Republic of Singapore and [LNGCC], a copy whereof has been furnished to [Laguna Hotel].
>
> …
>
> f. Schedule:
>
> All that interest in the land known as 11 Laguna Golf Green Singapore in as situated in the Republic of Singapore as contained in Lease No. 28422.
>
> [emphasis in original omitted; emphasis added in italics and bold italics]

8 The claimants pleaded their claim against the Kwee Directors in the SOC (Amendment No. 1) in the following terms:[8]

> **AND THE CLAIMANTS CLAIM**
>
> ***Against the 1st to 2nd Defendants and the 4th Defendant***
>
> (1) An award of substitutive compensation *for their misapplication of the 1st Claimant's property in the Fresh Lease* and/or the SPA Consideration.
>
> (2) Equitable compensation for their breaches of fiduciary duty to be assessed;
>
> (3) An account of all sums misappropriated by them together and each of them and paid away by them or at their discretion from the 1st Claimant and an order for payment to the 1st Claimant of all sums found due on the taking of the account;

[8] SOC (A1) at pp 27–28.

> (4) An account of all sums received by the 1st to 2nd Defendants and the 4th Defendant together and each of them and/or the 3rd Defendant which were secret profits received by reason of their breaches of fiduciary duty to the 1st Claimant and an order for payment to 1st Claimant of all sums found due on the taking of the account;
>
> …
>
> [emphasis added]

9 The claimants served the amended originating claim and SOC (Amendment No. 1) on Ms Kwee on 27 August 2025. As Ms Kwee did not file and serve a notice of intention to contest or not contest the originating claim within 14 days from the date of service,[9] default judgment was entered against her on 21 November 2025 ("Default Judgment") for, among other things, an award of substitutive compensation for Ms Kwee's misapplication of LNGCC's property in the Fresh Lease:[10]

> 1. The following orders are made against the 4th Defendant, having failed to file and service a notice of intention to contest or not contest the originating claim within 14 days:
>
> (a) An award of substitutive compensation *for the 4th Defendant's misapplication of the 1st Claimant's property in the Fresh Lease* (as defined in paragraph 16 of the Statement of Claim (Amendment No. 1) filed on 20 August 2025 (the "SOC")) and /or the SPA Consideration (as defined in paragraph 20 of the SOC), as pleaded at paragraphs 53 to 59 of the SOC, to be assessed;
>
> …
>
> [emphasis added]

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9 Affidavit of Cameron Lindsay Duncan dated 27 February 2026 ("Supporting Affidavit") at para 5.

10 HC/JUD 566/2025.

10 On 11 February 2026, the claimants filed a further amendment to their statement of claim ("SOC (Amendment No. 2)").[11] Notably, the claimants amended the subject matter of the sale and purchase agreement between LNGCC and Laguna Hotel from the Fresh Lease to "all that interest in the [Land]", which included both the Fresh Lease *and* "the right to develop the hotel on the Land and operate and derive revenue from the hotel", which the claimants defined *collectively* as the "Asset":[12]

> 20. On 19 April 2016, LNGCC entered into a sale and purchase agreement ("SPA") with [Laguna Hotel], to sell "*all that interest in the land known as 11 Laguna Golf Green Singapore situated in the Republic of Singapore as contained in Lease No. 28422"* ***including the Fresh Lease and the right to develop the hotel on the Land and operate and derive revenue from the hotel ("Asset")*** to [Laguna Hotel] for the sum of S$130 million ("SPA Consideration"). … [emphasis added in italics and bold italics]

11 The claimants served the SOC (Amendment No. 2) on Ms Kwee and the PTIB by email and personal service on 12 February 2026.[13] On 16 February 2026, the counsel for the claimants wrote to the PTIB, indicating their intention to request permission from the Court to amend the Default Judgment in order to reflect the amendments made in the SOC (Amendment No. 2), enclosing a copy of the proposed amendments to the Default Judgment.[14] The PTIB replied that it took no position in respect of this application.[15]

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11 Supporting Affidavit at para 6.

12 Supporting Affidavit at p 17; SOC (A2) at para 20.

13 Supporting Affidavit at para 6; Supporting Affidavit at pp 48–51.

14 Supporting Affidavit at p 57.

15 Supporting Affidavit at p 56.

12 Thus, on 9 March 2026, the claimants applied in HC/SUM 733/2026 ("SUM 733") to amend the Default Judgment to reflect an award of substitutive compensation due in respect of the Asset instead of the Fresh Lease:[16]

> 1. The following orders are made against the 4th Defendant, having failed to file and service a notice of intention to contest or not contest the originating claim within 14 days:
>
> (a) An award of substitutive compensation *for the 4th Defendant's misapplication of the 1st Claimant's property in the* ***Asset*** (as defined in ***paragraph 20*** of the Statement of Claim (Amendment No. 2) ***dated on 9 February 2026*** (the "SOC")) and /or the SPA Consideration (as defined in paragraph 20 of the SOC), as pleaded at paragraphs 53 to 59 of the SOC, to be assessed;
>
> …
>
> [emphasis added in italics and bold italics]

13 SUM 733 was heard on 25 March 2026. The PTIB did not attend the hearing or tender any affidavit or make any submission in respect of SUM 733. The claimants' primary position was that the proposed amendment to the Default Judgment was non-substantive in nature and that the court could grant such an amendment pursuant to its inherent power. Alternatively, even if the proposed amendment was substantive, the court had the power to grant the amendment pursuant to the exercise of its general powers under O 3 r 2 of the ROC 2021.[17] In this vein, the counsel for the claimants submitted that the court's power to amend judgments had been broadened under the ROC 2021, given the broad language of O 3 r 2(2) of the ROC 2021 and the lack of an equivalent provision to O 20 r 11 of the ROC 2014 (which provided that the court could only correct clerical errors or errors arising from accidental slip or mistake in perfected judgments). During the hearing, I had briefly invited counsel to

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16 HC/SUM 733/2026, Schedule at para 1.

17 Claimants' Written Submissions (Application to Amend Default Judgment) dated 23 March 2026 ("Applicants' Submissions") at para 16.

consider O 13 r 8 and O 19 r 9 of the ROC 2014 which provided specifically for the power to set aside or vary default judgments. I also indicated to the claimants' counsel that I was doubtful if the ROC 2021 contemplated an expansion of the court's power from the previous position under the ROC 2014, but reserved judgment.

14 After the hearing, I directed the claimants' counsel to address the court on two further points by 9 April 2026: first, the relevance of O 13 r 8 and O 19 r 9 of the ROC 2014, and the cases applying or interpreting these provisions, to SUM 733; and second, the impact of several decisions on the interpretation of the scope of the court's powers under O 3 r 2 of the ROC 2021.

15 The claimants' counsel wrote in to the court on 9 April 2026, seeking a brief extension of time to respond to the court's queries, on the basis that they were still considering the points raised by the court. I granted an extension of time for the claimants to put in their further written submissions by 14 April 2026.

16 However, instead of filing the further written submissions, the counsel for the claimants wrote in to inform the court that the claimants wished to withdraw SUM 733 pursuant to O 16 r 6 of the ROC 2021, without prejudice to any of their rights. I convened a hearing for the claimants to explain the reasons for the withdrawal and why the request should be granted, having regard to the relevant principles for applications under O 16 r 6 of the ROC 2021.

17 The counsel for the claimants explained that after they had been directed to address the court on the two further points, they had received instructions to withdraw the application without prejudice to the claimants' rights. The claimants' counsel took pains to emphasise that they had not considered the

authorities posed to them to be detrimental to their application in SUM 733, but applied for a withdrawal of SUM 733 simply because the claimants considered this to be the best course of action at the present time.

18 After considering the matter, I granted the claimants permission to withdraw SUM 733. Nonetheless, I indicated to the counsel for the claimants that I was of the view that it was appropriate for judgment to be issued in respect of SUM 733.

The claimants' request for permission to withdraw SUM 733

19 I deal first with the claimants' request for permission to withdraw SUM 733. The claimants submit that the court should generally permit a party who had brought the summons to withdraw it, save where such a withdrawal would cause injustice to the counterparty. According to the claimants, no such injustice would occasion to the PTIB or Ms Kwee, since the PTIB had not taken any position in SUM 733.

20 Under O 16 r 6 of the ROC 2021, a party who has taken out a summons in a cause or matter must obtain the permission of the court before it is allowed to withdraw the summons. Permission to withdraw is granted at the court's discretion: *Victory International Holdings Pte Ltd v Borrelli, Cosimo* [2024] SGHC 79 ("*Victory International*") at [31].

21 The principles guiding the exercise of the court's discretion on whether to allow a party to withdraw a summons have been deftly summarised by Justice Goh Yihan (as he then was) in *Victory International*. In short, a court should generally grant permission for a party who had brought the summons to withdraw it, because no party should be compelled to proceed with a summons against its will. However, the court can depart from this general approach if the

withdrawal would cause injustice to the counterparty: *Victory International* at [34]. Examples when injustice may occasion to a counterparty are where the counterparty has a clearly superior case to the applicant such that the counterparty is on the cusp of victory, or where the applicant indicated its desire to withdraw the summons close to the hearing date because, in such circumstances, the counterparty would have tendered extensive submissions to resist the summons and the applicant would have had the benefit of reading those submissions: *Victory International* at [35]–[36]. In granting leave to withdraw a claim, the court should also consider the public interest, where appropriate: *Rohde & Liesenfeld Pte Ltd v Jorg Geselle* [1998] 3 SLR(R) 335 at [13]; *Victory International* at [33]–[34] and [36].

22 In my view, no injustice would be caused to the PTIB, acting on behalf of Ms Kwee, if permission was granted to the claimants to withdraw SUM 733. The PTIB did not attend the hearing or take a position in the application. There was thus no reason to depart from the general principle that a party should not be compelled to proceed with a summons against its will. Accordingly, I granted permission to the claimants to withdraw SUM 733.

23 I was nonetheless satisfied that judgment in respect of SUM 733 ought to be delivered. The practice of issuing a judgment notwithstanding the withdrawal or discontinuance of an application or appeal has been accepted in several decisions: see *Sapura Fabrication Sdn Bhd v GAS* [2025] 1 SLR 492 ("*Sapura*"); *QBE Insurance (Singapore) Pte Ltd v Relax Beach Co Ltd* [2023] 2 SLR 655 ("*QBE Insurance*"); *Bumi Armada Offshore Holdings Ltd and another v Tozzi Srl (formerly known as Tozzi Industries SpA)* [2019] 1 SLR 10 ("*Bumi Armada*"); *The "Hong Chang Sheng"* [2025] SGHCR 31 ("*Hong Chang Sheng*"). In these cases, judgment was issued in spite of the withdrawal or discontinuance of the application or appeal because the withdrawal

application had only been made at the doorstep of the hearing or after the hearing had concluded, and there were legal points of general interest and significance which were in the public interest to ventilate: see, *eg*, *Sapura* at [5]; *QBE Insurance* at [43]–[44]; *Bumi Armada* at [62]. The counsel for the claimants accepted that it was well within my legal power to issue a judgment in the present circumstances.

24 In my judgment, this was an application which raised legal points of general interest and significance. As explained above (at [3]), SUM 733 provided an opportunity to distil the principles pertaining to the court's jurisdiction and power to amend its judgments and orders and consider the continued applicability of these principles under the new ROC 2021. The fact that the claimants' request to withdraw SUM 733 was made at the eleventh hour provided an added justification for a judgment to be issued: see *Hong Chang Sheng* at [9]. The claimants sought to withdraw the summons after judgment had been reserved and substantial submissions had already been placed before the court. In these circumstances, the court was already in the process of coming to a considered decision and was on the cusp of delivering judgment.

25 I should add that this is not inconsistent with the view in *Victory International* that the court generally does not have the power to impose conditions on a party's withdrawal of a summons under O 16 r 6 of the ROC 2021 (at [34]). Properly characterised, the judgment issued in these circumstances is not a "condition" on the claimants' withdrawal of SUM 733. For the avoidance of doubt, I express no view on whether the claimants' ability to pursue an identical claim in separate proceedings might be precluded by a doctrine of estoppel, which is a separate matter and should be left to be determined by a court hearing that hypothetical future application.

SUM 733

26 To state my conclusion upfront, had SUM 733 not been withdrawn, I would have dismissed the summons and refused the proposed amendment to the Default Judgment.

The parties' cases

27 To recapitulate, the claimants seek to amend the Default Judgment by substituting the asset in respect of which substitutive compensation was awarded (see [10]–[12] above). The claimants' primary submission is that the proposed amendment is non-substantive or clarificatory in nature – it "merely ensure[s] that [the Default Judgment] accurately reflects the amended definition in the [SOC (Amendment No. 2)]" – and the court has the power to grant the amendment pursuant to the exercise of its inherent power.[18]

28 In the alternative, the claimants suggest that if the proposed amendment to the Default Judgment is substantive in nature, the court has the power to permit the amendment pursuant to the exercise of its general powers under O 3 r 2 of the ROC 2021.[19] Order 3 rule 2(2) of the ROC 2021 provides that, in the absence of an express provision in the Rules or any other written law on the matter, "the Court may do whatever the Court considers necessary on the facts of the case before it to ensure that justice is done or to prevent an abuse of the process of the Court". The claimants contend that because the ROC 2021, unlike the ROC 2014, contains no express limitation confining the court's power of amendment to clerical mistakes or errors arising from accidental slip or

[18] Applicants' Submissions at para 14.

[19] Applicants' Submissions at para 16.

omission, the court's power to vary its judgments or orders has been expanded under the ROC 2021 to permit substantive amendments.

29 On an application to the facts, the claimants say that it is in the interests of justice for the amendment to be allowed, because this would avoid a divergence in the reliefs granted against Ms Kwee and the other Kwee Directors.[20] According to the claimants, no prejudice will be caused to the PTIB or Ms Kwee if the amendment is made. On the contrary, if SUM 733 is not granted, and the Default Judgment is set aside and the claimants are required to enter a fresh default judgment against Ms Kwee on the basis of the SOC (Amendment No. 2), substantial prejudice will accrue to the claimants given the risk that a fresh default judgment may not be obtained. The claimants also sought to impress upon me that it was unusual for the party in whose favour a default judgment had been entered to apply for it to be set aside.

30 The PTIB, acting on behalf of Ms Kwee, did not take a position in the application.

Issue to be determined

31 The sole issue for determination was whether the claimants' proposed amendment to the Default Judgment should be granted.

The court's power to amend its judgments or orders

32 I turn to the applicable legal principles governing the court's power to amend its judgments or orders, beginning with the position as it stood under the

[20] Applicants' Submissions at paras 18–19.

ROC 2014, before considering the continued applicability of those principles under the ROC 2021.

33 The animating principle governing the court's consideration of an application to amend a perfected judgment or order is that of finality in dispute resolution. As categorically stated by the High Court in *Godfrey Gerald QC v UBS AG* [2004] 4 SLR(R) 411 ("*Godfrey Gerald*") (at [18]) and affirmed by the Court of Appeal in *Retrospect Investment (S) Pte Ltd v Lateral Solutions Pte Ltd* [2020] 1 SLR 763 ("*Retrospect Investment*") (at [13]), "[a] final decision, once made, cannot be revisited".

34 That said, this rule is not to be applied mechanistically to preclude the rectification of minor oversights, inchoateness in expression or consequential matters that remain to be fleshed out: *Godfrey Gerald* at [18]. To this end, the court retains a residual inherent jurisdiction and power to correct or clarify the terms of its orders and to give consequential directions: *Retrospect Investment* at [12]. The courts have, however, been careful to confine the exercise of this inherent power to amendments that are clarificatory rather than substantive in nature. Thus, it has been said that when the order is perfected, the court's power "does not … extend to correcting substantive errors and/or in effecting substantive amendments or variations": *Retrospect Investment* at [13], affirming the principles in *Godfrey Gerald* at [19].

35 Although a "substantive" amendment has been broadly described as one that "go[es] towards the merits of the matter" (see, *eg*, *TG Master Pte Ltd v Tung Kee Development (Singapore) Pte Ltd* [2023] SGHC 64 ("*TG Master*") at [6]; *Nail Palace (BPP) Pte Ltd v Competition and Consumer Commission of Singapore* [2023] SGHC 111 at [10] in the context of an amendment of a notice of appeal), the term has proved difficult to define with precision. Thus, in

Darsan Jitendra Jhaveri and others v Lakshmi Anil Salgaocar (suing as the Administratrix of the Estate of Anil Vassudeva Salgaocar) [2024] SGHC(A) 27 ("*Darsan*"), the Appellate Division of the High Court cast doubt on the utility of the distinction between substantive and non-substantive amendments, and instead held that the lodestar that guides the exercise of the court's inherent jurisdiction and power to amend its judgments or orders is whether the judgment or order, as corrected, gives effect to the intention of the court at the time when it was made: *Darsan* at [168]. In other words, the power simply extends to ensuring that "the spirit of court orders are appropriately embodied and correctly reflected to the letter" (see *Godfrey Gerald* at [19]) and ought not to be used as a vehicle to undermine the finality of the court's determination or introduce new substantive rights.

36 This principle finds clear expression in the Court of Appeal's reasoning in *Retrospect Investment*. In that case, the Court of Appeal considered whether the court had jurisdiction or power to amend a consent order that recorded the respondents' agreement to buy out the appellant's shares in a company. The consent order had been made in settlement of the appellant's minority oppression action against the respondents, following which the suit was discontinued. As the parties could not agree on the reference date for the valuation of the appellant's shareholding, they applied to amend the consent order to include a provision granting liberty to refer the matter to the court for determination. An Assistant Registrar granted the application to amend the consent order, and a Judge of the High Court subsequently determined the valuation date. On appeal, the Court of Appeal held that the text of the original consent order was unambiguous and, at the time the order was recorded, neither the parties nor the court had contemplated that any substantive issues would be referred to the court after the discontinuance. The inclusion of a provision allowing the court to determine the valuation date of the shares therefore fell

beyond the court's inherent jurisdiction and power: *Retrospect Investment* at [17] and [20].

37 The ROC 2014 also makes specific provision for the court's power to amend its judgments or orders. Order 20 rule 11 of the ROC 2014 expressly confers on the court the power to correct "clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission". Order 20 rule 11 of the ROC 2014 is, in some respects, similar to the court's inherent power to amend its judgments or orders, in that it is well-established that it cannot be invoked to make substantive amendments to an order or judgment or re-examine the decision on its merits (see Jeffrey Pinsler SC*, Singapore Court Practice 2017* vol 1 (LexisNexis, 2017) at para 20/11/1*; Manharlal Trikamdas Mody v Sumikin Bussan International (HK) Ltd* [2014] 3 SLR 1161 at [142]). However, for the court to exercise its power of amendment under O 20 r 11 of the ROC 2014, an additional condition must be satisfied. That is, the error sought to be corrected must b*e caused* by an inadvertent slip or omission. This is clear from the plain wording of O 20 r 11 of the ROC 2014, and fortified by Sir John Donaldson M.R.'s (as he then was) elucidation of the English equivalent of the rule *(ie*, O 20 r 11 of the Rules of the Supreme Court (UK)) in *Regina v Cripps, ex parte Muldon* [1984] QB 686, where His Honour explained that the rule had the primary purpose of "allow[ing] the court to amend a formal order whic*h by accident or error* does not reflect the actual decision of the judge" [emphasis added] (at 695).

38 In other words, the considerations when a court invokes its power of amendment under O 20 r 11 of the ROC 2014 are two-fold. First, the cause of the error must be one of accidental slip or omission, such as an inadvertent typographical error: see, *eg*, *Philip Securities (Pte) v Yong Tet Miaw* [1988] 1 SLR(R) 566 ("*Philip Securities*"); *The "Jeil Crystal"* [2022] 2 SLR 1385 ("*Jeil*

Crystal") at [40]. Second, the amendment must be consistent with the court's manifest intention at the time the judgment or order was made (see *Jeil Crystal* at [40]; *AAY v AAZ* [2011] 2 SLR 528 at [19]–[20]) or, in the words of Lord Watson in the House of Lords' decision in *Hatton v Harris* [1892] AC 547 (at 560), "correct the record in order to bring it in harmony with the order which the judge obviously meant to pronounce". In practice, the second requirement will generally be fulfilled as a corollary to the first – if an error is attributable to an accidental slip or omission, an amendment to correct it will likely be consistent with the court's manifest intention at the time the judgment or order was made. However, it is important to recognise that these are distinct requirements; the first requirement, which examines the cause of the error, is not relevant when the court's inherent jurisdiction and power to amend its judgments or orders is exercised. Simply put, the court's inherent power to amend its judgments or orders is broader than its power under O 20 r 11 of the ROC 2014.

39 Separate provisions governed the variation of judgments entered in default of appearance or defence. As regards the former, O 13 r 8 of the ROC 2014 states that "the Court may, on such terms as it thinks just, set aside or vary any judgment entered [in default of appearance]". Order 19 rule 9 of the ROC 2014 pertains to the power to amend judgments entered in default of pleadings and is worded in similar terms. On their plain wording, O 13 r 8 and O 19 r 9 of the ROC 2014 are broader than O 20 r 11, as neither provision requires the error to be one of accidental slip or omission. The Court of Appeal accepted this interpretation in *Mercurine Pte Ltd v Canberra Development Pte Ltd* [2008] 4 SLR(R) 907 ("*Mercurine (CA)*"), observing that these provisions may be invoked to rectify an irregularity in a default judgment even when the irregularity does not consist of a clerical mistake or accidental slip or omission (at [93]):

> … In this regard, we should point out that where the court decides to uphold an irregular default judgment while, at the same time, amending the judgment so as to rectify the irregularity therein, the court may invoke O 20 r 11 only if the irregularity consists *specifically* of a clerical mistake or an accidental slip or omission in the judgment (*eg*, misstatement of the quantum of the judgment sum due to an inadvertent typographical error; see also *Philip Securities (Pte) v Yong Tet Miaw* [1988] 1 SLR(R) 566). *Where the irregularity is not occasioned by an accidental or clerical error, O 20 r 11 is not applicable (see,* eg, Malayan United Bank Bhd v Mohammed Salleh bin Mohammed Yusoff [1988] 3 MLJ 165*); the court would then have to invoke O 2 r 1(2) or, alternatively, depending on whether the irregular default judgment is an O 13 default judgment or an O 19 default judgment, either O 13 r 8 or O 19 r 9 respectively.* [emphasis added]

Similarly, in *Ban Hin Lee Bank Berhad v Sonali Bank* (9 November 1988) (unreported), Staughton LJ held that the court's power to amend a default judgment under the English predecessor to O 13 r 8 of the ROC 2014 was wider than the slip rule.

40 The rationale for this difference has yet to be fully elaborated upon. In my view, it can be derived from the nature of judgments in default. The default judgment is a *procedural* mechanism that "compels the defendant to respond to the plaintiff's claim by way of appearance and defence, and avoids wastage of the court's and the parties' resources by bringing uncontested proceedings to a conclusion": Jeffrey Pinsler SC, "Last Flight of the Eagle: New Principles Governing the Setting Aside of Judgments in Default" (2009) 21 SAcLJ 161 at para 1. The entry of a judgment in default is therefore an administrative act, entered in consequence of the defendant's procedural default, as opposed to a judicial decision on the substantive merits of the claim: see *Blackstone's Civil Practice 2013* (Maurice Kay, Stuart Sime & Derek French eds) (Oxford University Press, 2013) at para 20.1.

41 However, because "the court's primary function is to determine claims on their substantive merits", the courts are imbued with the power to revoke, in appropriate circumstances, judgments entered in default that were granted solely on procedural grounds": Yihan Goh, "Setting Aside a Default Judgment: New Developments in Singapore" (2009) 28(2) CJQ 200. As articulated by Lord Atkin in the House of Lords' decision of *Evans v Bartlam* [1937] AC 473, "unless and until the Court has pronounced a judgment upon the merits or by consent, it is to have the power to revoke the expression of its coercive power where that has only been obtained by a failure to follow any of the rules of procedure" (at 480). Consequently, in exercising its power to set aside a default judgment under O 13 r 8 or O 19 r 9 of the ROC 2014, the court must carefully balance the competing demands of procedural and substantive justice.

42 The need to balance procedural discipline in civil litigation against the interests of the parties in having their cases determined on the substantive merits is a well-established principle of civil litigation: see *eg*, *Sun Jin Engineering Pte Ltd v Hwang Jae Woo* [2011] 2 SLR 196 ("*Sun Jin*") at [20]; *United Overseas Bank Ltd v Ng Huat Foundations Pte Ltd* [2005] 2 SLR(R) 425 at [8]. This balancing exercise is reflected in the principles governing the setting aside of a default judgment. Where a default judgment is "regular", the judgment may be set aside only if the defendant can show a *prima facie* defence that raises triable or arguable issues: see *Mercurine (CA)* at [95]. However, if the default judgment is considered "irregular", the starting point is that the defendant will generally be entitled to set aside the default judgment *ex debito justitiae* (*ie*, as of right) (*Mercurine (CA)* at [91]). Where egregious procedural injustice has been occasioned to the defendant by virtue of the irregularity, such as where the judgment was entered prematurely or where the defendant had no notice of the proceedings against it, the court will not be minded to depart from the *ex debito justitiae* rule: *Mercurine (CA)* at [91]. This gives effect to the need to prevent

unfairness to the defendant and to ensure compliance with the procedural rules: *Mercurine (CA)* at [74]; see also Camille Cameron, "Irregular Default Judgments: Should Hong Kong Discard the "As of Right" Rule?" (2000) 30 Hong Kong LJ 245.

43 If, however, the plaintiff can convince the court that the *ex debito justitiae* rule should not be followed, the court will then consider whether the irregular default judgment should be set aside on some other basis: *Mercurine (CA)* at [92]. At this stage, the merits of the defence are again a relevant factor – if the court is satisfied that the defendant is "bound to lose" then, notwithstanding the irregularity, the court may ultimately decide not to set aside the default judgment and, where necessary, vary the default judgment to cure the irregularity: *Mercurine (CA)* at [93]. This is illustrated by the decision of *Bank of Credit and Commerce International (Overseas) Ltd (in liquidation) v Habib Bank Ltd* [1999] 1 WLR 42 ("*BCCI*"): see *Mercurine (CA)* at [94]. In that case, the plaintiff had obtained a default judgment against the defendant for a claim of US$683,062.10, despite knowing at the time the default judgment was entered that the correct amount of the claim was US$613,756. As the defendant had conceded that it owed the plaintiff US$613,756, Park J dismissed the defendant's application to set aside the default judgment and instead varied the default judgment to reflect the correct judgment sum of US$613,756. His Honour explained that a court would refuse to set aside an irregular default judgment and instead amend the irregularity if, having considered the substantive merits of the claim, the only effect of setting aside the default judgment would be to occasion unnecessary expense and delay on the parties (at 46):

> If, from the affidavits and exhibits, *the court concludes that, even though there were irregularities in the writ or judgment or both, the substantive content of the judgment is right, the court will not set the judgment aside. The only effect if it did would be to put*

> *the parties to further expense and delay to reach a regular judgment for the same amount.* Further, it is the same in principle if the court is satisfied from the affidavits and exhibits that, although the amount *in the default judgment was wrong, it (the court) knows what the correct amount was.* The court will not set the incorrect judgment aside and make the plaintiff start again. It will vary the judgment to the correct amount. [emphasis added]

44 In other words, amendment of a default judgment under O 13 r 8 or O 19 r 9 of the ROC 2014 is typically invoked as an alternative to setting aside where the court, having weighed the demands of procedural and substantive justice, concludes that justice will be better served by an amendment. It stands to reason that the court's power to amend default judgments under O 13 r 8 or O 19 r 9 of the ROC 2014 is broader than the mere correction of clerical errors or slips. Thus, in *Canberra Development Pte Ltd v Mercurine Pte Ltd* [2008] 1 SLR(R) 316 ("*Mercurine (HC)*"), the High Court had held, and the Court of Appeal had accepted, that the court had the power to amend an erroneously stated judgment sum where the error was the result of the plaintiff's mistaken view that a larger sum was due instead of a slip or accident: *Mercurine (HC)* at [32]; *Mercurine (CA)* at [101]–[102].

45 However, there has yet to be a definitive pronouncement on the precise limits of the court's power of amendment under O 13 r 8 and O 19 r 9 of the ROC 2014. While it is clear that these provisions are broader than O 20 r 11 of the ROC 2014 in that the error need not be occasioned by an accidental slip or omission, whether the power extends so far as to permit substantive amendments that depart from the court's intention at the time the default judgment was entered has not been squarely addressed.

46 In *Mercurine (HC)*, the plaintiff had entered default judgment against the defendant for the payment of an outstanding rental balance of certain

premises and the delivery of vacant possession of those premises. The amount of rent stated to be owing to the plaintiff was in excess of the amount due as the plaintiff failed to account for a rental payment which the defendant had previously made. The plaintiff accepted that the misstated sum was not the result of an inadvertent error, but its mistaken belief that a larger sum was due. The defendant had applied for the default judgment to be set aside on several grounds, including the misstated judgment sum, and the plaintiff made a last-minute application to amend the judgment sum. An Assistant Registrar rejected the amendment and decided that the entire default judgment should be set aside.

47 On appeal before the High Court, the plaintiff argued that the court's power to amend a monetary default judgment to reflect the correct sum that was due was not limited to cases involving an inadvertent error: *Mercurine (HC)* at [31]. The Judge of the High Court stated that she "agree[d] with the plaintiff's submission that the court's power to amend even an irregularity-obtained judgment *is not circumscribed in any way*" [emphasis added] and that, accordingly, the court could amend the amount of the judgment even where the error in obtaining a judgment for that sum did not arise from a slip or accident (at [32]). The Judge considered that the defendant had failed to promptly apply to set aside the default judgment and therefore reinstated the default judgment, subject to a variation of the amount payable thereunder: *Mercurine (HC)* at [45].

48 The breadth of this statement may, with respect, be taken to suggest that the court's power to amend a default judgment under O 13 r 8 or O 19 r 9 of the ROC 2014 is entirely without constraint. But, in my view, that interpretation is not to be preferred. The issue before the Judge was whether the first requirement under O 20 r 11 of the ROC 2014 (see [38] above) (*ie*, that the error must be caused by an inadvertent slip or omission) applied equally to O 13 r 8 of the ROC 2014. The applicability of the second requirement (*ie*, that the amendment

must be consistent with the manifest intention of the court at the time the judgment or order was made) was not in dispute. This was because the amendment in question was to reduce the judgment sum to reflect the correct amount due: see *Mercurine (HC)* at [31]. It thus cannot be said that the Judge intended to suggest that the court's power of amendment under O 13 r 8 or O 19 r 9 of the ROC 2014 were so broad as to include amendments that deviated from the intention of the court at the time it was made or create additional substantive rights.

49 Although the Judge's decision in *Mercurine (HC)* was subject to a further appeal before the Court of Appeal, the focus of the appeal was primarily on the principles governing an application to set aside a default judgment, rather than the scope of the court's power to amend a judgment in default. The Court of Appeal remarked that because the irregularly-stated excessive quantum did not result in such procedural injustice to the defendant and there would be no useful purpose served if the judgment for the outstanding rental payments were set aside, the court would have been minded to uphold that part of the judgment and amend it to reflect the correct quantum due. However, as the judgment for the outstanding rental payments was not severable from the order for possession, if the latter was found liable to be set aside, the entire default judgment would be deemed to be set aside: *Mercurine (CA)* at [102]. Notably, the Court of Appeal did not take issue with the Judge's conceptualisation of the scope of the court's power of amendment under O 13 r 8 of the ROC 2014. The court accepted that O 13 r 8 and O 19 r 9 of the ROC 2014 could be invoked to correct an irregularity that did not consist specifically of a clerical mistake or an accidental slip or omission in the judgment (see [39] above), and endorsed Park J's views in *BCCI* that it may be more appropriate to uphold and amend an irregular default judgment rather than set it aside when the substantive content of the judgment is correct or when, although the amount in the default judgment

is wrong, the court knows what the correct amount is (see [43] above). Nonetheless, the court emphasised that its decision should not be taken as endorsing a "pro-amendment approach towards every default judgment entered for an excessive amount which the plaintiff later attempts to amend by substituting the correct sum": *Mercurine (CA)* at [103].

50 This issue is better left to be determined in a future occasion when the court has the benefit of full submissions. What is clear, however, is that the decision to amend a default judgment remains a matter of the court's discretion: see *Mercurine (CA)* at [99]. The factors which the court may take into account are not exhaustive, and the inquiry is ultimately a fact-sensitive exercise: *Mercurine (CA)* at [99]. Suffice it to say that, in my view, the considerations of procedural and substantive justice, and the paramount principle of dispensing even handed justice, that attend to an application to set aside a default judgment (see [40]–[44] above), are of equal relevance to a discrete application to vary a default judgment pursuant to O 13 r 8 and O 19 r 9 of the ROC 2014 (which does not appear to be precluded by the plain wording of those provisions).

51 The ROC 2021 does not contain any provisions equivalent to O 13 r 8, O 19 r 9 and O 20 r 11 of the ROC 2014. Instead, O 3 r 2(2) of the ROC 2021 provides generally that "[w]here there is no express provision in these Rules or any other written law on any matter, the Court may do whatever the Court considers necessary on the facts of the case before it to ensure that justice is done or to prevent an abuse of the process of the Court, so long as it is not prohibited by law and is consistent with the Ideals". The court's jurisdiction and power to amend its judgments or orders is therefore preserved under the general power provided in O 3 r 2(2) of the ROC 2021 and the court's inherent jurisdiction and power: see *Darsan* at [168]. In this regard, the claimants contend that the broad wording of O 3 r 2(2) of the ROC 2021, along with the

lack of an equivalent provision to O 20 r 11 of the ROC 2014 in the ROC 2021, has the effect of expanding the court's power of amendment under the new Rules.

52 I disagree with the claimants' submission as to the expansive effect of O 3 r 2(2) of the ROC 2021. As the court observed in *GHP Far East Ltd v NPG Global Pte Ltd* [2025] 5 SLR 797 ("*GHP*"), albeit in *obiter*, "[i]t could not have been the intention of the drafters of the ROC 2021 to broaden the court's power of amendments, to the extent that they encompassed substantive amendments …", since there was no express provision to this effect in the ROC 2021, especially when this would depart from established common law principles: *GHP* at [54]. Indeed, there is nothing in the ROC 2021 or the Civil Justice Commission Report (29 December 2017) (Chairperson: Justice Tay Yong Kwang) that indicates any intention to deviate from the prior position under the ROC 2014 and the established common law principles regarding the court's power to amend its judgments or orders. Support for this view is also found in the decision of the Appellate Division of the High Court in *Darsan*. There, the court considered an application to amend its own decision under O 3 r 2(2) of the ROC 2021 and its inherent jurisdiction and power, and held that the applicable test was "whether the judgment or order (as corrected) gives effect to the intention of the court at the time when it was made": *Darsan* at [168]. The court did not appear to contemplate that O 3 r 2(2) of the ROC 2021 had enlarged its jurisdiction and power to amend its judgments or orders.

53 The claimants rely on the decision of *TG Master* (at [9]) for the proposition that the court's power to amend its judgments has been enlarged under O 3 r 2(2) of the ROC 2021. I reproduce the relevant passage in full:

> *The courts' jurisdiction and power to make non-substantive amendments to their orders can be grounded either in their*

> *statutory or inherent jurisdiction/power. In regard to the former, O 20 r 11 of the ROC 2014 had expressly provided as such … While this provision does not appear in an equivalent form in the ROC 2021, it is arguable that the courts' statutory jurisdiction and power is preserved through the general power provided in O 3 r 2(2).* This rule provides that the court may do whatever it considers necessary on the facts of the case before it to ensure that justice is done or to prevent an abuse of the process of the court, so long as it is not prohibited by law and is consistent with the Ideals set out in O 3 r 1 of the ROC 2021. *However, given the lack of a more specific provision in the ROC 2021 on the courts' jurisdiction and power to make such non-substantive amendments to their orders, such jurisdiction or power might be more properly located within their inherent jurisdiction or power* (see *Retrospect Investment* at [12]). [emphasis added]

With respect, I am unable to accept the claimants' interpretation of *TG Master*. In the passage cited, Judicial Commissioner Goh Yihan (as he then was) was concerned only with identifying the source of the court's power to make *non-substantive* amendments to its judgments or orders, and did not purport to address the question of whether the court's power had been enlarged under O 3 r 2(2) of the ROC 2021. Further, the key issue in *TG Master* was whether a Judge sitting in the General Division of the High Court had the jurisdiction to hear further arguments after a trial. Thus, Goh JC expressly stated that "nothing in this judgment should be regarded as directly relevant to the High Court's jurisdiction or power to make substantive amendments to its orders by a process other than the hearing of further arguments after trial" or its "jurisdiction or power to make non-substantive amendments to its orders": *TG Master* at [20].

54 Even if, contrary to my view, the court's power to amend its judgments or orders has been expanded under the ROC 2021, the amendment of a judgment or order is a matter of the court's discretion. The exercise of that discretion would remain subject to the well-established principles under the common law.

Application to the facts

55 In my judgment, SUM 733 should be dismissed.

56 It cannot be said that the proposed amendment gives effect to the intention of the court at the time when the Default Judgment was entered. The manifest intention of the court must have been to enter default judgment on the basis of the claims pleaded in the SOC (Amendment No. 1), which was framed unambiguously as a claim for, among other things, substitutive compensation for the misapplication of LNGCC's property in the *Fresh Lease* (see [7]–[8] above). By redefining the asset said to have been misapplied to encompass not just the Fresh Lease but also the right to develop, operate and derive revenue from a hotel on the Land, the claimants are in effect asking this court to award substitutive compensation for the misapplication of an asset that was never contemplated when the Default Judgment was originally entered. There is nothing clarificatory about this amendment.

57 On the contrary, the proposed amendment has the effect of significantly increasing the quantum of substitutive compensation awarded to the claimants. "Substitutive compensation" describes an award of equitable compensation for breach of trust that is derived from the taking of a common account – the account is falsified, any wrongful disbursement is disallowed, and the trustee is liable to make up the deficit in the trust estate by reconstituting the trust fund *in specie* or in monetary terms: see *Sim Poh Ping v Winsta Holding Pte Ltd* [2020] 1 SLR 1199 ("*Winsta*") at [112]; *Devin Jethanand Bhojwani v Jethanand Harkishindas Bhojwani* [2026] 3 SLR 284 ("*Devin*") at [150]. In *Winsta*, the Court of Appeal observed in *obiter* that a breach of a custodial fiduciary duty may attract similar remedies, but declined to decide the point (at [109]). Leaving aside this issue, what is material for the present purposes is that the amount of

substitutive compensation awarded is determined with reference to the misapplied assets: see *Concorde Services Pte Ltd (in liquidation) v Ong Kim Hock* [2024] SGHC 324 at [151]. Thus, by expanding the scope of the misapplied asset from the Fresh Lease to the Asset – which comprises both the Fresh Lease and the right to develop, operate and derive revenue from a hotel on the Land – the claimants would significantly increase the award of substantive compensation due to them under the Default Judgment.

58 This is plainly distinguishable from cases where the amendment was to reduce the judgment sum to reflect the true amount indisputably due to the claimant: see, *eg*, *Philip Securities*; *Mercurine (CA)*; *Bayerische Landesbank Girozentrale v Azlan bin Hashim* [2002] 2 SLR(R) 983; *Navimprex Centrala Navala v George Moundreas & Co SA* (1983) 127 Sol Jo 392. In those cases, there is no concern of the claimant imposing additional substantive obligations or liabilities on the defendant through the guise of an amendment. A key aspect of procedural fairness is the right to be heard, which comprises a responsive aspect of a party having notice of its opponent's case and the opportunity to respond to it: see *Public Prosecutor v Pek Lian Guan* [2026] SGHC 62 at [59], referring to *JVL Agro Industries Ltd v Agritrade International Pte Ltd* [2016] 4 SLR 768 at [146]–[147]. Where a party, having notice of the claim against it, chooses not to enter appearance or serve a defence, it forfeits its right to respond, whereupon judgment in default is entered against it in respect of that same claim. However, when a claimant seeks to amend a default judgment in a manner that imposes additional obligations or liabilities on the defendant, it cannot be said that this reflects the same claim for which the defendant was found to be in default. It would, in my view, be contrary to the notion of procedural fairness to permit such an amendment.

59 The claimants argue that if the amendment is not granted, they would suffer significant prejudice. This is because their only recourse for obtaining a default judgment against Ms Kwee on the terms of the SOC (Amendment No. 2) would be to apply to set aside the current Default Judgment and seek a fresh one. The claimants say that it is rare for a party that has obtained a default judgment in its favour to apply to have it set aside, and that there is an undue risk that a fresh default judgment might not be obtained.

60 I do not accept that the claimants will suffer significant prejudice if the amendment is refused. The Default Judgment was entered on the basis of pleadings that the claimants themselves had drafted. The position in which the claimants now find themselves in is, in that sense, a consequence of their own making. If the claimants wished to broaden the scope of their claim or introduce additional substantive amendments to their pleadings after default judgment had already been entered against Ms Kwee, it would not be unfair to expect them to bear the risk that a fresh default judgment may not be obtained on those expanded terms. While it may be rare for a claimant to apply to set aside a default judgment entered in its favour, there is no bar to such an application, and there have been circumstances where such applications have been made: see, *eg*, *Panin International Credit (S) Pte Ltd v Ngan Ching Wen* [2011] 2 SLR 34.

Conclusion

61 For the above reasons, I allowed the claimants to withdraw SUM 733. However, had the summons not been withdrawn, I would have dismissed the application and refused the proposed amendment to the Default Judgment.

Isabel Chan
Assistant Registrar

Ng Tse Jun Russell (Rev Law LLC) for the claimants;
The fourth defendant's private trustee in bankruptcy absent
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