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

[2026] SGHC 120

Originating Claim No 727 of 2023

Between

Chong Jorina

… *Claimant*

And

(1) Ritz Property Investimentos Imobiliarios Ltda
(2) Chong Kwai Leng Helen

… *Defendants*

JUDGMENT

[Tort — Misrepresentation — Fraudulent misrepresentation]
[Tort — Misrepresentation — Negligent misrepresentation]
[Evidence — Adverse inferences — Section 116(*g*) Evidence Act 1893 (2020 Rev Ed)]

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v
Ritz Property Investimentos Imobiliarios Ltda and another

[2026] SGHC 120

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Vinodh Coomaraswamy J
15–17, 22–23 April, 18 July, 13, 27 October 2025

2 June 2026 Judgment reserved.

Vinodh Coomaraswamy J:

Introduction

1 This action arises out of an investment scheme that the first defendant, Ritz Property Investimentos Imobiliarios Ltda ("Ritz Brazil"), started promoting in 2015. Under the scheme, Ritz Brazil sold undivided fractional interests in plots of land in Brazil through a chain of intermediaries to retail investors in Singapore and Taiwan.[1] The claimant was one such intermediary. She sold those interests directly to investors. Like the claimant, the second defendant was another of Ritz Brazil's intermediaries. She operated as a link in the chain above the claimant.[2]

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1 Statement of Claim (Amendment No 1) dated 20 December 2024 ("SOC") at para 2; Defence (Amendment No 1) dated 13 January 2025 ("Defence") at para 2.2.

2 SOC at para 3; Defence at para 3.2.

2 In or around early 2018, Ritz Brazil began to default on the payouts due to investors. The claimant then advanced a series of loans to Ritz Brazil, totalling over $1.6m, for the purpose of funding Ritz Brazil's overdue payouts to the investors.[3]

3 Ritz Brazil has failed to repay any of these loans to the claimant.[4]

4 In this action, the claimant seeks to recover the loans from Ritz Brazil in contract as a debt and to recover an equivalent sum from the second defendant in the tort of misrepresentation as damages.

5 The claimant discontinued her claim against Ritz Brazil on 21 March 2025.[5] Ritz Brazil therefore took no part in the trial of this action. The claim against Ritz Brazil is not before me and is not the subject of this judgment. This judgment concerns only the claimant's claim against the second defendant. For that reason, and for ease of exposition, I shall continue as though the second defendant were the only defendant in this action. I shall therefore refer to her in the remainder of this judgment simply as "the defendant".

6 The claimant originally advanced three causes of action against the defendant: fraudulent misrepresentation, negligent misrepresentation and conspiracy to injure by unlawful means. The claimant has abandoned her claim in conspiracy.[6] Only two causes of action therefore remain. The primary cause

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3 SOC at para 13; Defence at para 13.2(a); Chong Jorina's Affidavit of Evidence-in-Chief dated 14 August 2024 ("CAEIC") at paras 55–58, 86 and 91.

4 SOC at para 16 and the Annex thereto; CAEIC at paras 86, 91.

5 Transcript, 15 April 2025, p 4.

6 Claimant's Closing Submissions dated 12 June 2025 ("CCS") at para 1.

of action is fraudulent misrepresentation. The alternative cause of action is negligent misrepresentation.[7]

7 I have tried this action and considered the parties' evidence and submissions. Having done so, I dismiss the claim. The claimant's claim in fraudulent misrepresentation fails because she has failed to prove on the balance of probabilities that the defendant made the representations at all. Even if the defendant did make the representations, I do not accept that the defendant lacked an honest belief in their truth. That element is the essence of a claim in fraud. Even if the representations were made and even if they were made dishonestly, I do not accept that they induced the claimant to make her loans to Ritz Brazil. I accept that the claimant made at least one loan to Ritz Brazil even before the claimant allegedly made the representations. I also find that she made the loans to relieve the pressure she faced from her own investors and not because of any representations by the defendant. The claim in negligent misrepresentation fails for the same reasons and also because I do not accept that the defendant owed the claimant a duty of care.

8 I now set out in full the reasons for my decision.

The facts

The parties

9 The claimant, Ms Chong Jorina, is the founder and Chief Executive Officer of Truevine Group Pte Ltd ("Truevine"). Truevine is a Singapore company that markets investment products in Singapore, Taiwan and

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7 SOC at paras 25 and 30.

Indonesia.[8] The claimant also operates a related Taiwanese entity, Truevine Group (Taiwan) Pte Ltd ("Truevine Taiwan").[9]

10 Ritz Brazil is a company incorporated in Brazil. Its Chief Executive Officer was Mr Luiz Eduardo Matida Fernandes ("Mr Fernandes"). Its Marketing and Sales Director, later its Managing Director, was Mr Fernando Lessa ("Mr Lessa").[10]

11 Ritz Brazil's business involved acquiring plots of land in Natal, Brazil ("Natal Properties"), selling undivided fractional interests in those plots to retail investors, developing the plots, and selling them on to generate a return for the investors.[11] The parties refer to the investors' fractional interests in the Natal Properties as the "Brazil UDIs". After holding the Brazil UDIs for about 12 to 36 months, investors were to receive a payout of their capital together with a return of between 24% and 60%.[12]

12 The defendant, Ms Chong Kwai Leng Helen, is an experienced businesswoman. She was a co-founder and the Chief Executive Officer of Shenton Holdings Pte Ltd ("Shenton"). She was a co-founder and the sole director and shareholder of Summit International Group Pte Ltd ("SIG"). She is also one of the founders and a shareholder of Solomon Alliance Management Pte Ltd ("Solomon").[13]

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8 SOC at para 1; Defence at para 1.4; CAEIC at p 1.

9 SOC at para 16(2); Defence at para 16.2(b)(i); CAEIC at para 13.

10 SOC at para 2; Defence at paras 2.2(c), 14.2(j)(vii)(a).

11 SOC at para 2; Defence at para 2.2.

12 SOC at para 2; Defence at para 2.2(e).

13 SOC at para 3; Defence at paras 3.2, 3.2(f); Second defendant's Affidavit of Evidence-in-Chief dated 14 August 2024 ("D2AEIC") at paras 44–45.

13 Although the claimant and the second defendant share a surname, they are not related.

Ritz Brazil's business

14 Ritz Brazil marketed the Brazil UDIs through a chain of intermediaries. Each link in the chain earned a commission on every completed sale of a Brazil UDI to an investor.[14]

15 Ritz Brazil appointed Shenton and SIG as its master marketing agents. They in turn appointed sub-marketing agents, one of which was Solomon. Solomon and SIG in turn appointed affiliate marketing companies, of which Truevine was one. The individuals who ran the affiliate companies were known as "affiliate heads". The claimant was an affiliate head.[15]

16 It is common ground that Solomon appointed Truevine as an affiliate by an agreement dated 1 July 2015. It is also common ground that SIG appointed Truevine as an affiliate by an agreement dated 1 June 2016.[16]

17 Two Singapore-incorporated entities feature in the business of Ritz Brazil. The first is Ritz Property Investment Asia Pte Ltd ("Ritz Asia"). Ritz Asia served as Ritz Brazil's Asian office. Its sole shareholder and director was Mr Fernandes. Its Managing Director was Mr Goh Yam Sim ("Mr Goh").[17] The second is Bayswater Fiduciary Services Pte Ltd ("Bayswater"). Retail investors

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14 SOC at para 4; Defence at para 4.2.

15 Defence at paras 3.2(a)–3.2(c); D2AEIC at paras 44–45.

16 SOC at para 8; Defence at paras 8.2(a)–8.2(b).

17 Defence at paras 12.2(c)–12.2(d), 14.2(j)(ii)(a).

paid the price of their Brazil UDIs to Bayswater, who held the funds as custodian before transferring them to Ritz Brazil.[18]

The relationship between the parties

18 The claimant began working as a commission-based sales agent at Solomon in or around 2011 or 2012. A person whom she regards as her godfather, Mr Capellan Pang, introduced her to the defendant.[19] The claimant's case is that the defendant was her "business mentor", a person in whom she reposed trust and to whom she looked for advice and guidance throughout their relationship.[20] The defendant denies any mentor relationship of the kind alleged.[21]

19 In or around July 2015, the claimant incorporated Truevine and began marketing the Brazil UDIs. She did so first in Singapore and then, from early 2016, in Taiwan and in Indonesia. The claimant says she did so under the defendant's instruction and with her facilitation and approval. The defendant denies this and says the relevant approvals came from Ritz Brazil as principal, and from SIG and Solomon as master and sub-marketing agents.[22]

The payout delays and the bridging loans

20 It is common ground that, from early 2018, Ritz Brazil began to default on the payouts due to investors, and that, as a result, investors put significant

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18 SOC at para 16(2); Defence at para 14.2(j)(ii)(c).

19 SOC at para 6; Defence at para 6.2; CAEIC at para 7.

20 CAEIC at para 9.

21 Defence at paras 6.2, 33.2(b).

22 SOC at para 7; Defence at para 7.2; CAEIC at paras 7–9; D2AEIC at paras 44–46.

and ongoing pressure on the sales agents through whom they had invested in the Brazil UDIs.[23]

21 Between October 2017 and 2020, Ritz Brazil and its associated entities issued a series of letters to investors acknowledging the delays and seeking extensions of time. These letters variously referred to "slight delays", "short-term cash flow issues", extensions of the payout deadlines of up to 12 months, the prolonged absence of Mr Fernandes due to ill health, and the reconstitution of Ritz Brazil's board to bring the company "back on track".[24] The defendant accepts that she was aware of these delays, and of at least some of these letters, at the material time.[25]

22 In response to the delays, some sales agents began to advance loans to Ritz Brazil to fund its payouts to investors. The parties refer to these as "bridging loans".[26]

23 It is a curious feature of this case that, in the matter of the bridging loans, the sales agents behaved as supplicants and Ritz Brazil behaved as the party granting an indulgence. Under the procedure that Ritz Brazil eventually put in place, an agent who wished to make a bridging loan to Ritz Brazil had to complete a loan request form and an accompanying payout request form, and submit them for approval to Mr Goh of Ritz Asia. Once Ritz Brazil approved

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23 SOC at para 13; Defence at para 13.2(a); D2AEIC at paras 11, 61; CAEIC at paras 54–58.

24 D2AEIC at para 125; 1CB-575, 1(A)CB-935, 1(A)CB-937 to 1(A)CB-943, 1(A)CB-1024, 2CB-2019 to 2CB-2034, 2CB-2036, 2CB-2040 to 2CB-2046, 2CB-2050, 2CB-2059, 2CB-2192, 2CB-2293.

25 Transcript, 17 April 2025, pp 41–42; D2AEIC at paras 112–114.

26 D2AEIC at para 62; Teo Sok Kheng's Affidavit of Evidence-in-Chief dated 14 August 2024 ("Ms Teo's AEIC") at para 25; Yao Shih Lien's Affidavit of Evidence-in-Chief dated 14 August 2024 ("Mr Yao's AEIC") at para 3.

the request, the agent transferred the approved sum to Ritz Brazil's account with Bayswater. Ritz Brazil would then prepare a loan agreement for the lender and borrower to execute.[27]

24 The standard terms of the loan agreements provided that Ritz Brazil would repay the loan within one year of the advance, together with interest at 1% per month. The agreements also provided that Ritz Brazil would pay late payment interest at 2% per annum above the usual contractual rate.[28]

25 The parties disagree sharply about how the bridging loans came about, and why the claimant made them. The defendant's case is that other affiliate heads conceived the initiative, in particular Ms Teo Sok Kheng ("Ms Teo") and Ms Joan Tay, together with Ms Tracia Lam, the Chief Financial Officer of Ritz Asia, and that the loans were voluntary and made to relieve investor pressure.[29] The claimant's case is that she made the loans because she relied on the defendant's representation that Ritz Brazil would repay them within a year, together with interest.[30]

The alleged representations

26 The claimant pleads four sets of representations ("the Representations") made by or on behalf of the defendant. The claimant pleads, and the defendant accepts, that the "essence" of the Representations is that any loan that the

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27 Defence at para 14.2(j)(ii); Mr Yao's AEIC at para 10; 2CB-2183, 2CB-2267.

28 SOC at paras 20–21; Defence at paras 20.2–21.2.

29 Defence at paras 14.2(a)–14.2(c); D2AEIC at para 62; Ms Teo's AEIC at paras 9–14, 25, 31; Mr Yao's AEIC at paras 3, 7.

30 SOC at paras 14–16; CAEIC at paras 69, 98.

claimant advanced to Ritz Brazil would be repaid with interest within one year at the latest.[31]

27 I set out the four sets of Representations as the claimant alleges them.[32]

The May 2018 Representations

28 The claimant alleges that the defendant made the first set of representations ("the May 2018 Representations") in a series of telephone calls and meetings in or around May 2018. The claimant alleges that the defendant told her in these calls and meetings that, if she lent money to Ritz Brazil:[33]

(a) the money would be used to pay investors introduced by Truevine;

(b) the loans would be interest-bearing; and

(c) she would recoup her principal and interest from funds due to arrive for Ritz Brazil in the coming months.

The 1 June 2018 Representations

29 The claimant alleges that the defendant made the second set of representations ("the 1 June 2018 Representations") at a meeting on or about 1 June 2018 at Ritz Asia's office in Singapore. She alleges, further, that the

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31 SOC at paras 14–15; Defence at para 15.2.

32 SOC at para 14.

33 SOC at para 14(1); CAEIC at para 69.

meeting was attended by the claimant, the defendant and Mr Yao Shih Lien ("Mr Yao"), the coordinator of Ritz Asia. [34]

30 The claimant alleges that the substance of the 1 June 2018 Representations was:[35]

(a) that Ritz Brazil was awaiting funds from funders;

(b) that the shortage of funds and the payout delays were temporary and would be resolved in the coming months;

(c) that Ritz Brazil would use the funds due to arrive to repay the claimant's loans first; and

(d) that the claimant would be repaid with interest.

The 4 June 2018 Oral Representations

31 The claimant alleges that the defendant made the third set of representations ("the 4 June 2018 Oral Representations") at a briefing for affiliate heads held on 4 June 2018 ("the 4 June 2018 Briefing"). It is common ground that Mr Yao conducted the 4 June 2018 Briefing. [36]

32 The claimant alleges that the substance of the 4 June 2018 Oral Representations was:[37]

(a) that Ritz Brazil's shortage of funds and its payout delays were temporary and would be resolved when funds arrived; and

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[34] SOC at para 14(2); CAEIC at paras 73, 75.

[35] SOC at para 14(2); CAEIC at para 75.

[36] SOC at para 14(3); CAEIC at paras 76–78.

[37] SOC at para 14(3); CAEIC at paras 76–78.

(b) that Ritz Brazil would repay first those agents who had lent money to Ritz Brazil.

The 4 June 2018 Written Representations

33 The claimant alleges that the defendant made the fourth set of representations ("the 4 June 2018 Written Representations") in a PowerPoint deck ("the 4 June 2018 Deck") that Mr Yao presented at the 4 June 2018 Briefing. [38]

34 The claimant alleges that the substance of the 4 June 2018 Written Representations was:[39]

(a) that agents could sign loan agreements with Ritz Brazil, to be repaid within 12 months with interest;

(b) that the loan amount must not exceed the payouts due to the agent's clients; and

(c) that 100% of the loan amount would be used for those payouts.

The loans and the present claim

35 The claimant pleads that, induced by the Representations, she advanced 31 interest-bearing loans to Ritz Brazil between 12 June 2018 and 12 November 2019, totalling $1,613,820 ("Loan Amount").[40] She transferred the money to Bayswater, to Truevine, or to Truevine Taiwan, which in turn made payouts to

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38 SOC at para 14(4); CAEIC at paras 79–80; 4 June 2018 Deck at 2CB-2178 to 2CB-2183.

39 SOC at para 14(4); CAEIC at paras 79–80; 4 June 2018 Deck at 2CB-2178 to 2CB-2183.

40 SOC at para 16 and the Annex thereto; CAEIC at paras 86, 91.

investors. The claimant has written loan agreements with Ritz Brazil for 23 out of the 31 loans (totalling $1,106,720). The claimant's case is that the remaining eight loans are evidenced by loan request forms, payout request forms and bank records.[41] The claimant's case is that these eight loans total $489,100. But I note in passing that, as a matter of arithmetic, the Loan Amount less $1,106,720 is $507,100. In light of my findings on liability, nothing turns on this discrepancy.

36 The substantive relief the claimant now seeks against the defendant is damages in the sum of the Loan Amount, as compensation for the defendant's fraudulent or negligent misrepresentation.[42]

37 To prove her case at trial, the claimant gave evidence on her own behalf and called Mr Goh, the Managing Director of Ritz Asia. The claimant also caused subpoenas to be issued for two further witnesses, Mr Arun Ramachandran (a former Managing Director of Ritz Asia) and Mr Farooq Ahmad Mann (the liquidator of Ritz Asia). In the event, she called neither witness at trial.[43]

38 In support of her defence, the defendant gave evidence in her own defence and called Mr Yao and Ms Teo.

The issues

39 The claimant's two causes of action against the defendant both rest on misrepresentation. They therefore share several common elements. Further, as

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41 CAEIC at paras 90–91; CCS at paras 80–81.

42 SOC at prayer (2); CCS at para 96.

43 Transcript, 15 April 2025, p 3; Second Defendant's Closing Submissions dated 12 June 2025 ("D2CS") at paras 110–121; Claimant's Reply Submissions dated 18 July 2025 ("CRS"), section IV.

I have concluded that the claimant's claim must be dismissed, it is not necessary for me to deal with issues of quantum.

40 Reduced to their essentials, the issues that arise for decision are these:

(a) whether the defendant made the Representations to the claimant and, in particular, whether the statements that Mr Yao made at the 4 June 2018 Briefing are to be attributed to the defendant (see [52]–[84] below);

(b) whether the Representations are actionable, or whether they are non-actionable statements as to the future, being matters outside the defendant's control (see [86]–[96] below);

(c) if the Representations were made and are actionable, whether they were false and, for the purposes of the fraud claim, whether the defendant made them knowing them to be false, without belief in their truth, or recklessly (see [97]–[113] below);

(d) whether the claimant was induced by, and relied upon, the Representations in advancing the loans (see [114]–[129] below); and

(e) for the negligent misrepresentation claim, whether the defendant owed the claimant a duty of care and, if so, whether she breached it, and whether a statement as to future intention is actionable in negligence at all (see [130]–[150] below).

41 I address the issues in turn.

Fraudulent misrepresentation

The applicable law

42 The tort of fraudulent misrepresentation is also known as the tort of deceit. Its elements are well settled. The claimant must establish that: (a) the defendant made a representation of fact by words or conduct; (b) the defendant made the representation intending that the claimant, or a class of persons including the claimant, should act on it; (c) the claimant acted on the representation; (d) the claimant suffered damage by doing so; and (e) the defendant made the representation knowing it to be false, or without any genuine belief in its truth: *Panatron Pte Ltd v Lee Cheow Lee* [2001] 2 SLR(R) 435 at [14]; *Chan Pik Sun v Wan Hoe Keet (alias Wen Haojie) and others and another appeal* [2024] 1 SLR 893 ("*Chan Pik Sun*") at [66].

43 On the parties' pleadings, elements (a), (c) and (e) are in dispute in this action. The defendant denies that she made any of the Representations. She denies that the Representations, even if made, are actionable statements of fact. She denies that the claimant relied on the Representations in deciding to lend the Loan Amount to Ritz Brazil. And she denies that she lacked an honest belief in the truth of the Representations.

44 Before I take the contested elements in turn, I set out the evidential principles relevant to the claimant's claim, bearing in mind that it is based on fraud and that the events in question took place some seven years before the witnesses gave evidence at trial.

Evidential principles

Standard of proof

45 The claimant's primary claim is in fraudulent misrepresentation. It is trite that the claimant bears the burden of proving every element of her cause of action on the balance of probabilities. But the principles that govern a finding of fraudulent intent in a civil claim deserve some exposition. I therefore set out those principles before applying them in my analysis.

46 It is well settled that the standard of proof in civil litigation, even for an allegation of fraud, is the usual civil standard, *ie*, the balance of probabilities. An allegation of fraud is not subject to a third standard of proof that lies somewhere between the civil standard of proof on the balance of probabilities and the criminal standard of proof beyond reasonable doubt. That is so even where the fraud alleged would, if prosecuted, be a criminal offence: *Tang Yoke Kheng (trading as Niklex Supply Co) v Lek Benedict* [2005] 3 SLR(R) 263 ("*Tang Yoke Kheng*") at [13]–[14]. The position is the same in England: *In re B (Children) (Care Proceedings: Standard of Proof)* [2009] 1 AC 11 at [13]. In that case, Lord Hoffmann said that the time had come to say, once and for all, that there is only one civil standard of proof, namely that the occurrence of the fact in issue was more probable than not.

47 It is equally well settled that the more serious an allegation, the more cogent the evidence the court will require before it is satisfied that the allegation is proven: *Tang Yoke Kheng* at [14]; *Chan Pik Sun* at [112]. The heightened cogency required to prove fraud does not mean that the standard of proof is some standard higher than the balance of probabilities. It simply reflects that some events are inherently less likely than others. The classic statement is that of Lord Nicholls of Birkenhead in *In re H (Minors) (Sexual Abuse: Standard of*

Proof) [1996] AC 563 at 586. A court is satisfied that an event occurred if, on the evidence, its occurrence is more likely than not. But in assessing the probability that the event occurred, the court bears in mind as a factor, where relevant, that the more serious the allegation, the less likely it is that the allegation is true. Thus, the evidence must be that much stronger before the court concludes that the allegation is proved.

48 An allegation of fraud is an allegation of conscious dishonesty. It is a serious allegation, and one carrying serious consequences for the person against whom it is made. The court will therefore require cogent evidence before finding it proved and will not lightly infer it. But where the surrounding circumstantial evidence is sufficiently compelling, a court will not hesitate to draw an inference of fraud. As the Appellate Division put it in *Chan Pik Sun* at [112], the inquiry into a representor's state of mind is usually one where direct evidence is absent. That is all the more so where a claimant alleges fraud. A fraudster will rarely admit his deceit. That is why the courts are prepared to infer fraud where the surrounding circumstantial evidence is compelling and convincing.

The approach to the evidence

49 Many of the issues in this action turn on the reliability of the witnesses' recollection. The difficulty is exacerbated by the fact that the events in question took place some seven years before trial. Where the events in question occurred years ago and there is undisputed objective evidence against which the oral evidence of the witnesses can be tested, the court should be slow to rest factual findings primarily on impressions of credibility: *Ng Chee Chuan v Ng Ai Tee (administratrix of the estate of Yap Yoon Moi, deceased)* [2009] 2 SLR(R) 918

at [16]–[17]; *ARS v ART* [2015] SGHC 78 at [2] and [82]–[83]; *Bluestone Corp Pte Ltd v Phang Cher Choon* [2020] SGHC 268 at [112].

50 I have accordingly where necessary tested the oral evidence of the witnesses against the contemporaneous documentary record. Where the two sources conflict on a matter in dispute I have generally preferred the documents.

51 I now turn to the issues.

Issue 1: Whether the defendant made the Representations

52 The first and most basic question is whether the defendant made the Representations at all. The burden of proving that she did rests on the claimant. For the reasons that follow, I am not satisfied that the claimant has discharged that burden in respect of any of the four sets of Representations.

The May 2018 Representations

53 The claimant's case is that the defendant made the May 2018 Representations during telephone calls and in-person meetings with the claimant "in or around May 2018".[44] The difficulty with this part of the claimant's claim is the lack of particularity and the lack of contemporaneous support.

54 The claimant cannot identify the date of any specific call or meeting at which the defendant made the representations. She produced her mobile telephone call logs for May 2018.[45] They record only one completed call with the defendant in that month. That was a call of about two minutes and 18

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44 SOC at para 14(1); CAEIC at para 69.

45 CAEIC at para 69; 1CB-120 to 1CB-122; 1(A)CB-1041.

seconds on 30 May 2018. The claimant herself accepts that a call that short could not have been the occasion on which the defendant induced her to lend sums eventually totalling over $1.6m to Ritz Brazil.[46]

55 The claimant's answer is that the defendant made the representations not during a mobile telephone call but during WhatsApp voice calls or at in-person meetings. But the claimant is unable to produce her WhatsApp call logs for May 2018. She says this is because she changed her mobile telephone and can no longer retrieve the records.[47] That explanation may well be true. But it does not, and cannot, supply the missing evidence.

56 The contemporaneous WhatsApp messages between the claimant and the defendant in May 2018 are, if anything, against the claimant. The messages exchanged that month concern specific investors and the delayed payouts in Taiwan. They do not mention any proposal that the claimant lend money to Ritz Brazil.[48] The first message in that correspondence to mention a loan to Ritz Brazil is dated 7 August 2018. In it, it is the *claimant* who tells the *defendant* that she has been bridging Ritz Brazil's payouts to investors for three to four months.[49]

57 The claimant submits that conversations between two people are not confined to the topics that happen to appear in their written messages. She submits further that the absence of her WhatsApp logs does not prove that a conversation did not occur.[50] That is correct, but only as far as it goes. The

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46 Transcript, 15 April 2025, p 130; D2CS at para 61.

47 Transcript, 15 April 2025, pp 127–128; CCS at para 9.

48 1CB-27; D2AEIC at paras 69–76.

49 1CB-56.

50 CRS at section II.A.

claimant bears the burden of proof in this action. Her case on the May 2018 Representations rests on her unparticularised assertion alone. The defendant denies that assertion. The claimant's assertion is unsupported by any contemporaneous record warranting an inference that the defendant made the May 2018 Representations. It is also unsupported by any witness. In contrast, the defendant's denial is not contradicted by the contemporaneous documentary evidence.

58 I find therefore that the claimant has not proved on the balance of probabilities that the defendant made the May 2018 Representations.

The 1 June 2018 Representations

59 Unlike her account of the May 2018 Representations, the claimant's account of the 1 June 2018 meeting is particularised and clear. She recalls a meeting on 1 June 2018 at which Mr Yao stood at a whiteboard writing down a procedure, she recalls that the defendant sat beside her, and she recalls the defendant made the 1 June 2018 Representations after a discussion about payout delays.[51]

60 The claimant's account is problematic in two respects. First, it surfaced for the first time at trial. The detailed recollection of Mr Yao at the whiteboard and of the seating arrangement does not appear in the claimant's affidavit of evidence-in-chief.[52] I treat with care a vivid recollection of peripheral detail produced for the first time under cross-examination, especially when it arises at a significant temporal remove from the events in question. Second, although Mr Yao was present at the meeting, he did not support the claimant's account. His

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51 CAEIC at para 75; Transcript, 15 April 2025, pp 119–120.

52 CAEIC at para 75; Transcript, 15 April 2025, pp 118.

evidence accepts that a meeting took place on 1 June 2018, but says that it concerned the claimant's business in Taiwan and a project referred to as MV-Tokyo. He disagreed with the suggestion that the defendant told the claimant at this meeting that Ritz Brazil's incoming funds would be used to repay her loans first.[53]

61 Mr Yao's evidence on the suggested priority of repayment bears setting out. He said:[54]

> She has no privileges. Everybody goes through a loan agreement, and the loan agreement is signed off by [Mr Lessa]. So unless [Mr Lessa] give the green light, [the defendant] has no authority to put [the claimant's] payment ahead of everybody else. I would have been very upset too, because I also loaned. So why would [the claimant] have been paid first, before me?

62 I must record that the defendant's own evidence on this meeting was not satisfactory. She said she could not recall a meeting on 1 June 2018 and that she did not believe that she would have met the claimant then as she was due to travel to Kuala Lumpur that day. But her airline itinerary shows that her flight did not depart until later in the evening of 1 June 2018.[55] I deal with the unsatisfactory features of the defendant's evidence below (see [167] below). For present purposes my point is a different one. The burden does not lie on the defendant to disprove her presence at the meeting, or to prove that she did not make the 1 June 2018 Representations. It is the claimant who must prove both that a meeting took place on that day and that the defendant made the 1 June 2018 Representations at it. The support that the claimant sought for her account from Mr Yao, the one independent witness present, was not forthcoming.

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53 Mr Yao's AEIC at paras 12–13; Transcript, 23 April 2025, pp 18–22.

54 Transcript, 23 April 2025, p 23.

55 D2AEIC at para 78; 2CBOD-2069; Transcript, 22 April 2025, pp 65–67.

63 I find that the claimant has not proved on the balance of probabilities that the defendant made the 1 June 2018 Representations.

The 4 June 2018 Oral and Written Representations

64 The 4 June 2018 Oral and Written Representations stand on a slightly different footing from the first two sets of alleged representations. It is not in dispute that the 4 June 2018 Briefing took place,[56] that the defendant was among the attendees,[57] and that it was Mr Yao, not the defendant, who conducted the briefing.[58]

65 At the 4 June 2018 Briefing, Mr Yao used the 4 June 2018 Deck to support his presentation. The claimant treats it as common ground that Mr Yao also prepared the 4 June 2018 Deck. The position is in truth a little more nuanced. Mr Yao's evidence, which I accept, is that he prepared the deck after discussing and finalising its content with Mr Lessa of Ritz Brazil.[59] But nothing turns on the precise degree of Mr Yao's authorship as against Ritz Brazil. That is because, on any view, the defendant was not the author of the 4 June 2018 Deck and she was not the source of the material contained in it.

(1) The 4 June 2018 Written Representations

66 There is no real dispute that the substance of the 4 June 2018 Written Representations was in fact communicated at the 4 June 2018 Briefing. The 4 June 2018 Deck is in evidence. It contains, on its face, the propositions that

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56 Defence at para 14.2(j)(i).

57 CAEIC at para 77; D2AEIC at para 79.

58 CAEIC at paras 77–78; Mr Yao's AEIC at para 20; D2AEIC at paras 79–81; Transcript, 23 April 2025, p 26.

59 Mr Yao's AEIC at para 21; Transcript, 23 April 2025, pp 26–30.

make up the 4 June 2018 Written Representations, *ie*, that agents could sign loan agreements with Ritz Brazil for repayment within 12 months with interest, that the loan amount must not exceed the payouts due to the agent's clients and that 100% of the loan amount would be used for those payouts.[60] Mr Yao used that deck for his presentation at the briefing. To that extent, the 4 June 2018 Written Representations were made, and were made at the meeting.

67 The claimant's difficulty is not whether Mr Yao made the 4 June 2018 Written Representations at the 4 June 2018 Briefing. Her difficulty is whether, even if they were made, they can in law be attributed to the defendant. For the reasons I will come to, I find that they are not attributable to the defendant.

(2) The 4 June 2018 Oral Representations

68 The position is different for the 4 June 2018 Oral Representations. I therefore deal with them separately before turning to attribution.

69 Unlike the written representations, the two alleged oral representations are not recorded in the 4 June 2018 Deck or in any other contemporaneous document. The two representations are that Ritz Brazil's shortage of funds and the payout delays were temporary and would be resolved when funds arrived, and that Ritz Brazil would repay first those agents who had lent money to Ritz Brazil.

70 The claimant's case that these things were said depends on her own oral account of the briefing. That account faces two difficulties.

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60 4 June 2018 Deck at 2CB-2178 to 2CB-2183; Mr Yao's AEIC at paras 22–23.

71 First, the evidence of Mr Yao, who conducted the briefing, and of the defendant is that the briefing gave the affiliate heads updates on the Natal Properties and, towards its end, explained the procedure by which an agent could lend to Ritz Brazil if the agent wished. It was not the occasion for any representation that lending agents would be repaid ahead of others. Mr Yao expressly denied saying that agents who had lent money would be repaid first. That denial is consistent with his evidence on the 1 June 2018 meeting, and with my finding that no representation of a priority of repayment was made at that meeting. As he explained, no agent had any such priority.[61]

72 Second, the claimant's own attendance at the briefing is disputed,[62] and the contemporaneous records suggest that, if she attended at all, she did so only for the latter part.[63] A representee who arrived late, and whose presence is itself in question, is in a weak position to prove that a particular oral representation was made in her hearing. Taking the evidence as a whole, I am not satisfied that the 4 June 2018 Oral Representations were made in the terms the claimant alleges.

(3) Attribution

73 In any event, the claimant's case on both the 4 June 2018 Written Representations and the 4 June 2018 Oral Representations founders on the fundamental issue of attribution.

74 The claimant's case on attribution is that, because the defendant was the Chief Executive Officer of Shenton and because Mr Yao acted as a trainer for

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61 Mr Yao's AEIC at para 26(b); Transcript, 23 April 2025, p 29.

62 CCS at para 76.

63 1CB-52.

Shenton, the defendant must have known of and must have authorised the content of his presentation and must have intended that he communicate it to the affiliate heads, including the claimant, at the 4 June 2018 Briefing.[64]

75 The defendant denies this. Her case is that Mr Yao prepared and presented the 4 June 2018 Deck for Ritz Brazil, not for Shenton, and that she neither prepared nor authorised its contents.[65]

76 The claimant's chain of inference does not hold. Mr Yao's evidence is that he played two distinct roles: he was the coordinator for Ritz Asia, and he was a trainer for Shenton. He described the distinction in these terms:[66]

> When it come to coordinating meetings, that's – I'm wearing the Shenton trainer's hat. When it come to reveal – disseminating information coming out from Ritz, I'm wearing the Ritz coordinator's hat.

77 Mr Yao's evidence, further, is that when he disseminated information at the 4 June Briefing, he did so in his role as the coordinator of Ritz Asia. He expressly disagreed with the suggestion that he disseminated the information on behalf of Shenton or of the defendant.[67] I accept Mr Yao's evidence. The information he disseminated originated from the Ritz entities. The content of the 4 June 2018 Deck came from Ritz Brazil. The deck dealt with the loan procedure that Ritz Brazil and Ritz Asia were putting in place. In disseminating this information at the briefing, I therefore accept that Mr Yao was acting in his capacity as Ritz Asia's coordinator and only in that capacity.

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64 CCS at paras 24–28; CAEIC at paras 76–80.

65 Defence at paras 14.2(j)(v)–(vii); D2AEIC at paras 77–82.

66 Transcript, 23 April 2025, p 44; Mr Yao's AEIC at para 4.

67 Transcript, 23 April 2025, pp 28–29; Mr Yao's AEIC at paras 27–28.

78 The claimant's argument fails because it proceeds to two conclusions by two fatal elisions. The argument is that: (a) because Mr Yao had no authority to act for Ritz Brazil, he must have been acting for Shenton; and (b) because he was acting for Shenton, he was acting for the defendant. Neither conclusion follows from its predicate. Both conclusions are *non sequiturs*.

79 The first conclusion does not follow its predicate because a person may convey information originating from a principal without being that principal's authorised agent, and without thereby becoming the agent of anyone else. The premise that Mr Yao lacked authority to bind Ritz Brazil does not entail that he was acting for Shenton. On the evidence, Mr Yao was a conduit, conveying information from Ritz Brazil to the affiliate heads. That he could not bind Ritz Brazil says nothing about whose agent, if anyone's, he was.

80 The second conclusion also does not follow, and for a more fundamental reason. Even if Mr Yao had been acting as a trainer for Shenton, that would at most attribute his representations to *Shenton*, the company. It would not attribute them to the defendant personally. Shenton is a company with a legal personality separate from that of the defendant. She was its Chief Executive Officer. The acts of a company are not, without more, the personal acts of its officers. To fix the defendant personally with representations made by or on behalf of Shenton, the claimant would need to establish either that the defendant personally did or authorised the relevant acts or that Shenton's separate legal personality ought to be disregarded. The claimant has pleaded no case that the corporate veil should be lifted and advances no basis on which it could be. The high water mark of the claimant's argument, therefore, is to attribute those of the 4 June representations that were made to Shenton and not to the defendant.

81 For these reasons, I am not satisfied that Mr Yao made the 4 June statements as the agent or representative of the defendant, or that the defendant made them through him. The 4 June 2018 Oral Representations and the 4 June 2018 Written Representations are not attributable to her.

(4) The claimant may not have attended the 4 June 2018 Briefing

82 There is, in addition, a live dispute as to whether the claimant attended the 4 June 2018 Briefing at all. The contemporaneous records suggest she may have joined late, or not at all, and that a make-up briefing was arranged on 7 June 2018 for affiliate heads who had missed it.[68]

83 As the defendant's counsel accepted, the contention that the claimant did not attend was not pleaded.[69] I need not resolve the dispute of fact. Even assuming in the claimant's favour that the claimant attended and heard Mr Yao's statements, those statements are not attributable to the defendant, for the reasons I have given.

Conclusion

84 It follows that the claimant has failed to satisfy me on the balance of probabilities that the defendant made the any of the first three sets of Representations or that the 4 June 2018 Oral and Written Representations are attributable to her. That conclusion alone suffices to dispose of the claimant's fraudulent misrepresentation claim. Indeed, that conclusion suffices also to dispose of the claimant's negligent misrepresentation claim.

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68 1CB-52, 292–293; WhatsApp messages in the "AH & Mgmt Issues" group, 1(A)CB-1152 to 1(A)CB-1156; Transcript, 15 April 2025, pp 96–100.

69 Transcript, 15 April 2025, p 102.

85 In deference to the parties' detailed submissions, however, I go on to consider the remaining elements of the claimant's claim in fraudulent misrepresentation. I do so on the assumption (contrary to my finding) that the Representations were made by, or are attributable to, the defendant.

Issue 2: Whether the Representations are actionable

86 As I have noted (see [26] above), the claimant pleads, and the defendant accepts, that the essence of the Representations is that the claimant's loans to Ritz Brazil would be repaid with interest within a year.[70]

87 The essence of the claimant's claim in fraudulent misrepresentation is therefore a statement about the future. The defendant contends that, thus reduced to its essence, the Representations are not actionable. They are either promises or predictions about the conduct of Ritz Brazil, a matter outside her control: *Tan Chin Seng v Raffles Town Club Pte Ltd* [2003] 3 SLR(R) 307 ("*Tan Chin Seng*") at [12] and [21]; *Uday Mehra v L Capital Asia Advisors and others* [2022] 5 SLR 113 ("*Uday Mehra*") at [125] and [128]; *Tonny Permana v One Tree Capital Management Pte Ltd* [2021] 5 SLR 477 at [183].[71]

88 The starting point is not in doubt. A representation actionable in deceit must ordinarily be a statement of existing or past fact. A pure statement about the future is not, in itself, actionable in deceit. That is because, at the time it is made, it is neither true nor false. Its truth depends on what later happens, and on matters that may lie outside the maker's control: *Tan Chin Seng* at [12] and [21]; *Deutsche Bank AG v Chang Tse Wen* [2013] 1 SLR 1310 at [93]; *Uday Mehra* at [125] and [128].

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70 SOC at paras 14–15; Defence at para 15.2.

71 D2CS at paras 50–54.

89 A statement about the future may take one of two forms. It is convenient to distinguish the two forms because the parties' submissions turn on the distinction. The statement may be a promise, by which the maker undertakes to bring about a future state of affairs. Or it may be a prediction or expression of opinion, by which the maker forecasts that a future state of affairs will come about. Neither, in its pure form, is actionable in deceit. A broken promise gives rise, at most, to a claim in contract. A falsified prediction gives rise, by itself, to no claim at all: *Uday Mehra* at [125].

90 There is, however, a well-known qualification. Although a pure statement about the future is not actionable in deceit, such a statement may carry with it an implied representation of present fact, namely a representation about the maker's present state of mind. The classic source is the *dictum* of Bowen LJ in *Edgington v Fitzmaurice* (1885) 29 Ch D 459 at 483, *ie*, that the state of a man's mind is as much a fact as the state of his digestion.

91 A statement that a state of affairs will come about in the future is either a promise or a prediction. It is a promise where the state of affairs is within the maker's control. It is a prediction where it is not. That is the distinction drawn in *Uday Mehra* at [125]. Neither a broken promise nor a failed prediction is, in itself, an actionable misrepresentation. But each may carry an implied representation of present fact, and it is that implied representation, if false, which is actionable: *Uday Mehra* at [128].

92 The distinction matters here, because it determines what the defendant can be taken to have represented. Repayment by Ritz Brazil was not within the defendant's control. She was not the borrower. As against her, therefore, a statement that Ritz Brazil would repay was a prediction, not a promise. The implied representation that a prediction carries is that the maker honestly holds

the belief she expresses. The defendant could be liable, if at all, only if she did not honestly believe Ritz Brazil would repay within a year.

93 I should explain why the promise route is not open to the claimant against the defendant, despite the essence of the Representations being, on the claimant's own case, that the loans would be repaid. A promise to repay was made in this case. But it was made only by Ritz Brazil, and only in the loan agreements. The claim on that promise lies in contract against Ritz Brazil. That claim is not before me. Depending on the nuances of human communication and the context in which that communication takes place, a promise is capable of carrying the implied representation that the promisor presently intends to perform the promise: *UniCredit Bank AG v Glencore Singapore Pte Ltd* [2023] 2 SLR 587. If that implied representation is false, it is actionable in deceit against the promisor: *Uday Mehra* at [128]. But the defendant was not the promisor of repayment. She was in no position to undertake, on her own account, that Ritz Brazil would repay anyone. The claimant did not plead, and could not establish on the evidence, that the defendant promised to procure Ritz Brazil's repayment. And a promise to answer for the debt or default of another must in any event be evidenced in writing and signed to be enforceable: s 6(*b*) of the Civil Law Act 1909 (2020 Rev Ed). That is not the claimant’s case. And there is no such writing.

94 It follows that the only route by which the Representations could be actionable against the defendant is the prediction route. And the only implied representation in issue is that the defendant honestly believed Ritz Brazil would repay the loans within a year.

95 The claimant is right that the Representations are capable of being actionable. I reject the defendant's submission that they are not. But that

conclusion carries a sting in the tail for the claimant. A prediction honestly made is not actionable. To prove that the prediction is actionable, the claimant must prove that the defendant did not honestly believe that the prediction would come true. That is the same question as whether the defendant was dishonest.

96 The actionability of the Representations and their falsity therefore turn on the single question of the defendant's state of mind. I now turn to that issue.

Issue 3: Falsity and the defendant's state of mind

97 For the reasons I have given, the actionability of the Representations and the falsity of the Representations have reduced to a single question. Did the defendant honestly believe that Ritz Brazil would repay the loans within a year? I take up that question here, in the form that the tort of deceit requires. Deceit requires the claimant to prove not merely that the implied representation of honest belief was false, but that the defendant made it knowing it to be false, without belief in its truth, or recklessly, not caring whether it was true or false: *Panatron* at [14]; *Chan Pik Sun* at [66]–[69]. That is quite different from the claimant's claim in negligent misrepresentation. That claim asks a very different question: did the defendant take reasonable care in forming and stating that belief?

98 A person indifferent to the truth cannot have an honest belief in it, and a belief destitute of all reasonable foundation may itself support the inference that it was not genuinely held: *Chan Pik Sun* at [69] and [71]; and see *Derry v Peek* (1889) 14 App Cas 337 at 374–375. The question is whether, judged against the grounds available to a reasonable person with the defendant's knowledge and attributes, the alleged belief was honestly held: *Chan Pik Sun* at [72].

99 Before I turn to the evidence, I emphasise the distinction between dishonesty and carelessness. That distinction is central to this part of the case. A finding that a defendant was careless, that she ought to have made further inquiries, or that her belief was unreasonable on the material available to her, does not establish fraud. It will, if coupled with a duty of care, establish liability in the tort of negligent misstatement. But negligence and fraud are different in kind, not merely degree. The concept of recklessness in the law of deceit does not mean carelessness, however gross the carelessness may be. Recklessness here means an indifference to the truth or a wilful disregard of the importance of the truth: *Wee Chiaw Sek Anna v Ng Li-Ann Genevieve and another (Stanley Tan Poh Leng, third party)* [2013] 3 SLR 801 ("*Wee Chiaw Sek Anna*") at [32]–[34].

100 I keep the distinction between any form of negligence and recklessness in the tort deceit at the forefront of my analysis for three reasons.

101 First, where a representation has turned out to be inaccurate and events have unfolded badly for a representee, there is a standing temptation for hindsight to blur the line between carelessness and fraud. That blurring is wrong in principle and must be resisted.

102 Second, a finding of fraud is a finding of conscious dishonesty against a defendant. That finding carries consequences for a defendant that extend well beyond the litigation in which the finding is made and that may extend into criminal liability. That is why highly cogent evidence is required for a finding of fraud. That is also why a court will not infer fraud where the evidence is equally consistent with honest mistake: *Chan Pik Sun* at [112], and the discussion of the standard of proof at [46]–[48] above.

103 Third, even in the action in which the finding is made, the consequences of a finding of fraud are more severe than the consequences of a finding of negligence. The measure of damages in deceit is wider than in negligence (*Smith New Court Securities Ltd v Scrimgeour Vickers (Asset Management) Ltd* [1997] AC 254 at 266–267). A party cannot, as a matter of public policy, exclude liability for *its own* fraud at all, however clearly the exclusion is drafted. And, short of that, a clause will not be read as excluding liability for the fraud of a third party unless it does so in clear and unmistakable words (*HIH Casualty and General Insurance Ltd v Chase Manhattan Bank* [2003] 2 Lloyd's Rep 61 at [16]). The limitation period for an action based on fraud does not begin to run until the claimant has discovered the fraud or could with reasonable diligence have discovered the fraud: s 29(1) of the Limitation Act 1959 (2020 Rev Ed). None of these consequences arises on the facts of this case. But the conceptual point is valid: these are all reasons why the distinction between fraud and negligence must be observed without relaxation, even in a hard case.

104 I now turn to the evidence. The claimant's case on this issue is a powerful one at first glance. She points to: (a) the cascade of delay letters from October 2017 onwards; (b) the defendant's admitted knowledge of those delays; (c) the seriousness of Ritz Brazil's difficulties, including the prolonged absence of Mr Fernandes and extensions of up to 12 months across many projects; and (d) the absence of any evidence that Ritz Brazil gave the defendant concrete grounds to believe the loans would be repaid within a year. From these matters she invites me to infer that the defendant cannot honestly have believed what she is said to have represented.[72]

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72 CCS at paras 38–65; CRS at section II.B.

105 There is real force in these points. But they are met and overcome by a body of evidence pointing the other way.

106 First, the defendant gave evidence of an honest, if optimistic, belief that Ritz Brazil could recover. The asset underlying the Brazil UDIs was land, which she believed would hold its value, so that Ritz Brazil would be able to repay investors given time.[73] That belief was shared by other affiliate heads who themselves lent to Ritz Brazil, including Ms Teo and Mr Yao. The claimant did not effectively challenge their evidence on this point.[74]

107 Second, and most significantly, the defendant and members of her own family themselves advanced loans to Ritz Brazil over the same period, *ie*, between about June 2018 and March 2019, totalling over $220,000.[75] The defendant produced a signed loan agreement for one of these, in the principal sum of $114,800, dated 5 June 2018, the day after the 4 June 2018 Briefing.[76] These sums are, admittedly, a fraction of what the claimant lent to Ritz Brazil. But even making a single relatively small loan is, in itself, powerful evidence of the defendant's contemporaneous state of mind. A person who has no honest belief that a borrower will repay her does not, in close proximity to an alleged misrepresentation of her state of mind, lend that borrower over $100,000 of her own money. The defendant's conduct is difficult to reconcile with the dishonest state of mind that the claimant must establish.

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73 D2AEIC at paras 108–128; Transcript, 22 April 2025, pp 30–39.

74 Ms Teo's AEIC at paras 9, 12, 23, 25; Mr Yao's AEIC at para 42; Transcript, 23 April 2025, p 31.

75 D2AEIC at paras 128–131; 2CB-2185–2190, 2CB-2344–2346; 3CB-2449–2451, 3CB-2578–2582, 3CB-2786–2788, 3CB-2852–2585.

76 2CB-2185 to 2CB-2190.

108 Third, Ritz Brazil itself continued to provide assurances that funding was expected and that investors would be repaid, both through its delay letters and through a briefing that Mr Lessa gave to affiliate heads on or around 18 June 2018.[77] Whatever the objective reliability of these assurances, they are at the very least a basis on which the defendant could honestly have held the belief she asserts.

109 The claimant also relies on the defendant's influence over Ritz Brazil and Ritz Asia. Her case is that the defendant was "instrumental" in getting her to lend, and had the power and authority, through her various proxies, to procure Ritz Brazil to prepare and sign the loan agreements. She points to the occasions on which she asked the defendant to chase Ritz Brazil for the signed agreements, and on which the defendant interceded on her behalf.[78]

110 The defendant's answer is that her role was purely facilitative. She accepts that she could, and did, use her position as an officer of the master marketing agent to press Ritz Brazil and Ritz Asia to act. But she says that the relevant decisions were always theirs, not hers. She makes the point that the very messages on which the claimant relies show her asking Mr Goh to release payments. That, she says, is the conduct of a person seeking a result from another, not the conduct of a person who can command the result. I accept that account. It is consistent with the claimant's own documents, and it is consistent with my finding on attribution. The defendant had an open channel of communication and the standing to make requests. practical influence. And from time to time, she used that channel of communication and exercised that

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77 Letters at 2CB-2019 to 2CB-2059; Mr Lessa's briefing materials, 2CB-2219 to 2CB-2227; D2AEIC at paras 112–125.

78 CAEIC at para 94.

standing. But she did not control Ritz Brazil or Ritz Singapore. And Mr Goh and Mr Yao were not her agents.[79]

111 So understood, this strand of the evidence does not assist the claimant on dishonesty. The difficulty is one of chronology and of direction. The chasing on which the claimant relies took place after she had extended her loans. It was directed at regularising the documentation of loans that she had already advanced. A representor who had dishonestly induced the claimant to lend, intending or being dishonestly indifferent to her loss, would have had no reason to spend months interceding with Ritz Brazil and Mr Goh to obtain the paperwork that it owed to a lender. The defendant's willingness to do so is more consistent with a genuine belief that the loans were sound and would be honoured than with the dishonest state of mind the claimant must prove. So far as it goes, this evidence tells against the allegation of fraud, not in favour of it.

112 The claimant fairly observes that some of the defendant's explanations for her belief emerged only at trial and were not foreshadowed in her affidavit of evidence-in-chief.[80] I accept that this detracts somewhat from the weight of her evidence. But I do not accept the claimant's submission that this establishes that the defendant's explanations are recent inventions. The requirement to prove a dishonest state of mind is exacting. To find for the claimant I would have to be satisfied, on cogent evidence, not merely that the defendant's optimism was misplaced or even unreasonable, but that it was so unreasonable that it warrants the inference that she did not honestly hold it. Her own decision to lend, and that of her family, stands squarely in the way of that conclusion. At its highest, the claimant's case shows that the defendant may have been careless

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79 D2AEIC at paras 99 and 138–141.

80 CCS at para 61; CRS at section II.B.

or overly optimistic about Ritz Brazil's prospects. For the reasons I have given, that is not enough.

113 I am not satisfied that the claimant has proved the dishonest state of mind that the tort of deceit requires. Had it been necessary to decide the point, I would have held that the fraud claim fails on this element also.

Issue 4: Inducement and reliance

114 Even if the defendant had made the Representations, and even if they were actionable and false in the sense I have just addressed, the claimant's claim would still fail unless she proved that she was induced by, and relied upon, the Representations in advancing the loans to Ritz Brazil. A representation need not be the sole cause of the claimant's conduct. It suffices that it played a real and substantial part in inducing her to act: *Wee Chiaw Sek Anna* at [94]; *Chan Pik Sun* at [143] and [147]; *Ma Hongjin v Sim Eng Tong* [2021] SGHC 84 ("*Ma Hongjin*") at [64].

115 Where a representation is fraudulent and material, a rebuttable presumption of inducement arises. The burden then shifts to the representor to show, on the balance of probabilities, that the representation played no real and substantial part in the representee's decision. As the Appellate Division put it in *POA Recovery Pte Ltd v Yau Kwok Seng* [2022] 1 SLR 1165 at [105], the representor need not show that the representation played no part at all; it is enough to show that it was not a material cause of the decision. The presumption does not arise on the findings I have already made, since I have found that the Representations were not made. The analysis that follows therefore proceeds on the counterfactual assumption that the presumption did arise, and asks whether the defendant has displaced it.

116 I conclude, on the balance of probabilities, that the Representations did not induce the claimant to advance the loans to Ritz Brazil. The contemporaneous record points firmly to the conclusion that she lent for her own reasons. The principal reason was to relieve the pressure she faced from her own investors. My reasons follow.

117 First, and most tellingly, I find that the claimant was already lending to Ritz Brazil before the defendant is alleged to have made any of the Representations. The earliest of the claimant's pleaded loans is dated 12 June 2018. Her pleaded case is that she made no loan to Ritz Brazil before that date.[81]

118 Under cross-examination, however, the claimant accepted on more than one occasion that she had advanced a loan of $154,704 to Ritz Brazil on 25 April 2018.[82] That admission is supported by the contemporaneous documents. There is a record of a loan request form dated 25 April 2018 in that sum. There is a message from the claimant to the defendant on 7 August 2018 saying she had "tried to buy time for 3 to 4 months by paying out first". There is a message of 7 May 2019 in which the claimant herself referred to a loan to Ritz Brazil "since last year April 2018". And Truevine's and Truevine Taiwan's bank records disclose a series of withdrawals between February and May 2018 bearing transaction references such as "TVT Loan".[83] More significantly, the claimant admitted both on affidavit and in cross-examination that she had advanced a loan of $187,700 to Ritz Brazil on 10 May 2018.[84]

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81 SOC at para 16 and the Annex thereto; CAEIC at paras 86, 91.

82 Transcript, 15 April 2025, pp 52, 56–57.

83 WhatsApp message of 27 March 2023 recording the loan request form, 3CB-3041; WhatsApp messages of 7 August 2018 and 7 May 2019, 1CB-56, 1CB-91; Claimant's bank records, 1(A)CB-880 to 1(A)CB-891.

84 Claimant's 4th Affidavit dated 17 October 2024 at para 32; Transcript, 15 April 2025, p 63.

119 The claimant now attempts to resile from these admissions. She says that the "10 May 2018" loan admitted on affidavit was in fact made on 10 May 2019, and that the early bank transfers marked "TVT Loan" were not loans at all.[85] I am unable to accept these explanations. Some of the individual documents are open to an objection as to their admissibility or their precise weight. I leave each of these documents to one side for the purpose of this finding. Even so, the conclusion is unaffected. What remains, even after the contested items are excluded, cannot be reconciled with the claimant's pleaded case. What remains are her own admissions on the stand that there was a loan in April 2018 together with the pattern of withdrawals disclosed by her own bank records. The reasonable inference, which I draw, is that the claimant began advancing money to Ritz Brazil to fund investor payouts before the date on which she alleges the defendant made the first of the Representations.

120 That finding matters in two ways. A loan made before the first of the Representations cannot have been induced by any of the Representations. And the fact that the claimant was already lending money to Ritz Brazil, for her own reasons, before the defendant made any of the Representations casts serious doubt on the claimant's case that the lending that came later was induced by the Representations rather than made for the same reasons.

121 Second, the contemporaneous record shows that the substantial motivation for the claimant's lending was to relieve the pressure she faced from her investors, not reliance on any assurance of repayment by the defendant. The claimant confirmed, on affidavit and at trial, that from early 2018: (a) she faced pressure from many who had invested through Truevine and who were chasing

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85 Claimant's 6th Affidavit dated 10 December 2024 at paras 4–7; Transcript, 15 April 2025, pp 134–141.

Ritz Brazil's delayed payouts; (b) that she used her personal funds to placate the more vocal agents and investors; and (c) that she extended loans to please clients with the payouts.[86] This is consistent with her actions in seeking to prevent Ritz Brazil from sending delay letters to her investors and with her changing her business contact name to discourage investors from messaging her.[87] Her later attempt to distance herself from this evidence is difficult to reconcile with her own earlier statements.

122 Her own words, in a later exchange, confirm the point. When the claimant instructed a debt collection agency in March 2023 to collate her loan documents, she was asked, and accepted, that her claim was based on the WhatsApp correspondence rather than on any agreement with the defendant. The exchange, put to her at trial, was that there was "no agreement with Helen but basing on this WhatsApp correspondence", to which the claimant answered "Yup".[88] That is not the language of a person who had been induced, years earlier, to part with over $1.6m by face-to-face assurances. It is the language of a person searching her records, long after the event, for a basis on which to frame a claim against someone who continues to have the capacity to pay.

123 Third, the claimant continued to lend long after Ritz Brazil had defaulted on the repayment of her earlier loans. By November 2019, 23 of her earlier loans, all advanced between June and October 2018, had fallen due and remained unpaid.[89] Yet, she made a loan to Ritz Brazil on 12 November 2019.

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86 CAEIC at paras 54–58, 71; Transcript, 15 April 2025, pp 44–48.

87 CAEIC at para 59; 1(A)CB-683–684, 723; WhatsApp messages dated 25 June 2018, 2CB-2170; Transcript, 15 April 2025, p 51.

88 WhatsApp exchange with Ms Vivian Tan of Double Ace Associates Pte Ltd dated 3 March 2023, 3CB-3036; Transcript, 15 April 2025, pp 94–98.

89 SOC at the Annex thereto; CAEIC at para 91; D2CS at paras 84–90.

She also made further loans between December 2019 and November 2020. By that time all 31 of her pleaded loans had fallen overdue. These later loans came to light only through the defendant's application for the claimant to produce documents.[90]

124 When this was explored at trial, the claimant accepted that she had never turned her mind to the due dates of her earlier loans.[91] That acceptance is significant. A lender who genuinely advances money in reliance on an assurance that the borrower will repay within a year would be expected to notice whether earlier loans, extended on the same footing, had in fact been repaid when they fell due, and to take that into account before lending again to the same borrower. A lender who never even considers the due dates of her earlier loans, and who keeps lending while defaults continue and mount, is not behaving as a person relying on an assurance of timely repayment. The claimant's indifference to the maturity of her own loans is inconsistent with the reliance she now asserts.

125 I should address the claimant's objection that the defendant's submissions about the loans that precede the Representations and the loans that came after Ritz Brazil's defaults ought not to be entertained because they are not pleaded.[92]

126 The objection is misconceived. These matters go to whether the claimant has proved an element of her own claim, namely inducement. She bears the burden of proving this element. The defendant is entitled to test that element against the claimant's own evidence and documents, whether or not the

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90 HC/ORC 5887/2024; 3CB-2571 to 3CB-2575; D2CS at para 41.

91 Transcript, 15 April 2025, p 35.

92 CRS at section II.C.

underlying facts are separately pleaded as a positive defence. In any event, it was the claimant's own admissions and her own bank records that brought these additional loans to light.

127 The defendant also relies, on this issue, on the claimant's failure to call any witness to corroborate her account despite the claimant's assertion to a third party that such witnesses existed.[93] I must be careful about the use to which that failure is put. The evidence the claimant is said to have had, but did not call, was evidence going to whether the defendant made the Representations. It was not evidence going to why the claimant lent the money to Ritz Brazil. The failure to call these witnesses therefore bears only on the first issue, *ie*, whether the defendant made the Representations. It does not bear directly on inducement. I have taken it into account in that context, and not as a freestanding reason to reject the claimant's case on reliance. My conclusion on inducement rests on the contemporaneous record I have set out, not on the claimant's evidential choices.

128 Standing back, I am satisfied that the claimant advanced the loans to relieve the pressure she faced from her own investors and to protect her business and reputation. I am also satisfied that she would have extended the loans whether or not any of the Representations were made to her.

129 Even on the counterfactual assumption that a presumption of inducement arose (*Chan Pik Sun* at [147]), I find that the presumption is displaced on the facts. The claimant has not proved that the Representations played a real and substantial part in her decision to lend. Her fraudulent misrepresentation claim fails on this ground also.

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93 D2CS at paras 110–121; Transcript, 15 April 2025, pp 110–114.

Negligent misrepresentation

130 The claimant's alternative claim is in negligent misrepresentation. The elements of this claim are that: (a) the defendant made a representation to the claimant; (b) that the representation induced the claimant's actual reliance on it; (c) that the defendant owed the claimant a duty to take reasonable care in making the representation; (d) that the defendant breached that duty; and (e) that the breach caused the claimant to suffer loss: *Spandeck Engineering (S) Pte Ltd v Defence Science & Technology Agency* [2007] 4 SLR(R) 100 ("*Spandeck*") at [73] and [77]; *Ma Hongjin* at [20].

131 The elements of the making of the representation, inducement and reliance are common to both claims. For the reasons already given (see [52]–[84] and [114]–[129] above), I have found that the claimant's claim in fraudulent misrepresentation fails because, amongst other things, she has proven neither that the defendant made the Representations nor that the claimant was induced by or relied upon them. Those findings are equally fatal to the negligent misrepresentation claim.

132 In addition, and for completeness, I deal briefly with the two issues that are specific to the claimant's claim in negligence.

Duty of care

133 The existence of a duty of care is governed by the two-stage test of proximity and policy, premised on the threshold question of factual foreseeability: *Spandeck* at [73], [77]–[78] and [83].

134 The claimant's case on proximity rests on a "special relationship". She relies on three matters to establish the special relationship: (a) that the defendant

was her mentor and a family friend; (b) that she could obtain information about the Natal Properties only through the defendant and the entities the defendant is said to have controlled; and (c) that the defendant voluntarily assumed responsibility for the accuracy of the Representations.[94] The defendant denies any mentor relationship and any assumption of responsibility. She contends that any duty would in any event be confined to the marketing of the Natal Properties and would not extend to the Representations.[95]

135 A duty of care to avoid causing pure economic loss by a negligent misstatement is most readily found where there is a voluntary assumption of responsibility, typically in an established category of relationship such as solicitor and client, banker and customer, or financial adviser and client: *Go Dante Yap v Bank Austria Creditanstalt AG* [2011] 4 SLR 559 at [31]–[33]; *Spandeck* at [81]. The question at the proximity stage is whether the relationship between the parties is one which the law recognises, or stands ready to recognise, as giving rise to such a duty.

136 Had it been necessary to decide the point, I would have held that no duty of care arose, for reasons that turn on the facts of the relationship. The relationship between the claimant and the defendant was, on the contemporaneous evidence, a commercial one between two links in the same chain of intermediaries, the defendant being a link above the claimant. It was not an advisory relationship of any recognised kind.

137 Three features of the evidence point against a duty of care. First, the defendant had no relevant informational advantage over the claimant. Both

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94 CCS at paras 88–93; CAEIC at paras 7–9.

95 Defence at paras 33.2–34.2; D2CS at para 99.

received the same information about Ritz Brazil, through the same channels. Both belonged to the same affiliate heads' WhatsApp group. Both saw the same delay letters. The defendant had no privileged access to Ritz Brazil's books, and was, on her own evidence, no more than a conduit between the affiliate heads and Mr Lessa.[96] Second, the label "mentor", even if it fairly describes the encouragement and advice that the defendant gave the claimant over the years, does not convert a commercial relationship between links in a chain of intermediaries into an advisory relationship founding a duty to take care in statements about a third party's creditworthiness.

138 The claimant's pleaded case puts this point in a particular way. She alleges that she could obtain information about Ritz Brazil only through the defendant and the entities said to be under her control, and that the defendant thereby assumed responsibility for the accuracy of the Representations by restricting all direct communication between the claimant and Ritz Brazil. I do not accept the premise. In any event, the claimant's conclusion is a *non sequitur*.

139 The claimant's premise fails on the facts as I have found them. The claimant did not depend on the defendant as her only channel to Ritz Brazil. Both belonged to the same affiliate heads' group, both received the same delay letters, and Ritz Brazil and its representatives dealt with affiliate heads, sales agents and investors directly. Even if the defendant had been the claimant's principal or even exclusive channel of communication with Ritz Brazil, being the channel through which information passes is not the same as assuming responsibility for the truth of that information. A person who relays to another what a third party has said does not, simply by relaying it, warrant its accuracy,

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[96] D2AEIC at paras 61–62, 110–114; Transcript, 22 April 2025, pp 35–38; Mr Yao's AEIC at para 16(b), 37–41.

the more so where both parties draw on the same underlying sources. The control of a channel of communication may go to the opportunity to mislead. It does not, without more, convert the relayer into a guarantor of the message.[97]

140 Third, the WhatsApp messages on which the claimant relies do not, on examination, amount to an assumption of responsibility. The claimant points to messages in which she described herself as "amateur" and "very much dependent on your advise", in which she asked the defendant for "guidance and advice", and in which the defendant described it as "part of [her] duty" to help the claimant with the Taiwan side.[98] These are isolated extracts from a long correspondence between two business associates. A person describing herself as new to the business, or asking another for guidance, does not by that fact alone create a duty of care in the other. Still less does it amount to the assumption of responsibility in law for the financial prospects of a Brazilian company that the defendant did not own or control.

141 The claimant also relies on the defendant's role in procuring the signed loan agreements as an assumption of responsibility. The defendant's answer is that this role was, as she put it in her Defence, "merely facilitative". She chased and reminded Ritz Brazil and Ritz Asia for the signed agreements at the claimant's own request. The agreements were in any event prepared and executed after the alleged Representations and after the claimant had already advanced the money to Ritz Brazil. I accept that answer. Chasing a borrower for signatures on the documentation of loans already made is not an assumption of responsibility for the accuracy of a representation that the borrower would

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97 SOC at para 33, particular (2); Defence at para 33.2(c).

98 WhatsApp messages of 19 August 2016, 18 January 2017 and 6 February 2018, 1CB-31, 34–35; CCS at para 89.

repay. It is administrative assistance with paperwork, not an undertaking that the borrower is good for the money.[99]

142 For these reasons, had the point arisen for decision, I would have found that the defendant did not owe the claimant a duty of care. I need not, however, decide the point, because the claim fails for the reasons I have already given.

Whether a statement of future intention is actionable in negligence

143 The defendant raises a discrete point of law. She submits that a statement as to the future is actionable only if it is fraudulently made and therefore cannot found a claim in negligence. For this proposition, she relies on *Uday Mehra* at [125] and [128].[100]

144 In response, the claimant submits that an opinion, as distinct from a statement of fact, may found a claim in negligent misstatement. For this submission, she relies on *Heinrich Pte Ltd v Lau Kim Huat* [2016] SGHC 116 ("*Heinrich*") at at [54]–[56].[101]

145 The parties raise a false dichotomy. These authorities do not conflict. *Uday Mehra* concerns the distinction between statements as to the present or the past and statements as to the future. It holds that a statement as to the future is actionable in deceit only through the implied representation that the maker presently holds the intention (if a promise) or belief (if a prediction) that underlies a representation as to the future: *Uday Mehra* at [128].

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99 Defence at para 40.2(e).

100 D2CS at para 98; Second Defendant's Reply Submissions dated 18 July 2025 at para 61.

101 CCS at paras 82–83; CRS at section III.

146 *Heinrich* concerns a different distinction, between statements of fact and statements of opinion. It holds that, while a cause of action in deceit and statutory misrepresentation require a statement of fact, a cause of action in negligent misstatement may arise as well from a statement of opinion, provided that the claimant can, in addition, establish the existence of a duty of care, a breach of that duty and loss: *Heinrich* at [54] and [56].

147 The two cases agree where they touch: *Heinrich* itself holds, consistently with *Uday Mehra*, that a misrepresentation of opinion is not actionable in deceit unless the maker did not in fact hold the opinion: *Heinrich* at [53].

148 Take the example of a property broker who tells a buyer that a development will be completed in one year's time. She does so honestly but without checking the developer's construction timetable. That would have shown that the development would be completed only in two years' time. The development is eventually completed in accordance with the developer's timetable.

149 In the tort of deceit, the position is settled. The two authorities coincide. The broker's statement is actionable only if she did not honestly hold the belief that she expressed. The only unsettled question is whether the same statement, honestly held but alleged to have been carelessly formed, can found a claim in negligent misstatement, when what it relates to is the future rather than the present or the past. *Uday Mehra* does not decide that question. That case addresses future statements only in the context of deceit. *Heinrich* does not decide that question either. That case addresses the actionability of opinion in negligence, not the distinct case of an opinion purely as to the future.

150 The unsettled question is whether negligence affords a further route to liability for a statement purely as to the future. This question does not arise for my decision. The claim in negligence fails for the anterior reasons I have given. I therefore express no concluded view on it.

Conclusion

151 The negligent misrepresentation claim accordingly fails.

Quantum

152 As I have found that the defendant is not liable to the claimant, the question of quantum does not arise.

Adverse inferences and the credibility of the witnesses

Adverse inferences

153 Each party invites me to draw an adverse inference against the other under s 116(*g*) of the Evidence Act 1893 (2020 Rev Ed) ("Evidence Act"). That provision permits the court to presume that evidence which could be, but is not, produced would, if produced, be unfavourable to the party who withholds it. For the presumption to operate, there must be some evidence, even if weak, on the issue in question. It is only then that there is a case to answer that the adverse inference can strengthen. The court must also be satisfied of the availability and materiality of the evidence said to have been withheld, and must apply its mind to the specific inference said to arise from its absence: *Cheong Ghim Fah v Murugian s/o Rangasamy* [2004] 1 SLR(R) 628 at [39]–[45]; *Sudha Natrajan v The Bank of East Asia Ltd* [2017] 1 SLR 141 ("*Sudha Natrajan*") at [19], [23] and [26]; *Chan Pik Sun* at [116] and [126]; *Tribune Investment Trust Inc v*

Soosan Trading Co Ltd [2000] 2 SLR(R) 407 at [50]; *Muhammad Nabill bin Mohd Fuad v Public Prosecutor* [2020] 1 SLR 984 at [74(c)].

154 The defendant asks me to draw an adverse inference against the claimant on two grounds: her failure to call Mr Ramachandran, a former Managing Director of Ritz Asia against whom she had issued a subpoena; and her failure to call any affiliate head to corroborate her account that the defendant made the Representations.[102] The claimant resists any such adverse inference. She relies on the best evidence rule (*Sudha Natrajan* at [26]) and submits that no other affiliate head could have given evidence superior to that already before the court on the only material question, which is whether the defendant made the Representations to her.[103]

155 The claimant, for her part, asks me to draw an adverse inference against the defendant for suppressing documents responsive to an order for the production of documents.[104]

156 I do not find it necessary formally to draw any adverse inferences against either party.

157 As to the claimant's request, I approach it on the basis most favourable to her. The claimant asks me to infer, from the defendant's failure to produce her correspondence with Ritz Brazil about the delays, and in particular her WhatsApp exchanges with Mr Lessa, that the defendant did not honestly or reasonably believe that the loans would be repaid within a year. Without reaching a conclusion on the issue, I assume in the claimant's favour that the

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102 D2CS at paras 110–121.

103 CRS at section IV.

104 HC/ORC 5887/2024; CCS at paras 48–59.

defendant failed to produce documents that she could have produced, and draw the inference that those documents would not have assisted the defendant's account of her belief.

158 Even on that assumption, the claimant's claim in fraud fails. The inference, at its highest, would show that the defendant had little by way of reassurance from Ritz Brazil, and that her belief in the truth of the Representations was poorly grounded. That goes to the reasonableness of the belief. It does not displace the matters on which my finding of honesty rests. In particular, it does not displace the fact that the defendant and her family themselves lent substantial sums to Ritz Brazil over the same period. That conduct, as I have already found, is difficult to reconcile with the fraudulent intent that the claimant must prove. Even if the inference cast some doubt on the genuineness of the defendant's belief, it could not outweigh that affirmative evidence of honest belief. I therefore need not decide whether the conditions for drawing the inference are met. This is because the inference would not alter my conclusion on the issue of honest belief.

159 As to the defendant's request, I accept the force of the claimant's best evidence point. The Representations fall into two groups, and the answer differs between them. The May 2018 and 1 June 2018 Representations were, on the claimant's case, made in private exchanges. The May 2018 Representations were allegedly made in calls and meetings between the claimant and the defendant. The 1 June 2018 Representations were allegedly made at a meeting attended only by the claimant, the defendant and Mr Yao. The only persons who could give direct evidence of those exchanges, within the meaning of s 62 of the Evidence Act, were the participants in them. All of them gave evidence at trial. No other witness could have given admissible evidence on this issue.

160 The 4 June 2018 Briefing was different. It was a group meeting attended by several affiliate heads. Other attendees could in principle have given evidence of what was said at this briefing. But their evidence could only have gone to the content of Mr Yao's presentation. That issue is not in dispute. No such evidence could have gone to either of the questions that determine the claim founded on the 4 June 2018 Representations. Those two questions are whether what Mr Yao said is attributable to the defendant and whether the defendant herself made any representation to the claimant. The first question, attribution, is a question of law. I have resolved that question against the claimant. On the second question, the claimant accepted in cross-examination that she had no separate conversation with the defendant or with Mr Yao, at the 4 June 2018 Briefing, and relied solely on Mr Yao's presentation to the room. The evidence of a further affiliate head as to that presentation would therefore have added nothing on the questions that matter to my decision. The best evidence on those questions was already before me. The failure to call Mr Ramachandran, while not without significance, adds little to the conclusion I have already reached on the documentary record.

161 For these reasons, I have not drawn any formal adverse inference under s 116(*g*) against either party. I have, however, taken each side's decisions about what evidence to call and to produce into account in the ordinary way, as part of my overall assessment of the evidence.

Credibility

162 I return to the credibility of the witnesses. Consistently with the approach I have described, I have based my findings on the contemporaneous documentary record rather than on the witnesses' demeanour. But each side attacked the credibility of the other at length. I therefore record my assessment

of each principal witness because I should explain why those attacks do not alter the outcome.

The claimant

163 I begin with the claimant. I found her to be a sophisticated and experienced businesswoman. She managed Truevine's offices in Singapore, Taiwan and Indonesia, had a personal client base of some 850 clients, and oversaw the sale of many millions of dollars' worth of Brazil UDIs. She had no difficulty understanding the questions put to her or the implications of her answers.[105]

164 Three features of her evidence on the issues in dispute bear on its weight. First, she shifted her position when she perceived it was about to be exposed as inconsistent with the documents. The clearest example concerns the loans earlier than the May 2018 Representations. She admitted, more than once in cross-examination, that she had advanced a loan of $154,704 on 25 April 2018, and she accepted that the only reason she had not told the court of it was that to do so would defeat her case.[106] She then sought, with the prompting of her own counsel in re-examination, to resile from those admissions.[107] The purpose of re-examination is to explain what was said in cross-examination (s 140 of the Evidence Act). The purpose of re-examination is not for a witness to be prompted to retract what she said in cross-examination. An answer elicited by a leading question from a witness's own counsel carries little weight in any event (s 144 of the Evidence Act). In any event, I did not find convincing her

105 Transcript, 15 April 2025, pp 49–50; CAEIC at paras 1–6, 11.

106 Transcript, 15 April 2025, pp 56–63.

107 Transcript, 15 April 2025, pp 141–143.

explanation, *ie*, that she had felt obliged to agree with what the documents on screen appeared to show.

165 Second, in two instances connected with the issues, the claimant advanced an account she knew to be untrue. In her first interlocutory affidavit she said her bank account had been frozen.[108] In her affidavit of evidence-in-chief she accepted this statement was untrue. Her explanation is that she wanted to make it appear that she urgently needed the signed loan agreements.[109] She also instructed a sales agent, by message, to tell an investor untruthfully that she was on medical leave after a fall.[110]

166 Third, her recollection was notably vivid where it supported her case and notably weaker where it did not. She recalled in detail Mr Yao at the whiteboard on 1 June 2018 and the defendant's assurance that her loans would be repaid first. Yet she had no explanation for the early bank transfers marked "TVT Loan" other than to say they were not loans. And she refused to accept the 25 April 2018 loan despite the contemporaneous documents.[111]

The defendant

167 I turn to the defendant. The claimant attacked the defendant's credibility as forcefully as the defendant attacked the claimant's credibility. Some of that attack was justified.

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108 Claimant's 1st affidavit dated 23 October 2023 at paras 120–121.

109 CAEIC at para 95; D2CS at paras 27(f).

110 WhatsApp message of 28 October 2019, 1CB-645.

111 Transcript, 15 April 2025, pp 52, 56, 118–120, 142–143.

168 The defendant, too, is an experienced businesswoman. On a number of points connected with the issues, her answers in cross-examination were evasive. She deflected direct questions with imprecise answers. She could not be brought, for several questions, to give a direct answer on whether she had used WhatsApp to communicate with Mr Lessa. And her account of whether she attended the meeting on 1 June 2018 shifted once she was confronted with her own airline itinerary.[112]

169 Several of these answers took the form of a claim that the defendant could not recall. In assessing such claims I have had regard to the guidance of Chief Justice Yong Pung How in *Public Prosecutor v Heah Lian Khin* [2000] 2 SLR(R) 745 at [56]. Although that was a criminal case, it states a principle of general application. Where a witness claims an inability to recall, the court must assess whether the claimed lack of recollection is genuine, having regard to the surrounding circumstances, including the time that has elapsed, the nature of the information, its significance to the witness, and the witness's demeanour. Applying that guidance, the lapse of some seven years from the events to trial means that some difficulty of recollection is to be expected. But where the matter is the witness's own communications, or a meeting plainly significant to her own case and capable of confirmation from her own travel records, the inference that the claimed lack of recollection is selective rather than genuine becomes available, and I draw it in respect of those instances.

170 I draw attention to these features of the defendant's evidence because it would be one-sided to record my reservations about the claimant's evidence without recording that the defendant's evidence was, in these specific respects, also unsatisfactory. It does not follow, however, that I should reject the

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112 Transcript, 17 April 2025, pp 42–43, 121–126; Transcript, 22 April 2025, pp 65–67.

defendant's evidence generally. Where her evidence is corroborated by the contemporaneous documents or by Mr Yao, I have accepted it.

The rule in Browne v Dunn

171 Finally, each side complains that opposing counsel did not, at trial, properly put to the opposing witnesses aspects of the case that it now runs in closing submissions.

172 The rule in *Browne v Dunn* (1893) 6 R 67 is fundamentally a rule requiring fairness to the witness. It is not a technical trap for the unwary and it is not to be applied mechanically. It therefore suffices, at least in civil litigation, if the opposing witness has been given fair notice of the point through the pleadings or otherwise (*Asnah bte Ab Rahman v Li Jianlin* [2016] 2 SLR 944 at [115]; *Manoj Dharmadas Kalwani v Bharat Dharmadas Kalwani* [2024] SGHC 70 at [50])[113] and has had an opportunity to deal with the point, whether in evidence-in-chief, in cross-examination or even in re-examination.

173 My conclusions rest on the claimant's own admissions and the contemporaneous documents, and not on any point that was not put to the claimant's witnesses. Both parties' complaints do not affect the outcome and I need not resolve them.

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113 CRS at section III.

Conclusion

174 For the reasons I have given, the claimant's claim against the defendant fails. In summary:

(a) the claimant has not proved that the defendant made any of the Representations, or that the statements Mr Yao made at the 4 June 2018 Briefing are attributable to her (see [52]–[84] above);

(b) the Representations are actionable only as an implied statement as to the defendant's own state of mind, and the claimant has not proved that the defendant lacked an honest belief in their truth, as a claim in deceit requires (see [86]–[95] and [97]–[113] above);

(c) in any event, the claimant has not proved that she was induced by, or relied upon, the Representations in advancing the loans; I am satisfied that she lent the money to Ritz Brazil to relieve the pressure she faced from her own investors and that she would have lent the money whether or not the Representations were made (see [114]–[128] above); and

(d) the claim in negligent misrepresentation fails for the same reasons, and for the further reason that the claimant has failed to establish that the defendant owed her a duty of care (see [130]–[142] above).

175 I therefore dismiss the claimant's claim against the second defendant. I record again for completeness that the claim against the first defendant was discontinued before trial. That claim has not been adjudicated upon and is unaffected by this judgment.

176 Within 21 days, unless the parties inform the Registry within that period that costs have been agreed, the parties are to file and serve written submissions on costs. Unless either party objects, I will then exercise my power under s 17B(1) of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) to determine the costs of this action without hearing oral arguments.

Vinodh Coomaraswamy
Judge of the High Court

Choo Zheng Xi, Stella Ng, Donaven Foo and Tan Jin Yi
(RCLT Law Corporation) for the claimant;
Melanie Ho, Gavin Neo and Byrna Tan (WongPartnership LLP)
for the second defendant;
the first defendant absent and unrepresented (the claim against
the first defendant having been discontinued).