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

[2026] SGHC 14

Suit No 288 of 2022

Between

GC Lease Singapore Pte Ltd

… *Plaintiff*

And

(1) Fonbell Solution Pte Ltd
(2) Purifico Solutions Pte Ltd
(3) Genvio Consultancy Pte Ltd
(4) Ace Elite Consultancy Pte Ltd
(5) Li Dawei
(6) Nigel Fabian de Rozario
(7) Ryan Cheng You Rong
(8) Hee Jun Hao, Elroy

… *Defendants*

JUDGMENT

[Tort — Misrepresentation — Fraud and deceit — Confirmation of delivery signed by customers — Whether written representation made by sellers]
[Tort — Misrepresentation — Fraud and deceit — Whether representation made fraudulently]
[Tort — Conspiracy — Whether combination between alleged conspirators proven]

[Commercial transactions — Sale of goods — Breach of contract — Whether implied conditions in Sale of Goods Act 1979 (2020 Rev Ed) breached]
[Contract — Illegality and public policy — Unpleaded illegal object — Whether court should make finding of illegality — Whether knowledge of illegal object should be imputed to plaintiff buyer]
[Damages — Practice and procedure — Plaintiff partially compensated by other parties out of court — Whether claim should be barred because of risk of double recovery]

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GC Lease Singapore Pte Ltd
v
Fonbell Solution Pte Ltd and others

[2026] SGHC 14

General Division of the High Court — Suit No 288 of 2022
Wong Li Kok, Alex J
22–25, 29, 30 July, 12–14, 19, 20, 22, 25–29 August, 2 September, 30 October, 5 November 2025

20 January 2026 Judgment reserved.

Wong Li Kok, Alex J:

Introduction

1 The plaintiff in the present case purchased 102 licences to use an enterprise resource planning software from the defendants. It then leased these licences to customers referred to it by the defendants. Only five of these customers paid in full the rent due to the plaintiff. The plaintiff now seeks damages from the defendants for the losses it suffered due to the customers' default, alleging fraudulent misrepresentation, conspiracy and breach of contract on the part of the defendants.

Facts

Parties

2 The plaintiff, GC Lease Singapore Pte Ltd ("GC Lease"), was in the business of leasing items such as office equipment, medical equipment, heavy machinery and software.

3 The first ("D1"), second ("D2"), third ("D3") and fourth defendant ("D4") were companies controlled by the fifth ("D5"), sixth ("D6"), seventh ("D7") and eighth defendant ("D8") respectively. Where the capacities in which D5, D6, D7 and D8 acted are not material, I will refer to them and the corporate entities which they controlled together, *eg*, D1/5.

4 D5 developed an enterprise resource planning software ("Software"), in respect of which GC Lease provided leasing services to D1/5's customers. After some time, D5 then moved his focus from sale of the Software through D1 to development, supply and installation of the Software through Ofywork Pte Ltd ("Ofywork").

5 D2/6, D3/7 and D4/8 were Ofywork's resellers of the Software. For ease of reading, I will refer to the sale or lease of a *licence to use* the Software simply as the sale or lease of the Software.

Background facts

6 Mr Guillaume Jean-Francois Cuny ("Mr Cuny") was an employee of Grenke AG before founding GC Lease which was, at the material time, the Singapore-franchisee of Grenke AG.[1]

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[1] NE, 29 July 2025, 64:19–20, 6:6–9.

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7 In GC Lease, Mr Cuny was assisted by Ms Noor Rita binte Mohamad Moktar ("Ms Rita") and Mr Lawrence Loh Wai Keong ("Mr Loh").[2] At the material time, Ms Rita was Admin & Legal Responsible and Head of the Internal Sales Team of GC Lease. Mr Loh was GC Lease's sales manager and Head of the External Sales Team.

8 Presently, GC Lease is a wholly owned subsidiary of Grenke AG. Ms Rita reports to Mr Roman Peter Schulz ("Mr Schulz"), who is responsible for managing GC Lease.[3] Mr Loh is no longer employed by GC Lease.

Leasing of the Software

9 In 2017, Mr Loh met with D5 and it was agreed that GC Lease would provide leasing services in relation to the Software to D1/5's customers.[4] In early 2018, D5 incorporated Ofywork. D5 then introduced D2/6, D3/7 and D4/8 to GC Lease as resellers of the Software (which was then maintained by Ofywork). By December 2018, the resellers had begun referring their customers who required leasing services to GC Lease.

10 The process for leasing the Software from GC Lease was as follows:[5]

(a) First, the (re)seller was to inform GC Lease of the customer's intention to lease the Software.

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2 Noor Rita binte Mohamad Moktar's Affidavit of Evidence-in-Chief ("AEIC") ("NR-7") at paras 5, 7, 8.

3 NR-7 at para 7; Roman Peter Schulz's AEIC ("RPS-3") at paras 5, 7.

4 Chronology of Key Events ("CKE") at paras 1–9.

5 NR-7 at para 14; RPS-3 at para 13; Nigel Fabian de Rozario's AEIC ("NFR-3") at paras 23–31; Ryan Cheng You Rong's AEIC ("RCYR-6") at paras 65–77; Hee Jun Hao Elroy's AEIC ("HE-5") at paras 24–32.

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(b) Second, for GC Lease's determination of the creditworthiness of the customer, the (re)seller was to provide GC Lease copies of:

(i) the National Registration Identity Card ("NRIC") of the customer's representative; and

(ii) the financial statements of the customer.

The invoice or quotation issued to the customer showing the costs of acquiring the Software may be provided to GC Lease at this stage.

(c) Third, the Software was to be delivered to the customer. The parties dispute the factual circumstances surrounding, and requirements of, such delivery.

(d) Fourth, the (re)seller was to hand-deliver to GC Lease:

(i) the leasing contract between GC Lease and the customer duly executed by the customer;

(ii) the confirmation of delivery in GC Lease's form duly executed by the customer ("COD");

(iii) the delivery order in the (re)seller/Ofywork's form duly executed by the customer; and

(iv) the deed of guarantee in GC Lease's form duly executed by the customer's *representative*.

The invoice or a revised invoice issued to the customer by the (re)seller should be provided to GC Lease here at the latest.

(e) Fifth, if the above is in order, GC Lease would transfer the purchase price to the (re)seller.

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11 Between August 2017 and January 2019, following this process, the defendants facilitated the conclusion of numerous leasing contracts between their respective customers and GC Lease, in the following quantities:[6]

(a) D1/5 – 20;

(b) D2/6 – 24;

(c) D3/7 – 47; and

(d) D4/8 – 11.

GC Lease correspondingly purchased these sets of the Software from them.

12 While the relevant *contract* between GC Lease and the resellers was for the *sale and purchase* of the Software, it was entered into within the context of a whole *transaction* which also included the *contract for lease* between GC Lease and the customers. There was no situation where GC Lease bought the Software without a customer in mind to lease it to. Thus, I use "transaction" within this judgment to refer to this wider commercial context in which the contract for the sale and purchase of the Software was entered into.

Defaults on payments under the leasing contracts

13 In January 2019, Ms Rita noticed that 25 of the 102 customers had defaulted on their monthly payments to GC Lease.[7] According to Ms Rita, this was an unusually high default rate. She thus asked Mr Cuny to stop considering

6 NR-7 at para 16.

7 NR-7 at para 28.

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further leasing requests in relation to the Software. By 25 January 2019, GC Lease stopped all collaboration with the defendants.[8]

14 As part of enforcing the leasing contracts, GC Lease commenced bankruptcy proceedings against some of the customer's representatives, pursuant to the guarantees they provided (see [10(d)(iv)] above). In the proceedings against one Mr Simon s/o Chandrahason ("Mr Chandrahason"), Mr Chandrahason filed an affidavit alleging that he had entered into an illegal moneylending arrangement with one Nigel and, to that end, he agreed to take over a company that had been active for two years. Mr Chandrahason also exhibited a WhatsApp conversation with Nigel substantiating the above.[9] D6 did not dispute that he was the Nigel with whom Mr Chandrahason had the WhatsApp exchange.[10]

15 This allegation came at a time when GC Lease learnt, in response to its enforcement actions, of a few other claims by other customer's representatives that they had received cash instead of software for entering into the leasing arrangements.[11] Suspecting something amiss, Mr Cuny tasked Ms Rita to look into the possibility of a collusion between the defendants, the customers, and other third parties to defraud GC Lease.[12]

16 After its investigations, GC Lease concluded, among others, that:

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8 CKE at para 10.

9 7 AB 3392, 3408–3414.

10 NE, 28 August 2025, 103:15–104:2.

11 NR-7 at paras 30(a), 33(c).

12 NR-7 at para 40.

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(a) the Software:[13]

(i) was unusable as an operational system;

(ii) was not of satisfactory quality; and

(iii) did not correspond with the descriptions specified in the respective invoices; and

(b) hence, the Software could not have been properly delivered to, and installed for, the customers.

17 In March 2022, GC Lease commenced this suit against all eight defendants.

Procedural history

Default judgment against D1 and D5

18 In April 2023, in unrelated proceedings, D5 was adjudged a bankrupt after being unable to pay his outstanding miscellaneous loans to a bank.[14] In August 2023, I granted leave for GC Lease to continue this action against D5. Subsequently, D5 failed to obtain leave of the private trustee in bankruptcy to defend the present suit. On an application by GC Lease, the Assistant Registrar struck out D5's defence on the basis that he was legally incompetent to defend this suit.

19 The Assistant Registrar also struck out D1's defence given its absences from the various pre-trial conferences and its failure to appoint a lawyer to defend this suit. Thus, default judgment was entered into against D1 and D5.

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13 NR-7 at paras 60–61.

14 NE, 25 August 2025, 5:21–25, 6:23–7:2.

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20 For that reason, this judgment does not deal with GC Lease's claims against D1/5 except in so far as they relate to GC Lease's claims against the other defendants.

Default judgment against D2 and D4

21 Early on in the proceedings, D2, D4 and D8 had failed to enter an appearance. Between 13 and 15 June 2022, GC Lease obtained default judgment against them.

22 On 5 September 2022, GC Lease consented to having the default judgment against D8 set aside. However, D2 and D4 did not apply to set aside the default judgments against them. Thus, this judgment also does not deal with GC Lease's claims against D2 and/or D4 except in so far as they relate to GC Lease's claims against the other defendants.

The evolution of the pleadings

23 In August 2023, D3/7 applied to strike out the entirety of GC Lease's Statement of Claim (Amendment No. 1) on the basis that GC Lease's claims were devoid of particulars. In October 2023, the Assistant Registrar ("AR") allowed D3/7's application.

24 Shortly thereafter, GC Lease filed an appeal against the AR's decision. However, the appeal was not pursued as GC Lease instead focused on its application before me in HC/SUM 3269/2023 ("SUM 3269") to amend its pleadings. In January 2024, I allowed SUM 3269 as, in my judgment, the Statement of Claim (Amendment No. 2) ("SOC") had sufficiently set out the causes of action GC Lease is pursuing.

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The parties' cases

GC Lease's claims

25 In its SOC, GC Lease asserts as follows:

(a) In relation to its claim for misrepresentation:

(i) D6, D7 and D8, by following GC Lease's process for leasing the Software (see [10] above), have individually made the following representations to GC Lease *for each transaction*:[15]

(A) that D2, D3 and D4 respectively was conducting a genuine business of reselling software ("Genuine Reseller Representation");

(B) that the customer introduced by them to GC Lease was a *bona fide* customer, genuinely wishing to lease the software for the purposes of his/her business ("Genuine Customer Representation");

(C) that the Software had been duly delivered to their customer and had been duly installed ("Delivery Representation"); and

(D) that the Software sold to GC Lease by D2, D3 and D4 respectively:

(I) contained the features specified in the respective invoices ("Features Representation");

[15] SOC at paras 13–15.

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(II) was capable of performing the functions corresponding to said features ("Functional Representation"); and

(III) was of satisfactory quality and fit for its purpose ("Quality Representation")

(collectively, "Software Representations").

(ii) All the representations were made by D6, D7 and D8 on behalf of D2, D3 and D4 respectively.[16] Further, D6, D7 and D8 had authorised, directed or procured the making of the representations by D2, D3 and D4 respectively.[17]

(iii) All the representations were false.[18] In particular, in relation to the Genuine Reseller Representation and Genuine Customer Representation, the payments received from GC Lease were instead to be apportioned among various parties, including the customers.[19]

(iv) D6, D7 and D8 would or ought to have known that the representations were false,[20] or had made them without any reasonable grounds to believe they were true.[21]

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16 SOC at para 16.

17 SOC at paras 25–27.

18 SOC at para 18.

19 F&BP at para 9.1.

20 SOC at para 20.

21 SOC at para 21.

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(v) The representations induced GC Lease into purchasing the Software from D2, D3 and D4.[22]

(b) In relation to its claim for conspiracy:

(i) There was a conspiracy by unlawful means, *ie*, misrepresentation, between D5 on the one part, and on the other part D6, D7 and D8 and/or other persons to defraud GC Lease.[23]

(ii) D5 had represented to Mr Loh that D1/5 had developed the functional Software.[24]

(iii) D5 entered into an arrangement with D6, D7 and D8 individually whereby D2, D3 and D4 respectively would be presented by D5 to GC Lease as resellers, for the purpose of inducing GC Lease to purchase further sets of the Software.[25]

(iv) The payments made by GC Lease were apportioned between the various parties to the said conspiracy, including the customers.[26]

(c) In relation to its claim for breach of contract:[27]

(i) The conditions under ss 13(1) and 14(2) of the Sale of Goods Act 1979 (2020 Rev Ed) ("SGA") were not met in relation to the Software purchased from D2, D3 and D4.

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22 SOC at para 22.

23 SOC at para 6.

24 SOC at para 7.

25 SOC at para 11(c).

26 SOC at para 18(b).

27 SOC at para 30.

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(ii) The failure to meet these conditions amounted to repudiatory breaches of the contracts between GC Lease and D2, D3 and D4 respectively.

The defences

26 Aside from denying GC Lease's claims, D3/7 assert in their Defence (Amendment No. 1) ("D3/7's Defence") as follows:

(a) Any moneys received from GC Lease, less their commission, were paid to D1/5 for the Software and other fees.[28]

(b) D7 had informed D5 that D7 had no background or technical expertise. D5 informed D7 that the latter would not need to deal with technical aspects of the Software but only had to deal with reselling.[29]

(c) D7 worked with an introducer named Andy, who sourced for customers interested in leasing the Software.[30]

(d) D7 did not have to pitch the Software to his customers; that was done by Andy and/or D5. D7 only had to explain how the Software worked briefly and provide them with a user manual created by D5.[31]

(e) For approved customers, D5 would create an account within the Software for the customer. The login credentials to the account would then be sent by D5 via e-mail to the customer.[32]

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28 D3/7's Defence at paras 7, 12.

29 D3/7's Defence at para 10.5.

30 D3/7's Defence at para 10.9.

31 D3/7's Defence at para 10.18.

32 D3/7's Defence at para 10.20.

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(f) In obtaining GC Lease's approval of the customers, the requisite documents were sent to Mr Loh without any verification as to their truth by D3/7.[33]

(g) For his first two customers, D7 visited the customer's office together with Mr Loh. There, Mr Loh ensured that the Software was in working condition.[34]

(h) There were no contracts other than the contracts between each customer and GC Lease.[35]

27 D6 and D8 jointly filed the Defence of the 6th and 8th Defendants (Amendment No. 2) ("D6/8's Defence"). Similar to D3/7's Defence, it denies GC Lease's claims. D6 and D8 additionally assert that:

(a) It was D1/5 that made the Software Representations.[36] GC Lease decided to buy the Software because of D1/5's representations. It was made even before D6 and D8 were introduced to GC Lease.[37]

(b) D6 and D8 were not present during the supply and installation of the Software, which were done by D1/5.[38]

(c) D6 and D8 had informed D5 that they had no background or technical expertise. D5 informed them that they would not need to deal

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33 D3/7's Defence at para 26.3.

34 D3/7's Defence at paras 10.14–10.15.

35 D3/7's Defence at para 27.

36 D6/8's Defence at para 7.1.

37 D6/8's Defence at para 7.4.

38 D6/8's Defence at para 7.3.

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with technical aspects of the Software but only had to deal with reselling.[39]

(d) D6 and D8 worked with an introducer, who sourced for customers interested in leasing the Software.[40]

(e) D6 and D8 did not have to pitch the Software to their respective customers; that was done by the introducer and/or D5. D6 and D8 only had to explain how the Software worked briefly and provide them with a user manual created by D5.[41]

(f) For approved customers, D5 would create an account within the Software for the customer. The login credentials to the account would then be sent by D5 via e-mail to the customer.[42]

(g) Any moneys received from GC Lease by D2 and D4, less D2's and D4's commissions, were paid to D1/5 for the Software. D2/6 and D4/8 acted as agents for D1/5 for the sale of the Software to GC Lease, and the collection of payment from GC Lease.[43]

Issues to be determined

28 The issues for my determination are as follows:

(a) For each of the representations:

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39 D6/8's Defence at paras 8.1.5 and 8.2.5.

40 D6/8's Defence at paras 8.1.9 and 8.2.9.

41 D6/8's Defence at paras 8.1.14 and 8.2.14.

42 D6/8's Defence at paras 8.1.16 and 8.2.16.

43 D6/8's Defence at paras 23.2–23.3.

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(i) Is the representation an actionable misrepresentation, *ie*, a statement of fact, which is false and which materially induces the contract in question?

(ii) Is the misrepresentation fraudulent or alternatively a misrepresentation falling under s 2(1) of the Misrepresentation Act 1967 (2020 Rev Ed) ("MA")?

(iii) Did GC Lease suffer loss?

(b) Did D2, D3 and D4 authorise, direct or procure the making of the representations by D6, D7 and D8 respectively?

(c) Was there a conspiracy by unlawful means? Specifically:

(i) Was there an agreement between two or more of the defendants to make the misrepresentations to GC Lease?

(ii) Were the misrepresentations made in furtherance of such agreement?

(d) Did D3 enter into contracts with GC Lease and, if so, did D3 breach those contracts?

Misrepresentation

29 An actionable misrepresentation consists in a false statement of existing or past fact made by one party, before or at the time of making the contract, which is addressed to the other party and which induces the other party to enter into the contract (*Tan Chin Seng v Raffles Town Club Pte Ltd* [2003] 3 SLR(R) 307 ("*Raffles Town Club*") at [20]).

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30 To prove that the misrepresentation was fraudulent, the representee must additionally show two further elements. First, "the representation must be made with the intention that it should be acted upon by the [representee], or by a class of persons which includes the [representee]" (*Panatron Pte Ltd v Lee Cheow Lee* [2001] 2 SLR(R) 435 ("*Panatron*") at [14]). Second, the false representation must be made knowingly, or without belief in its truth, or recklessly as to its truth. In other words, the representor must not have had an honest belief in the truth of the representation (*Wee Chiaw Sek Anna v Ng Li-Ann Genevieve* [2013] 3 SLR 801 ("*Anna Wee*") at [32]).

31 Section 2(1) of the MA does not alter the law as to what constitutes an actionable misrepresentation (*Raffles Town Club* at [22]–[23]). If a representee claims for damages under s 2(1) of the MA, after he makes out the elements of an actionable misrepresentation, it turns on the representor to show that he had reasonable grounds to believe, and did believe, up to the time the contract was made, that the facts represented were true (*Raffles Town Club* at [22]).

32 The representations as alleged by GC Lease share some commonalities across different representations. For instance, some of the representations are said to arise out of the resellers' signing and delivery of documents to GC Lease, while some other representations are said to relate to the Software *per se*. Thus, the discussion below is divided by *elements* of misrepresentation rather than individual representations, so that common factual issues can be resolved together.

The identity of the representor

33 Before turning to the substantive elements of misrepresentation, it is necessary to deal first with the issue of the identity of the representor. GC

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Lease's case is that all six representations were made by D2/6, D3/7 and D4/8: the Genuine Reseller Representation, the Genuine Customer Representation and the Delivery Representation were made *directly* by them; and the Software Representations were made by D1/5 but *adopted* by them.[44]

34 In *Bay Lim Piang v Lim Cher Kang* [2023] 5 SLR 602, Kwek Mean Luck J held (at [24]) that "where a representor claims to be an intermediary and makes representations on behalf of another, he could nevertheless be liable for the representation if he had 'reason to adopt [the] representation as his own'". Before me, GC Lease confirmed that it was relying on this principle *only* for the representations it says were made by D1/5 and adopted by the other defendants.[45]

D2/6, D3/7 and D4/8 did not make the Delivery Representation

35 Thus, if I find that any of the representations which GC Lease claims were made directly by the other defendants were in fact not made by them, its claim on those representations must fail at this preliminary stage alone. In my judgment, that is the case for the Delivery Representation.

36 GC Lease argues that, by submitting the COD to GC Lease (see [10(d)(ii)] above), the *defendants* made the Delivery Representation. I disagree.

37 Representations should be construed objectively, from the perspective of a reasonable person in the position of the representee (*FoodCo Uk LLP v Henry Boot Developments Limited* [2010] EWHC 358 (Ch) at [186]). In my judgment, an objective interpretation is to be applied not only when the court is

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44 MS, 5 November 2025, p 3.

45 MS, 5 November 2025, p 3.

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determining the *meaning* of a representation, but also when the court is determining *who* made the representation. The objective exercise takes into account the circumstances at the time the representation was made, including any specific documents relied on by the representee (*Spice Girls Ltd v Aprilia World Service BV* [2002] EWCA Civ 15 at [51], [54], [57] and [59]). Where the representation is contained in a document, not only must the court read the words in their context, but it must also have regard to the purpose for which the document came into existence and why the statements contained in it were made (*Anna Wee* at [36]).

38 When the Delivery Representation is properly contextualised within the COD, it is clear that the Delivery Representation emanated from the *customers*.[46]

39 First. the purpose of the document is clear. It contractually allocates *to the customer* the risk of GC Lease's payment to the resellers before the customer has taken delivery. The final clause states:

> **Important:**
>
> The confirmation of delivery triggers payment of the purchase price to the reseller/supplier by GC Lease Singapore Pte. Ltd. If the customer fails to conduct a functional test and/or signs this declaration before s/he has received the object(s) in full and in the contractually-agreed state, then s/he – presupposing his/her culpability – shall compensate GC Lease Singapore Pte. Ltd. for any consequent losses.
>
> [emphasis in original]

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46 See, *eg*, 2 ABD 923.

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40 Secondly, cll 1 and 5 of the COD which give rise to the Delivery Representation are clearly representations given *by* the customer, and are written in the first-person perspective of the customer:

> With regard to the above-mentioned contract/application, I/we hereby confirm the following:
>
> 1. I/We have received the above-mentioned object today, on the date of delivery. …
>
> …
>
> 5. It has been delivered in full. …

This entire section containing all the representations is then executed only by the customer.

41 Thirdly, the reseller's signature is limited only to a short section at the end of the document, containing a single sentence: "The contractually-agreed delivery and the customer's signature are hereby confirmed." I agree with the reseller-defendants that, in the context of this document, they played the role of witnesses – merely confirming that the *customer confirms* accepting delivery.

42 When this single confirmation is compared to the lengthy and numerous confirmations of the customer – coupled with the warning administered to the customer (see [39] above) – I find that the document did not allocate any risk to the reseller. In other words, the reseller did not assume any responsibility in respect of the COD. They did not make the Delivery Representation. In coming to this conclusion, I also had regard to the fact that the COD is in GC Lease's standard form.

43 *A fortiori*, the delivery order document (see [10(d)(iii)] above) between Ofywork and the customer – which did not name the reseller or require the

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reseller's signature – could not be said to contain the Delivery Representation made by the reseller.[47]

44 Therefore, I find that the Delivery Representation was not made *by* D2/6, D3/7 and D4/8. As mentioned (at [34] above), it is *not* GC Lease's case that the Delivery Representation was made by the customers and subsequently adopted by the reseller-defendants, so I do not consider it.

D2/6, D3/7 and D4/8 did not adopt the Software Representations

45 As regards the Software Representations, I disagree with GC Lease's argument that D2/6, D3/7 and D4/8 adopted them. Instead, the substance of the transaction reveals that they could not have adopted the Software Representations. Formally, the Software had to be sold from D1/5 to the resellers and then *to GC Lease*, before GC Lease could lease the Software to the customer. That is because GC Lease could not lease the Software if it did not own the Software. However, the reality of the transaction was that GC Lease acted more like a financier, rather than a traditional lessor, for the customer. The Software never came into GC Lease's hands. Delivery was arranged by D5 (*via* Ofywork) *directly* to the customers. GC Lease would finance the Software by paying the purchase price to the reseller, effectively on behalf of the customer who wanted the Software. The customer then paid the monthly rent to GC Lease. At best, the resellers were D1/5's intermediaries when dealing with the customers, and were the customers' intermediaries when dealing with GC Lease. There was nothing in the transaction which indicated that the resellers acted as D1/5's intermediaries *when dealing with GC Lease*, such that they could have made the Software Representations on behalf of D1/5.

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47 See, *eg*, 3 ABD 1367.

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46 Secondly, this is consistent with GC Lease's expert who gave evidence on the market practice in the Software industry. He explained that the "core software product is sold by the vendor to the reseller … and the reseller in turn sells the configured product … to the customer".[48] Curiously, GC Lease's own expert did not provide any evidence on how this would differ where a financier/lessor such as GC Lease was involved.

47 It must be emphasised that GC Lease's case is that the Software Representations were made by D1/5 and adopted by the resellers. Evidence showing that the resellers acted as D1/5's intermediaries when dealing with the *customers* is irrelevant. Similarly, evidence showing that the resellers acted as the *customer's intermediaries* when dealing with GC Lease would also not aid GC Lease's case.

48 More importantly, even if the Software Representations were adopted by D2/6, D3/7 and D4/8, I find that they were not false and could not have induced GC Lease into purchasing the Software (see [65]–[71] and [77] below).

The Genuine Customer Representation was not a statement of fact by the defendants

49 In my judgment, the Genuine Customer Representation does not constitute an actionable misrepresentation because it is not a statement of fact. Instead, it is a statement of belief. As *The Law of Contract in Singapore* (Andrew Phang Boon Leong gen ed) (Academy Publishing, 2nd Ed, 2022) at para 11.043 puts it:

> **11.043** … [S]tating a belief is not the same thing as stating a fact since a belief is what the maker *thinks* to be the truth but which may not be the truth in fact. An opinion or a belief

[48] Mr Njabulo Eusebius Henson's AEIC ("NEH-1") at para 4.4.3.

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> without more therefore cannot, if wrong, found an action for misrepresentation.
>
> [emphasis in original]

50 Whether assertions of fact, such as one that the representor knows facts which justify his belief, can be implied into a statement of belief depends on the circumstances. In *Smith v Land and House Property Corp* (1884) 28 Ch D 7 ("*Smith v Land and House*") at 15:

> [I]t is often fallaciously assumed that a statement of opinion cannot involve the statement of fact. *In a case where the facts are equally well known to both parties*, what one of them says to the other is frequently nothing but an expression of opinion. The statement of such opinion is in a sense a statement of fact, about the condition of the man's own mind, but only of an irrelevant fact, *for it is of no consequence what the opinion is*. But if the facts are not equally well known to both sides, then a statement of opinion by one who knows the facts best involves very often a statement of a material fact, for he impliedly states that he knows facts which justify his opinion.
>
> [emphasis added]

51 Logically, an opinion being of no consequence also applies where the facts are equally unknown to both parties, and there was no reason for any party to think otherwise. While GC Lease argued that the defendants knew better because they interacted with the customers, there is no evidence on how much *more* the defendants (compared to GC Lease) knew about the customers. If the defendants also could only rely on an assertion that the customers wished to use the software, without any more personal knowledge about the customers, then they were not in a better position than GC Lease to determine if such an assertion was genuine.

52 In this regard, the defendants gave consistent evidence that they did not know much about the customers or the customers' specific reasons for wishing to use the Software. GC Lease did not meaningfully challenge the defendants'

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evidence that the introducers were responsible for sourcing customers and convincing customers to acquire the Software.

53 Under GC Lease's cross-examination, D7 explained the role of an introducer:[49]

> Q. Can I understand, what is this term "introducer" that you keep using? Whose word is that?
>
> …
>
> A. We mean introducer by a person giving us and providing us with sales, and cases.
>
> …
>
> A. Or referrer, if you want to call it that way.
>
> …
>
> A. Yes, because definitely to find a person which is more well connected in sales, and connections, and of course a better IT background, to provide me with more sales that I can get.
>
> Q. To provide you with more sales than you can get on your own –
>
> A. Yes.
>
> Q. -- which was, I understand to be zero.
>
> A. Yes.

54 It consistently came up in D7's answers under cross-examination that the introducer took on the role of sourcing for customers, practically to the exclusion of his own efforts.[50] Crucially, this was not challenged by GC Lease. When asked about his 45 customers (out of a total of 47) who defaulted on payments to GC Lease, D7 explained that "[t]he introducer introduced not very

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49 NE, 26 August 2025, 108:5–109:1.

50 NE, 26 August 2025, 102:23–25, 104:12–14, 111:18–116:3; NE, 27 August 2025, 4:5–8.

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good cases".[51] GC Lease attempted to show in its cross-examination of D7 that, in light of the high default rate, the customers could not have been genuine.[52] That did not go towards proving that D7 *knew* that the customers were not genuine, nor did it go towards proving that D7 did not reasonably hold his belief that the customers were genuine ones, at the time of entering into the contract.

55 Similarly, D6 testified that he brought in new customers via the introducer.[53] The introducer did "most of the selling", and D6 "would talk about the software but not in great deal".[54] Instead of challenging D6's evidence on these points, GC Lease appears to have implicitly accepted D6's version of events when it tried to paint an image of D6 being an irresponsible reseller. GC Lease suggested that D6 did not have opportunities to meet the customers, that the relationship was between the customer and the introducer (rather than D6), and that D6 did not actually know who the customers are.[55] Even if I accepted these, GC Lease nevertheless has failed to prove that the Genuine Customer Representation contained a statement of fact. Crucially, it was not GC Lease's case that it thought D6 (and indeed the other reseller-defendants) knew the customers well.

56 Even if the last-mentioned point was part of GC Lease's case, I find that GC Lease has failed to prove it as a fact. It was not forthcoming in the evidence of any of GC Lease's witnesses. Further, GC Lease also failed to meaningfully

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51 NE, 26 August 2025, 120:13–17.

52 NE, 26 August 2025, 122:3–124:8.

53 NE, 28 August 2025, 30:25–31:1.

54 NE, 28 August 2025, 31:24–32:10.

55 NE, 28 August 2025, 95:4–96:8.

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challenge D8's evidence that the use of introducers was common in the leasing industry:[56]

> Q. So why did you go straight to introducers?
>
> A. This is a normal business operation, I would say, in the leasing line. In this equipment financing lease and line.
>
> Q. This is a normal operation for resellers to use introducers not to find clients themselves.
>
> A. They have to do both.

57 D8, like D6 and D7, gave unchallenged evidence that he left much of the customer-sourcing work to the introducers.[57] GC Lease's only objection to this was that D8 had failed to verify the genuineness of the customers.[58] This is, again, different from saying that D8 had impliedly asserted that he knew of facts justifying his belief that the customers were genuine.

58 On GC Lease's end, a key missing piece in its case is that it had not proffered any reasonable grounds on which it had thought that the defendants had personal knowledge of the customers' intentions vis-à-vis the Software. Indeed, I find that the defendants' use of introducers was not surprising for GC Lease (see [56] above). On the evidence before me, GC Lease could not have believed that the defendants knew more about the customers than it did. This stands in stark contrast with *Smith v Land and House*. When the property vendor in that case had described the tenant as "a most desirable tenant", it must have been common between the vendor and the purchaser that the vendor "must have known perfectly well" whether the tenant paid rent regularly (see *Smith v Land and House* at 13). Thus, in my judgment, GC Lease has not even crossed the

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56 NE, 29 August 2025, 73:21–74:2.

57 NE, 29 August 2025, 90:12–19.

58 NE, 2 September 2025, 131:11–22.

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first hurdle to show that the Genuine Customer Representation constituted an actionable misrepresentation. The question of whether the defendants' reliance on introducers precluded an honest belief in the customers' genuineness does not even arise.

Falsity

The falsity of the Genuine Reseller Representation is better analysed concurrently with the defendants' state of mind

59 The reseller-defendants do not contest that the Genuine Reseller Representation was a statement of fact made by them.

60 As regards falsity, the Court of Appeal in *Banque de Commerce et de Placements SA, DIFC Branch v China Aviation Oil (Singapore) Corp Ltd* [2025] 1 SLR 1146 held (at [65]) that "the court must first assess whether the representation was false, and then separately, whether it was made fraudulently". This general principle is grounded in logic. A statement that is *in fact true* cannot found a claim in fraudulent misrepresentation, or indeed any form of *mis*-representation. The two questions – whether the representation was objectively false, and whether the representation was made fraudulently – are conceptually distinct.

61 The Genuine Reseller Representation was pleaded as a statement by D2, D3 and D4 that they were each conducting a *genuine* business of selling software (see [25(a)(i)(A)] above). On the face of the pleadings, this statement is ambiguous. A "genuine business" in this sense could mean many things: that it was sincerely carried out, that it involved the sale of legitimate (rather than unlawful) Software, *etc*. In GC Lease's closing submissions, it focused on two aspects to show that the reselling business was not genuine: (a) the lack of a

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written agreement to govern the relationship between the reseller-defendants and D1/D5/Ofywork, and (b) the making of cash payments to the introducers.[59] Essentially, GC Lease is arguing that the business was not genuine because the resellers were not sincerely selling the Software. Rather, the entire transaction relating to the sale and lease of the Software was a façade for something more sinister.

62 I pause to note that GC Lease also argues that there is no functional software and hence there could not have been a genuine business reselling the Software.[60] For reasons I explain below (at [65]–[71]), I find that the Software was functional. That disposes of this line of argument.

63 Specific to the present case, the two questions (of whether the representation was false, and whether the representation was made fraudulently (see [60] above)) converge. To show that the Genuine Reseller Representation was false, GC Lease had to show that the defendants were *not* sincerely conducting the business of selling the Software. This requires an examination into the state of mind of the defendants. Indeed, proving that fact practically overlaps entirely with proving that the Genuine Reseller Representation was made fraudulently. One cannot *genuinely* (*ie*, sincerely) conduct a business if he did not *honestly believe* himself to be so conducting that business.

64 For reasons I elaborate on later, I find that D2/6 did not genuinely conduct the business of selling the Software in relation to only one transaction (see [81]–[90] below). In relation to D3/7 (see [92]–[98] below) and D4/8 (see

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59 PWS at paras 52–54.

60 PWS at paras 49–52.

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[99]–[108] below), there was insufficient evidence to conclude that they did not genuinely conduct the business of selling the Software.

The Software Representations were not false

65 A key plank of GC Lease's case is that the Software did not exist as a functional software. If I find in GC Lease's favour in this regard, then each of the Software Representations (*ie*, the Features Representation, the Functional Representation and the Quality Representation) would have been false. On the evidence before me, not only do I refuse to make a finding that the Software was not functional, but I also draw an adverse inference against GC Lease to the effect that the Software: (a) did contain the features specified in the respective invoices; (b) was capable of performing the functions corresponding to those features; and (c) was of satisfactory quality and fit for its purpose.

66 First, GC Lease has failed to prove that the Software did not exist as a functional software:

(a) GC Lease relies on the evidence of Mr Don Ho Mun-Tuke and Mr Tan Eng Soon, who acted as liquidators of 50 of the customers.[61] However, their evidence was not probative of whether the Software existed as a functional software. Under cross-examination, both Mr Tan and Mr Don Ho explained that they did not know the nature of the Software, *ie*, whether it was a native app or a browser-based app.[62] Mr Don Ho also explained that he did not know how the Software was delivered or to be delivered to the customers. Since the liquidators did

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61 PWS at para 45.

62 NE, 19 August 2025, 9:7–10; 20 August 2025, 62:3–17.

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not even know what to look for, I place virtually no weight on their evidence that they did not come across the Software.

(b) GC Lease also relies on D5's alleged failure to prove that the Software existed as a functional software, but such reliance is misplaced.[63] First, the burden of proof is on GC Lease as the plaintiff to show, as part of its case, that the Software does not exist as a functional software. The significance of this point is underscored by all the surrounding evidence pointing towards a software that could be used (see also [69(c)] below). GC Lease has failed to prove its case as regards the lack of functionality and existence of the Software (see [67] below). Second, the evidence of D5 must be analysed in the light of the subsisting default judgment against D1 and D5. They were not parties to the trial. D5 did not have to *prove* anything. His role was simply to answer questions from all three sets of counsel, which he did. In my judgment, GC Lease failed to show through the cross-examination of D5 that the Software did not exist as a functional software.

67 The expert evidence similarly does not take GC Lease very far. GC Lease engaged Mr Derek Kiong to analyse the functionality of the Software. Mr Kiong pointed out certain shortcomings with the Software relative to his understanding of an *ideal* enterprise resource planning software. That is why he concluded that the functionality of the Software differed from "what is *implied* in the Reseller Invoice" (emphasis added).[64] The reseller invoice that Mr Kiong looked at only named the functions that the Software could provide, such as "invoicing management" and "stock adjustment" without elaboration on the

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63 MS, 5 November 2025, pp 4–5.

64 Kiong Beng Kee, Derek's AEIC ("DK-1") at p 117.

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exact features it had to perform these functions.[65] Under cross-examination, it became apparent that Mr Kiong had an ideal enterprise resource planning software at "production quality" as his frame of reference.[66] In my judgment, Mr Kiong's evidence does not prove that the Software was not *functional*. At its highest, it shows that the Software was not best in class, but there is nothing inherently wrong with, for instance, producing a second-rate product that performs second-rate functions. It is on the purchaser of such a product to understand the product and the market. They do not have to purchase the product if it is not suitable.

68 In a similar vein, the "defects" identified by Mr Kiong did not affect the *functionality* of the Software:

(a) On the inability to assign user rights,[67] Mr Kiong accepted under cross-examination that this alleged defect may have arisen only between the time the customers received the Software and the time Mr Kiong examined the Software, rather than being a defect which had always been inherent to the Software.[68] His report does not elaborate on the potential causes of such a defect, much less the reasons for his belief that the Software had been defective at the time of the transactions. He was not asked any questions in re-examination.

(b) On the default setting of every user having full rights, Mr Kiong opined that it "seems logical" for users to default to having no permissions, and then be assigned specific operations: "For example,

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65 DK-1 at p 44; NE, 14 August 2025, 8:5–7.

66 NE, 14 August 2025, 7:19–24, 8:24–9:3, 10:13–17.

67 DK-1 at p 98.

68 NE, 14 August 2025, 28:10–28:16.

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accounts and invoices should only be operated upon by finance staff".[69] This explanation did not cohere with the reality that all the customers before me were running small businesses, mostly one-person or two-person operations. The Software may well have been meant for use by management only, such that the default of having full rights was a design choice rather than a defect. The default setting was by itself equivocal, and Mr Kiong has failed to convince me that this was a *defect* in the functionality of the Software. In any case, Mr Kiong himself concludes that this issue made the Software "impractical for real world use".[70] Even accepting Mr Kiong's evidence at face value, it did not assist GC Lease whose case was that the Software did not exist as a functional software. An impractical software was not *ipso facto* dysfunctional (see [67] above).

(c) On the system errors and debugging information appearing after certain inputs, Mr Kiong took issue with these system errors and debugging information, not because of their existence *per se*, but rather their visibility to an end-user.[71] In his view, a software at production quality should have hidden these from the end-user, as only the developer would have to see those messages to fix the error. But this at most showed that the Software was unpolished, not that it was not functional.

(d) For completeness, I would have rejected any argument that the Software was not functional premised on the *mere* existence of the

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69 DK-1 at pp 95–96.

70 DK-1 at p 99.

71 NE, 14 August 2025, 14:12–17.

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> system errors and debugging information and other bugs. No software on the market is wholly free from bugs. In this regard, GC Lease has not shown that the Software was so littered with bugs that it was dysfunctional. Indeed, Mr Kiong accepted that a user *could* process invoices, update inventory records, and generate reports and payslips (areas in which he identified certain bugs), just that these tasks could not be *fully* accomplished.[72] These issues thus did not affect the functionality of the Software.

Although Mr Kiong's overall evidence was clear, there was a mismatch between GC Lease's case against the defendants and what Mr Kiong had to say about the Software. Mr Kiong was seemingly tasked to analyse the Software in a vacuum, and to answer specific questions that GC Lease had provided to him. Without receiving contextual instructions relating to the dispute, Mr Kiong was, in my judgment, unable to give targeted and relevant evidence.[73]

69 Secondly, pursuant to s 116 of the Evidence Act 1893 (2020 Rev Ed), the court may presume the existence of any fact which it thinks likely to have happened. At common law, an adverse inference may be drawn against a party failing to call a witness to testify on an issue (*ECICS Ltd v Capstone Construction Pte Ltd* [2015] SGHC 214 at [48]). I agree with the defendants that it is appropriate for me to draw an adverse inference against GC Lease for failing to call Mr Cuny as a witness:

> (a) It was not disputed that there was a meeting between Mr Cuny, Mr Loh and D5, after D5 had first met with Mr Loh, but before

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72 NE, 14 August 2025, 10:22–11:7.

73 NE, 14 August 2025, 6:15–25, 7:5–18, 44:16–24.

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the resellers came into the picture.[74] D5 testified that, at this meeting, he did a "live demonstration" of the Software to Mr Loh and Mr Cuny. He explained step-by-step how the Software worked, the features, and how the Software was to be used.[75] This was similar to what D5 had covered in the initial meeting with Mr Loh (see [9] above).

(b) Mr Schulz deposed, in his Affidavit of Evidence-in-Chief ("AEIC"), that D5 gave "a PowerPoint presentation of [D1's] alleged software to Mr Loh and Mr Cuny".[76] Under cross-examination, Mr Schulz candidly admitted that he has no personal knowledge of what happened at the meeting, including whether it was an actual demonstration of the Software or a PowerPoint presentation.[77] He then rightly accepted that the only people who could give evidence on behalf of GC Lease in relation to what transpired at that meeting would be Mr Loh or Mr Cuny. Ms Rita, who only observed the meeting from outside the meeting room, made similar concessions that she has no personal knowledge of what was presented.[78]

(c) In my judgment, the evidence that Mr Cuny could have given about the meeting would clearly have been relevant and material. After this meeting, the leasing of the Software not only continued with respect to D1/5 but in fact was carried out on an even greater scale through the resellers. It defies logic to think that Mr Cuny would have agreed to continue purchasing the Software if he was dissatisfied with it.

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74 RPS-3 at para 10.

75 NE, 25 August 2025, 56:12 – 57:16.

76 RPS-3 at para 10.

77 NE, 29 July 2025, 26:4–27:7.

78 NE, 12 August 2025, 43:16–21, 44:18–21.

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(d) Despite the obvious materiality of the evidence that Mr Cuny could have given, he was conspicuously absent at trial. GC Lease gave three reasons for his absence, namely that Mr Cuny was in Luxembourg and hence could not be subpoenaed, that Mr Cuny was ill, and finally that Mr Cuny was not involved in the conspiracy.[79] None of these reasons were satisfactory. I agree with D6 and D8 that Mr Cuny, being the founder and an ex-employee of GC Lease, as well as being the one who instructed Ms Rita to look into the Software in the first place, could have easily been a voluntary witness for GC Lease. Further, no medical certificate was presented and there was no other evidence demonstrating the nature of Mr Cuny's illness and whether it limited his ability to travel.[80] In any case, GC Lease could have applied to have Mr Cuny give evidence by video link. Finally, even if it is true that Mr Cuny was not involved in the conspiracy, he remained an important witness who could give material evidence.

(e) I therefore draw the adverse inference that, at this meeting, Mr Cuny was reasonably satisfied with the Software. The Software did contain the features it claimed to contain, it was capable of performing the functions corresponding to those features, and it was of satisfactory quality and fit for its purpose. I accept GC Lease's point that its pleadings allowed them to run a case in which the Software that was demonstrated could be different from the individual sets of the Software sold to the customers. However, that is only a theoretical possibility. GC Lease has not put forth any evidence showing that the Software sold was different from the one demonstrated to them. Indeed, D1/5 had no

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79 MS, 5 November 2025, p 5.

80 See NE, 29 July 2025, 82:23–83:6.

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incentive to switch to a different software – there was no additional cost to D1/5 in distributing the functional and existing Software.

70 Thirdly, and concomitantly, I disagree with GC Lease that it is appropriate for me to draw an adverse inference against the defendants for failing to call any of the customers.[81] One of the requirements for the court to draw an adverse inference is for the party inviting the court to draw such an inference to have some evidence, even if weak, on the issue in question. In other words, there must be a case to answer on that issue which is then strengthened by the drawing of the adverse inference (*Sudha Natrajan v The Bank of East Asia Ltd* [2017] 1 SLR 141 ("*Sudha Natrajan*") at [20(c)]). In the present case, on the issue of the existence and functionality of the Software, GC Lease has not even put forth any evidence probative of its case beyond speculative and remote inferences from the proven facts. Considering GC Lease's omission to call Mr Cuny, the evidential burden has not even shifted to the defendants.

71 Thus, even if the Software Representations were adopted by the reseller-defendants, GC Lease's claims premised on the Software Representations nevertheless fail because they were not false.

Inducement

The Genuine Reseller Representation induced GC Lease into entering into the transactions

72 The Genuine Reseller Representation was intended to induce, and did induce, GC Lease into purchasing the Software.

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[81] MS, 5 November 2025, pp 4 and 6.

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73 D6 and D8 argue that *none* of the representations could have induced GC Lease to purchase the Software because that decision was made prior to the resellers even being introduced to GC Lease.[82] In support of this argument, D6 and D8 refer me to the fact that GC Lease had already been purchasing the Software from D1/5 before any of the resellers were involved in any transaction with GC Lease. This argument was pitched too high. The purchase of each set of the Software was a standalone transaction conducted in unique circumstances. Even while the underlying Software did not change, each transaction differed from the next in terms of the identity of the customer, the identity of the reseller, the customer's creditworthiness, *etc*. As far as the Genuine Reseller Representation was concerned, it was capable of inducing GC Lease into purchasing the Software from the reseller. After all, no reasonable commercial enterprise would enter into a transaction with a disingenuous counterparty.

74 D3/7 argue that GC Lease did not rely on any representations by the defendants but relied on its own internal processes to ascertain the creditworthiness of the customers.[83] In *Panatron*, the Court of Appeal held (at [23]) that the misrepresentations "need not be in the sole inducement to [the representees], so long as they had played a real and substantial part and operated in [the representees'] minds, no matter how strong or how many were the other matters which played their part in inducing them to act". Thus, it is irrelevant that GC Lease did rely on its own background and creditworthiness checks on the customers.

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82 D6/8WS at para 53.

83 D3/7WS at paras 139 and 145.

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75 The question is whether the Genuine Reseller Representation "played a real and substantial part and operated in" GC Lease's mind. In my judgment, the answer is yes. Ms Rita's evidence on this point was not directly challenged.[84] Counsel for D6 and D8 only cross-examined Ms Rita on GC Lease's reliance on the Software Representations and the Delivery Representation.[85] At another point of her cross-examination, Ms Rita also spontaneously answered that a key aspect of entering into each transaction was GC Lease's "trust" in the resellers they worked with.[86] This was consistent with her AEIC and also unchallenged.

76 I find that the Genuine Reseller Representation was intended to induce GC Lease into entering into the transactions and purchasing the Software. In such commercial transactions, the resellers surely knew that GC Lease would not have purchased the Software from them if they were not conducting genuine businesses. There was no evidence to the contrary.

The Software Representations did not induce GC Lease into entering into the transactions

77 In relation to the Software Representations, I accept D6 and D8's argument that the representations could not have had any inducing effect. Their argument (see [73] above) is entirely consistent with my findings above that (a) each set of Software sold was the same as the one demonstrated to Mr Loh and Mr Cuny, and (b) Mr Cuny was satisfied with the Software at that meeting (see [69(e)] above). Effectively, the Software was approved by GC Lease as a product it was happy to finance even *before* the resellers were introduced to GC Lease. All that was left to convince GC Lease in respect of each transaction

84 NR-7 at para 27.

85 NE, 12 August 2025, 57:13–20.

86 NE, 13 August 2025, 14:20–15:5.

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were the non-Software elements, *eg*, delivery of the Software, creditworthiness of the customer, and the customers' genuine need for the Software. I fail to see how the Software Representations, if they were even adopted by D2/6, D3/7 and D4/8 (see [45]–[48] above), could have had any *inducing* effect on GC Lease.

State of mind of the defendants

78 It should be kept in mind that the examination into the state of mind of the defendants at the material time seeks to answer both the questions of whether the Genuine Reseller Representation was false and what form of misrepresentation, if any, was committed (see [63] above). This has significant implications on GC Lease's case premised on s 2(1) of the MA. Crucially, if GC Lease cannot even show that the Genuine Reseller Representation was false, then actionable misrepresentation is not made out.

79 GC Lease, unsurprisingly, had limited direct evidence of the defendant's subjective state of mind (see [80(a)] below). Thus, the key inquiry in this section relates to the *grounds* of the reseller's belief. If no reasonable person in their position could have thought themselves to be conducting a genuine business of reselling, I *may* (see [80(c)] below) conclude that the resellers were not sincerely conducting their business. Conversely, if a reasonable person in the resellers' shoes could, in light of the objective evidence, be sincere about the conduct of their business, then, absent any compelling evidence on the defendants' subjective state of mind, GC Lease would have failed to convince me that the Genuine Reseller Representation was false. The analysis of the defendants' state of mind in *both* the claim for fraudulent misrepresentation and the claim under s 2(1) of the MA thus overlapped. Tactically, this put GC Lease at a disadvantage as *GC Lease* itself had to prove that there were *no reasonable grounds* for a sincere belief in the business in order to show falsity as part of

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establishing actionable misrepresentation. In a typical claim under s 2(1) of the MA, upon establishing actionable misrepresentation, it turned on the *defendant* to prove the reasonable grounds of his belief (see [31] above). But this disadvantage is simply a consequence of GC Lease's own pleadings. Effectively, at least for the Genuine Reseller Representation, GC Lease's claim premised on s 2(1) of the MA does not really function as an alternative to its claim premised on the tort of deceit.

80 The applicable legal principles for the inquiry into the state of mind of the defendants can be summarised as follows:

(a) A fraudster would rarely come clean about his deceit. Thus, even where direct evidence is not available, courts have not been slow to draw an inference of fraud if the surrounding circumstantial evidence is so compelling and convincing (*Chan Pik Sun v Wan Hoe Keet* [2024] 1 SLR 893 at [112]).

(b) While circumstantial evidence may be relied on, it is still fraud itself that must be proved (see *Anna Wee* at [32]). Nothing short of fraud will suffice. In that regard, a relatively high standard of proof must be satisfied before a fraudulent misrepresentation can be established successfully (*Anna Wee* at [30]).

(c) It is the representor's own subjective belief that is crucial. While the court ascertains that subjective belief on the objective evidence available, the court cannot substitute its own view as to what it thinks the representor's belief was. Unless the court thinks it sees what *must*

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> *have been* in the representor's mind, it should not find him guilty of fraud (*Anna Wee* at [37]).

Bearing these in mind, I find that the evidence put forth by GC Lease was wanting in many respects. I elaborate below.

The Genuine Reseller Representation was made fraudulently by D2/6 in respect of one transaction

81 GC Lease's case on the Genuine Reseller Representation is strongest against D2/6. GC Lease called Ms Lee Ai Ling Miranda, director of Ponnie Hsu Studio Pte Ltd ("PHS"), and Mr Simon s/o Chandrahason, director of Fong Sheng Long (Recycling) Pte Ltd ("FSL"), as witnesses. PHS and FSL were customers of D6.

82 I place little weight on Ms Lee's evidence. It is undisputed that D6 personally met with Ms Lee for the signing of the documents (although there was an irrelevant dispute over the name that D6 went by).[87] In so far as the Genuine Reseller Representation is concerned, what is key is whether there is any evidence showing that D6 *himself* did not sincerely conduct the business of reselling. In this regard, Ms Lee's testimony is of limited utility. Ms Lee testified that the signing was "quick" and only "a couple of words" were exchanged. The whole interaction lasted only "a few minutes".[88] Even if Ms Lee was unknowingly tricked by Mr Andrew Hong (her husband at the material time, although the marriage was later annulled) about the documents she was signing,[89] there is no evidence that she ever communicated her

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87 3 CBD 1254; NE, 22 July 2025, 13:21–14:23.

88 NE, 22 July 2025, 14:13–18.

89 NE, 22 July 2025, 8:5–16.

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misunderstanding of the transaction to D6 such that D6 could be said to have been at least wilfully blind. Indeed, Ms Lee herself understood D6 to be there to answer queries about the documents, but she simply had not asked any questions of D6.[90] It is quite possible that Mr Andrew Hong had convinced D6 that he and/or Ms Lee needed the Software.[91]

83 In contrast, there was clear evidence that D6 knew that the transaction with FSL was not entirely above board. Mr Chandrahason's evidence at trial was consistent with the affidavit he filed to contest the bankruptcy proceedings brought by GC Lease against him (see [14] above). In brief, D6 procured Mr Chandrahason's ownership and control of FSL to facilitate the entire transaction of the Software with GC Lease.[92] The contemporary WhatsApp exchange between D6 and Mr Chandrahason reveals that *both* of them mutually understood the primary purpose of the transaction to be a "loan", rather than the provision of the Software for FSL's business purposes.[93] Mr Chandrahason asking about "the softwares [*sic*] as promised" much later only indicated that the two knew that the sale and lease of the Software was the façade for the moneylending transaction.[94] In the circumstances, I find that D6 was not, and knew he was not, genuinely conducting the business of reselling the Software with respect to the transaction involving FSL.

84 GC Lease argues that the Genuine Reseller Representation was not specific to each transaction, unlike all the other representations. I disagree.

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90 NE, 22 July 2025, 35:11–13.

91 NE, 22 July 2025, 38:5–8.

92 NE, 23 July 2025, 21:11–15; 1 CBD 171.

93 1 CBD 170, 171, 173.

94 1 CBD 175. See also 7 AB 3391.

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Because every customer was unique, a reseller may well have been genuinely conducting its business with respect to some but not so with respect to others. It is too simplistic to say that a reseller must be either genuine with respect to all customers, or not at all genuine.

85 Considering the evidence in totality, it is not appropriate for me to infer that D2/6 was not genuinely conducting their business with respect to the remaining customers. As explained, the Software already existed and was functional (see [69(e)] above). There was practically no additional cost to any of the defendants to sell the Software. For instance, if a customer with a genuine interest in the Software approached D2/6, there is no reason to think that D2/6 would not have arranged for a legitimate transaction. In such a transaction, D2/6 would surely have been genuinely conducting the business of reselling the Software. GC Lease had the burden of proof to show that D2/6 was not genuinely conducting their business. Without calling the other customers, GC Lease was essentially asking me to assume that D2/6 would *inevitably* repeat the same misconduct (of disguising some sort of loan as a transaction for the Software) simply because they had done it *once* before. I refuse to make such a hasty generalisation, keeping in mind the high standard of proof required for fraud (see [80(b)] above).

86 GC Lease also invites me to draw an adverse inference against the defendants, to the effect that they made the Genuine Reseller Representation fraudulently in respect of all customers, for failing to disclose WhatsApp conversations they had with the customers.[95] The brief background to this is that GC Lease had sought specific discovery against D6, D7 and D8. Among other documents, GC Lease requested for all written correspondence or

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95 PWS at para 78.

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communications between each of D6, D7 and D8 and their respective customers.[96]

87 In response, D6 deposed as follows:[97]

> 6 … I have never corresponded with representatives of requesting customers through any written correspondence or communications including WhatsApp messages. In any event, I have changed my phone sometime in 2020 and have no cloud backup for the messages. … I have checked all possible and available personal cloud backups and have found no relevant correspondence in my possession.

88 In *Tan Tse Haw v Peh Tian Swee* [2025] SGHC 113, Chua Lee Ming J explained (at [18]–[19]) that if it were not plain and obvious at the interlocutory stage that the documents which are said to not exist do in fact exist, then the requesting party has to "wait for the trial and cross-examine the producing party during the trial". At the end of trial, the requesting party can then submit that the relevant discovery order has not been complied with and invite the court to draw appropriate adverse inferences against the producing party.

89 To succeed in that endeavour, the requesting party must through his/her cross-examination persuade the court that the relevant documents *did exist*. GC Lease has failed to do so in respect of D2/6's communications with the other 22 customers (besides PHS and FSL):

> (a) I note that D6's claim that he has never corresponded with representatives of requesting customers through written correspondence or communications including WhatsApp messages is, on its face, untrue, for the simple reason that there are records of WhatsApp messages

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96 HC/SUM 2094/2023 (Amendment No. 1) dated 19 July 2024.

97 D6's Affidavit Pursuant to Discovery Request filed on 25 September 2024.

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between Mr Chandrahason and D6. However, GC Lease did not put this apparent inconsistency to D6. The submission that D6's explanation for the non-disclosure of WhatsApp messages should be rejected on the basis of an inconsistency – and hence an adverse inference should be drawn against D2/6 to the effect that the WhatsApp messages (with all its remaining 22 customers) existed and would have shown that D2/6 did not genuinely conduct the business of reselling – would have been a key plank of GC Lease's case. Since D6 was not provided an opportunity to explain the inconsistency, it was not open to GC Lease to make such a submission (see *GII v Public Prosecutor* [2025] 3 SLR 578 at [40]–[41]). D6 may have simply forgotten about communicating with the customers on WhatsApp, given that he could not access any previous messages at the time discovery was sought.

(b) Indeed, more importantly, GC Lease also omitted to cross-examine D6 on his alternative explanation that he could no longer access the WhatsApp messages. This alternative explanation was capable of standing on its own. Even if there were WhatsApp conversations with the remaining 22 customers, as long as GC Lease fails to convince me that D6 had access to the messages at the time discovery was sought, it would have been inappropriate to draw any adverse inference. Without access, the messages could never have been produced. Effectively, D6's explanations for not producing any WhatsApp messages were entirely unchallenged and, in the circumstances, must be accepted. I therefore refuse to draw the adverse inference that the WhatsApp messages existed and would have shown that D2/6 were not genuinely conducting the business of reselling the Software.

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90 To summarise my findings in respect of D6's state of mind, D6 did not genuinely conduct the business of selling the Software when dealing with FSL. He could not have honestly believed that he was genuinely conducting the business of selling the Software when dealing with FSL.

91 Before I leave this issue, I pause to record an observation about GC Lease's reliance on the substantial payments that each of the resellers made to the introducers. GC Lease's only issue with these payments is that they were significant, unrecorded, and made in cash. They argue that this is a highly suspicious practice that suggests that the resellers were not running genuine businesses. This is a broad claim that has not been substantiated by GC Lease. The defendants' businesses, in terms of accounting, record-keeping, *etc*, may have been far from perfect but that does not mean the businesses were not genuine. In my judgment, perhaps the more concerning issue is whether payments were made to D5/Ofywork (whether directly from the resellers or indirectly through the introducers) for the Software and, if not, why not. GC Lease did not pursue this in cross-examination. It is also noteworthy that it is *not* GC Lease's case that the resellers' businesses were not genuine because they did not pay for the Software from D5/Ofywork, and thus I say no more on this issue.

The Genuine Reseller Representation was not made fraudulently by D3/7

92 Turning to the evidence relevant to D3/7's state of mind, I note at the outset that GC Lease curiously did not call a single representative from any of D3/7's 47 customers as witnesses. That left me with only the testimony from D7 as well as the relevant contemporaneous documents. Going through them, it is clear to me that GC Lease has failed to prove that D3/7 was not genuinely conducting the business of selling the Software.

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93 For all the same reasons mentioned (at [54]) above, I find that there was insufficient evidence to conclude that D3/7 was not genuinely conducting the business of selling the Software. D7 relied heavily on Andy to find and convince customers, practically to the exclusion of his own efforts. Thus, although GC Lease did show me that there were suspicious ACRA lodgements in relation to some of D3/7's customers, it failed to show that D7 *knew* about these suspicious lodgements.[98] At most, D7 knew the persons, who were then – unbeknownst to D7 – orchestrating a bigger scheme behind the scenes. This was consistent with D7's overall evidence, which was that he carried out whatever he was told to do as a reseller, whether he was told this by GC Lease, by D1/5, or by Andy. He was not the mastermind; he barely knew that he may have been exploited to do something unsavoury. There was no evidence that there were obvious red flags that *should have* caught D7's attention. GC Lease's process did not, for instance, require the resellers to conduct due diligence on the history of its customers' shareholders and directors.

94 Further, the contemporaneous correspondence involving D3/7 also demonstrate that D3/7 sincerely believed himself to be reselling the Software:

(a) When GC Lease demanded payment from VG Link Pte Ltd, a customer of D3/7, Ms Jasmine Khew, director of VG Link Pte Ltd, alleged that she could not access the Software and hence stopped paying for it.[99] Within the same day D3/7 was first copied into the e-mail correspondence, D3/7 replied to assist Ms Khew, providing her with the login credentials that D3/7 says was provided from the beginning since the contract was signed. Ms Khew took issue with D3/7's claim that the

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98 NE, 27 August 2025, 91:7–95:19.

99 10 PBD 4755–4758.

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Software had been active and working since the day the contract was signed and claimed that she had faced errors and was left unassisted. However, she did not respond to D3/7's comprehensive e-mail setting out the respective roles of GC Lease, Ofywork, and D3/7, explaining that neither Ofywork nor D3/7 received any complaints and inviting her to share any previous correspondence she initiated with either about issues with the Software.[100] D3/7 reasonably understood Ms Khew's non-response as indicating that she could now access the Software after D3/7's intervention, and that there was no previous correspondence from Ms Khew regarding issues with the Software.[101]

(b) When Mr Loh of GC Lease asked D3/7 to speak with three customers who said there was no Software, D3/7 was earnest in contacting them and updating GC Lease.[102]

(c) When GC Lease informed a customer of unsuccessful GIRO deductions by e-mail, copying D3/7 although there was no necessary action from them, D3/7 took the initiative to contact the representative of the customer by WhatsApp.[103] D3/7 then replied to GC Lease, stating that the initial e-mail was sent to the wrong e-mail address and that the customer had agreed to make payment soon.

95 I note that Mr Schulz and Ms Rita have given evidence that Mr Loh was part of the conspiracy to defraud GC Lease. If that is true, it may be possible that some of the correspondence above were not genuine and intentionally

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100 10 PBD 4755 and 4779.

101 NE, 27 August 2025, 56:22–57:11.

102 10 PBD 4778–4782.

103 10 PBD 4730–4732.

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created to distract or mislead GC Lease. However, I am not asked to find that Mr Loh was part of the conspiracy as that is a material fact that was not pleaded by GC Lease and, further, Mr Loh is neither a party nor a witness in the proceedings. In any case, GC Lease has not convinced me that the communications should not be read literally and taken at face value.

96 As mentioned, GC Lease invites me to draw an adverse inference against the defendants, to the effect that they made the Genuine Reseller Representation fraudulently in respect of all customers (see [86] above). I refuse to do so. On 6 July 2023, D3/7 responded to GC Lease's request for discovery in solicitors' correspondence in essentially the same terms as D2/6 (see [87] above). I note that, at that time, D3/7 was represented by the same solicitor as D2/6. Unlike with D6, GC Lease did cross-examine D7 on the first sentence of D3/7's response that they have never corresponded with customers via WhatsApp.[104] D7 admitted that there "definitely will have a little bit of WhatsApp" and that he had forgotten about the screenshot of his conversation with a customer he sent to Mr Loh (see [94(c)] above). He accepted that the first sentence was therefore untrue but maintained that not having a backup of his WhatsApp messages was true. That he had forgotten about the use of WhatsApp with his customers is consistent with his subsequent conduct, after he had been reminded of the use of WhatsApp when reviewing the documents for the trial.[105] In 2024, he confirmed that there were WhatsApp messages with customers in correspondence between D3/7's new solicitors and GC Lease's solicitors.[106] Indeed, in D7's affidavit filed in 2024 verifying his list of documents, he had no longer justified the non-disclosure of WhatsApp messages on the basis that he

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104 NE, 27 August 2025, 107:14–108:22.

105 NE, 27 August 2023, 113:10–23.

106 10 PBD 4816.

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never corresponded via WhatsApp. Instead, D3/7 expressly stated that they "had, but do not now have, in their possession, custody or power" the WhatsApp correspondence between D3/7 and the customers because D7 "has since changed his phone thrice and thus, no longer has access to such WhatsApp correspondences".[107] Thus, I place virtually no weight on the inconsistency between D3/7's position now and in 2023.

97 More importantly, whether or not D3/7 set out to *lie* about never having corresponded with customers via WhatsApp was not relevant to the question of an adverse inference. What GC Lease has to ultimately convince me of is that D3/7 could (and should) have produced the WhatsApp messages, *ie*, that they still had in their possession, custody or power those WhatsApp messages at the material time (see *Sudha Natrajan* at [19]; see also [88]–[89] above). In this regard, GC Lease has failed to show why D7's explanation in his affidavit that he no longer had access to the WhatsApp messages should not be believed. All GC Lease could do was point out the identical explanation between D2/6 and D3/7.[108] But changing phones and losing access to messages are not necessarily uncommon or surprising, given the lapse in time. Indeed, a customer of D4/8 that GC Lease called as a witness also lost the phone that he was using at the time of signing the contract with GC Lease.[109] There is nothing inherently suspicious about the defendants no longer having access to old WhatsApp messages. GC Lease has not convinced me of other reasons to doubt the defendants' explanations.

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107 D7's Affidavit Verifying List of Documents filed on 9 July 2024 at p 5.

108 NE, 27 August 2025, 108:25–111:1, 114:23–115:2.

109 NE, 12 August 2025, 22:10–15.

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98 To summarise my findings in respect of D7's state of mind, GC Lease has failed to prove that D3/7 did not genuinely conduct the business of selling the Software.

The Genuine Reseller Representation was not made fraudulently by D4/8

99 As it did with D3/7, GC Lease brought D4/8 through the suspicious ACRA lodgements of nine of their 11 customers. However, D4/8's evidence that he did not know of these was *unchallenged*:[110]

> Q. Okay. So we have gone through the table. I have counted nine of your 11 clients who have these lodgements with backdating of share transfers and backdating of appointment of directors by two to four -- between two to four years, shortly before the date of delivery. I have taken you through all these, right?
>
> A. Yes.
>
> Q. Now, do you have anything to say about this?
>
> A. No. This is the second time I am seeing it only, actually.
>
> Q. What do you mean?
>
> A. The first time I seen it was at your law firm, I think. If I remember correctly --
>
> Q. Mm-hmm.
>
> A. -- and this is the second time.
>
> Q. So you are telling me this is the – so your comment is this is the [second] time you have seen this table; right?
>
> A. Yes. With regards to this.
>
> Q. Okay. I'm asking now -- I will clarify -- about whether you have anything to say about the contents that I just read through. The fact that there are so many backdating of share transfers and appointment of directors by a number of years shortly before your confirmation of delivery for nine of these customers.
>
> A. If I have any comment?

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110 NE, 29 August 2025, 126:9–127:15.

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Q. Yes.

A. No comment. Sorry, I don't understand.

Q. Do you have any explanation for why this took place?

A. No, I have no idea this took place, actually.

Q. You have no idea that any of this took place?

A. Yes.

100 GC Lease then focused on the complaints in respect of the Software from some of D4/8's customers. Its case was that D4/8 would have verified that the Software did work, if they were an honest reseller selling the Software.[111] However, for the Software issues to affect D4/8's honesty, D4/8 must at least be aware of these issues (assuming they existed). Under cross-examination, D8 explained that he did not know some of his customers were facing issues with the Software at the material time.[112] GC Lease had no evidence to the contrary. For instance, in respect of Jen Cars Pte Ltd, there was no evidence that the issues which it claimed it faced were ever raised to D4/8. Further, no representative from Jen Cars Pte Ltd was called as a witness.

101 In respect of Trust Link Management Pte Ltd ("TLM") and CSCT Pte Ltd ("CSCT"), D4/8 testified that he knew at the material time that both of them claimed to have troubles with the Software. In this regard, the contemporaneous correspondence demonstrates that D4/8 was earnestly fulfilling their role as a *reseller*:

(a) No representative from TLM was called as a witness. The director, Ms Karen Lee Siang Lin, exchanged various e-mails with GC Lease and D4/8 in late 2019, when GC Lease demanded payment from

111 NE, 2 September 2025, 92:10–13.

112 NE, 2 September 2025, 90:12–91:18.

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TLM. From these e-mails, Ms Lee appeared to understand that D5 was responsible for the installation and maintenance of the Software.[113] At this general level, this was consistent with D4/8's evidence. Ms Lee also wrote that the Software worked fine, and it was only "one week later" that the Software did not respond well. Issues with the Software *post*-delivery could not have affected the genuineness of the *reselling* business. D4/8 was not knowingly selling a dysfunctional software.

(b) Although not his responsibility, D4/8 still offered to help Ms Lee follow up with D5/Ofywork and verify previous contact between the two (if any).[114] D4/8 also corresponded with Mr Loh to diligently follow up on questions that GC Lease had about TLM's assertions.[115] Taking the e-mails at face value (and I have no reason to do otherwise since no representative from TLM was called to give countervailing evidence) (see also [95] above), there is simply nothing that would lead me to believe D4/8 did not genuinely conduct the reselling business.

(c) I note that there are details in Ms Lee's version of events that are inconsistent with D4/8's evidence. For instance, Ms Lee claims that the Software came preloaded on a separate laptop which was provided to TLM.[116] This was challenged by D4/8 in a reply e-mail. However, without evidence from Ms Lee, I am not in a position to resolve such inconsistencies. Thus, the apparent inconsistencies do not detract from my reliance on the e-mails above.

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113 3 CBD 1244–1245.

114 3 CBD 1242.

115 3 CBD 1250–1252.

116 3 CBD 1244.

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(d) Similarly, no representative from CSCT was called as a witness. D8 gave evidence that he knew about the troubles CSCT claimed it faced because of e-mail correspondence between CSCT, GC Lease, and him.[117] GC Lease did not have records of such e-mails, and it was not adduced by D4/8 either. In my judgment, at this point of the cross-examination, D8 was visibly mixed up about his communications with CSCT and TLM.[118] D8 even sought clarification from GC Lease's solicitors, asking whether there was "any email thread between me and GC and a customer, of any sort". I accept D8's explanation in re-examination that he made a mistake when referring to *e-mails* between *CSCT*, GC Lease and him.[119] As D8 was sure he knew that CSCT was facing issues, he was most likely informed over a *call*. In this regard, his evidence was that he would attempt to resolve customers' issues, however the issues were brought to his attention, just as he did for TLM.[120] There is simply no contrary evidence that he knew about the issues but refused to assist his customers. Without calling any representative from CSCT as witness, GC Lease fails to convince me that D4/8 was not genuinely conducting the business of reselling.

102 Overall, I also take into consideration the fact that D4/8 did not only resell the Software. D4/8 also resold copiers and servers, working with other financiers such as Hitachi, ORIX and Mitsuo, *after* GC Lease stopped collaborating with D4/8.[121] If the reselling of the Software was not genuine –

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117 NE, 2 September 2025, 29:10–30:6, 33:14–19.

118 NE, 2 September 2025, 30:25–32:2.

119 NE, 2 September 2025, 148:17–24.

120 NE, 2 September 2025, 149:15–20.

121 NE, 2 September 2025, 156:8–25.

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and, as GC Lease implies, was simply a façade for a more sinister arrangement that D4/8 knowingly participated in – then it is more likely than not that D4/8 would not have remained in the reselling industry for other products.

103 For completeness, GC Lease called one Mr Sum Kwong Kei, director of Cyeo Trading Pte Ltd ("Cyeo"), as a witness in the trial, but his evidence was not reliable. Cyeo was a customer of D4/8. In my judgment, Mr Sum's evidence in court was confused and inconsistent. Among other things, Mr Sum could not remember or even distinguish between whether the transaction with GC Lease occurred in 2014 or 2019. A statutory declaration prepared by Mr Sum in 2021, meant to assist in GC Lease's investigations, also stated that the transaction occurred in 2014.[122] This is clearly wrong. The parties do not dispute that the Software was sold in August 2017 at the earliest (see [11] above). Even when the issue of the timing of the transaction was *squarely* raised by counsel's questions in cross-examination, Mr Sum still contradicted himself. When asked whether he was approached in 2014, five years before the documents were signed in 2019, Mr Sum responded: "I forgot".[123] This followed immediately after he confirmed that he was first approached "around" 2014.[124]

104 Mr Sum's evidence was so poor it bordered on being incoherent. It could not be relied upon to suggest that D8 was the one who approached him or, worse, that D4/8 provided some sort of rebate to Mr Sum. Indeed, Mr Sum admitted that he might be confused about the money he says he received supposedly in connection with the transaction with GC Lease:[125]

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122 1 CBD 140.

123 NE, 12 August 2025, 11:8–12.

124 NE, 12 August 2025, 11:6–7.

125 NE, 12 August 2025, 11:24–12:3.

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> Q. So, Mr Sum, there's a possibility you're confusing what happened in 2014, when you received the money of 3,000, and 2019 when you signed off the documents that Mr Yeo showed you just now. Correct?
>
> A. Yes, correct. There's such a possibility.

105 Thus, D8's evidence that Mr Sum was "in financial difficulty" could not be said to *corroborate* Mr Sum's evidence that D4/8 supposedly gave Mr Sum some sort of rebate.[126] In any case, it was ambiguous whether D8 was giving evidence about his own understanding of Mr Sum's situation at the material time, or simply stating what Mr Sum had said in his statutory declaration:[127]

> A. … So *like he said*, he was in financial difficulty. I believe that is his -- *in his declaration here*. … So at that point in time he said that he needed money, *in the statutory declaration*, and he just needed to sign the documents. So whatever I said that point in time, I think it's reasonable for me not to know … that he is saying that he does not understand what he is signing, and all that things – because he needs the money. I don't need him as a client.
>
> [emphasis added]

Furthermore, even if D8 was giving evidence that *he* understood Mr Sum to be in financial difficulty, that did not necessarily mean he gave some sort of rebate to Mr Sum. Financial difficulty *per se* is also consistent with requiring leasing of the Software, instead of purchasing it outright.

106 Although I find Mr Sum's evidence *in trial* to be incoherent and unreliable, that does not mean that Mr Sum was similarly incoherent in 2019, some six years prior, when signing the documents. There is no basis to conclude that D4/8 could not have honestly believed that Mr Sum, on behalf of Cyeo, had

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126 NE, 2 September 2025, 118:11–22.

127 NE, 2 September 2025, 118:12–22.

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a genuine need for the Software. To the contrary, I accept D8's evidence that he *reasonably* believed Mr Sum to have a genuine need for the Software:[128]

> A. … So I feel like, to be fair, it's also a decade ago that I saw him, and he was definitely looking much younger. … When I explained to him the software and the contract, he seemed to understand, in Chinese. And he seemed to agree with whatever I was saying at that point in time. And he signed the documents.

107 As mentioned, GC Lease invites me to draw an adverse inference against the defendants, to the effect that they made the Genuine Reseller Representation fraudulently in respect of all customers (see [86] above). I refuse to do so. D4/8 gave the same explanation as D2/6 for not disclosing WhatsApp messages with customers, *ie*, that (a) he never corresponded with customers by WhatsApp, and (b) he had changed his phone and did not have cloud backups of WhatsApp messages. It bears repeating that GC Lease had to show that D4/8 had access to the WhatsApp messages but refused to disclose it, presumably because it would be unfavourable to them (see [97] above). An inconsistency, or even a lie, *by itself* did not mean that I was entitled to draw an adverse inference. Here, both explanations were equally and independently capable of explaining non-disclosure. While GC Lease obtained D8's concession that the first explanation was not true,[129] GC Lease did not show enough in respect of the second explanation. Similar to what it did with D3/7, GC Lease simply pointed out the identical explanations between the reseller-defendants.[130] As explained, there is nothing surprising or suspicious about that (see [97] above). GC Lease has not cast any doubt factually on D4/8's second explanation.

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128 NE, 2 September 2025, 116:2–8.

129 NE, 2 September 2025, 102:9–13.

130 NE, 2 September 2025, 103:4–104:1.

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108 To summarise my findings in respect of D8's state of mind, GC Lease has failed to prove that D4/8 did not genuinely conduct the business of selling the Software.

D6 directed the making of the Genuine Reseller Representation by D2

109 To recap, GC Lease has proven the facts underlying a claim for fraudulent misrepresentation only against D2/6, and only in respect of the transaction involving FSL (see [83] above). GC Lease pleaded that although the representation emanated from D6, it was made on behalf of D2.[131] While D6 denied this,[132] he did not pursue this line of argument in submissions, and rightly so as there was no evidence that D6 acted in any capacity other than as director of D2 for these transactions. Thus, on GC Lease's own case, with which I agree, the representor was *D2*.

110 As against D6, GC Lease argues that D6 should also be held liable for directing or procuring D2's commission of the tort of deceit.[133] I agree. D6 was the sole director of D2 and D2 had no other employees. D6 was effectively the *entire* mind and will of D2, and thus directed D2's commission of the tort of deceit.

111 D6 relies on the principle in *Said v Butt* [1920] 2 KB 497 ("*Said v Butt*") at 504 to argue that he should not be held liable for D2's tort of deceit. Such reliance is misplaced, as the principle is not even applicable in the present case.

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131 SOC at para 16.

132 D6/8's Defence at para 14.

133 PWS at paras 82 and 84.

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112 The *Said v Butt* principle was discussed in detail by the Court of Appeal in *PT Sandipala Arthaputra v STMicroelectronics Asia Pacific Pte Ltd* [2018] 1 SLR 818 ("*PT Sandipala*"). In brief, the principle prevents directors from incurring tortious liability related to *breaches of contract* by a company merely because the directors were involved in causing the breach. In *PT Sandipala*, the Court of Appeal explicitly clarified (at [73]) that the *Said v Butt* principle "applies only in relation to his tortious liability for procuring his company's breach of contract or conspiring with the company to breach its contract". The Court of Appeal affirmed the general principle that "a director can, in certain circumstances, be liable for a tort committed by the company if he directed or procured the commission thereof" (*PT Sandipala* at [74], citing *Gabriel Peter & Partners v Wee Chong Jin* [1997] 3 SLR(R) 649 (*Gabriel Peter*")). Thus, the *Said v Butt* principle can have no applicability in torts "such as trespass, intimidation, defamation, *deceit*" [emphasis added] (*PT Sandipala* at [74]).

113 The Court of Appeal was conscious of the anomaly in permitting immunity for directors in respect of some torts but not others (*PT Sandipala* at [75]). Thus, it provided a potential theoretical justification for such a position, but also provided a new potential legal position which would not contain such an inconsistency (*PT Sandipala* at [76]–[78]). The Court of Appeal left the issue for future consideration, and the issue is similarly not engaged in the present case. D6 is *not* arguing that the *Said v Butt* principle *should* apply to torts beyond those relating to the company's breach of contract. Rather, D6 assumes that the *Said v Butt* principle is engaged and argues that GC Lease has not fulfilled the substantive elements for its disapplication.[134] Therefore, I do not express a view on whether the law should move one way or another. For present purposes, it

[134] D6/8WS at paras 97–102.

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suffices to say that the *Said v Butt* principle does not apply at all in determining D6's liability in respect of directing D2's commission of the tort of deceit. Thus, D6 is personally liable for directing D2 in the making of the Genuine Reseller Representation to GC Lease fraudulently, in respect of the transaction involving FSL.

GC Lease has failed to prove its claim under the tort of conspiracy

114 GC Lease's claim for conspiracy was one for conspiracy by unlawful means, specifically, the alleged misrepresentations. As I find that misrepresentation is only proved against D2/6 in respect of one transaction, I only consider whether the conspiracy is proven *in relation to that transaction*.

115 According to GC Lease's pleadings, such a conspiracy was between *D5 on the one part*, and D6 either alone or with other persons on the other part (see [25(b)(i)] above). As part of this conspiracy, D5 entered into an arrangement with D6 to present D2 to GC Lease as a reseller (see [25(b)(iii)] above). It is crucial that, on GC Lease's case, D5 is the one linking all the persons and parts of the alleged conspiracy. Indeed, the SOC only states that ***D5*** conspired with the other persons who set up businesses to be presented as customers to GC Lease.[135] D6 then conspired *with D5*, ***not*** *with those other persons*.

116 I find that GC Lease has not proved that there was such coordination between D5 and D6. It is a basic element of the tort of conspiracy that there must be a combination of two or more persons to do certain acts (see *EFT Holdings, Inc v Marinteknik Shipbuilders (S) Pte Ltd* [2014] 1 SLR 860 at [112(a)]). Such a combination need not be in the nature of an express agreement

135 SOC at para 11(b).

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but rather can be inferred from the surrounding circumstances. Nevertheless, the inference must be that the commission of the unlawful acts "was the product of concert between the alleged conspirators" (see *The Dolphina* [2012] 1 SLR 992 at [263]–[264]).

117 Neither D5 nor D6 was asked about any arrangement to present D2 as a reseller to GC Lease. In fact, the two were not even cross-examined about any concerted effort *between them*. Both were asked about one Mr Anthony Chua, but the evidence showed at most that each of D5 and D6 had dealings with Mr Chua *separately*. While there was some merit to GC Lease's argument about Mr Chua's suspicious involvement in the affairs of D2/6's customers,[136] GC Lease's case was that *D5* (*not* Mr Chua) was the linchpin connecting the conspiracy. It would be entirely speculative to infer a D5-D6 arrangement from the mere commonality of their respective interactions with Mr Anthony Chua. Indeed, one plausible alternative is that D5 and D6 individually conspired with Mr Chua – although I do not make such a finding given that Mr Chua is not a party or witness to these proceedings. For present purposes, it suffices to say that GC Lease has not proven the conspiracy as alleged in its SOC, a key aspect of which is that it involved – minimally – both D5 and D6.

D3 did not breach the contracts for the sale of the Software to GC Lease

118 GC Lease's claims for breach of contract are against the corporate defendants *only*. As mentioned, it has already obtained default judgment against D2 and D4 (see [21] above). Since D6 and D8 did not procure D2 and D4's application to set aside these default judgments, I do not consider their

136 NE, 29 August 2025, 22:10–23:10.

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submissions on why D2 and D4 should not be held liable. Those were simply not issues raised or to be decided in this particular trial.

119 Essentially, GC Lease's case against D3 is that, in the contracts for the purchase of the Software, there were implied conditions which were breached. These conditions are set out in ss 13(1) and 14(2) of the SGA:

> **13.**—(1) Where there is a contract for the sale of goods by description, there is an implied condition that the goods will correspond with the description.
>
> …
>
> **14.**—(1) …
>
> (2) Where the seller sells goods in the course of a business, there is an implied condition that the goods supplied under the contract are of satisfactory quality.

120 Preliminarily, I find that there were contracts for the re-sale of the Software from D3 to GC Lease. Unlike D6 and D8, it is *not* D3/7's case that D3/7 were agents for D1/5 or Ofywork (see [27(g)] above). In any case, there was no evidence of any agency relationship. On all the relevant documents, there is no indication at all that D3/7 was acting on behalf of a principal.

121 I find that GC Lease has not proved that these conditions were breached by D3. What GC Lease has to prove to show that the implied condition under s 13(1) of the SGA was breached is practically the same as what it has to prove to show that the Features Representation was false – that the Software did *not* contain the features described on the respective invoices. In a similar vein, what GC Lease has to prove to show that the implied condition under s 14(2) of the SGA was breached is practically the same as what it has to prove to show that the Quality Representation was false – that the Software was *not* of satisfactory quality. As explained above, I draw the adverse inference that each of the

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Software Representations was true (see [69(e)] above) and consequently there is no breach of the implied conditions by D3.

GC Lease's claims are not unenforceable for illegality

122 During the trial, GC Lease's own evidence that Mr Loh was part of the alleged conspiracy unexpectedly took on particular significance. Although the defence of illegality is not pleaded by any of the defendants, the evidence given by Mr Schulz and Ms Rita was concerning to me, in so far as they suggested that Mr Loh participated in the fraud from within GC Lease. This gave rise to the question of illegality.

123 In *Fan Ren Ray v Toh Fong Peng* [2020] SGCA 117 at [13], the Court of Appeal held that the court would be bound to consider the issue of illegality "in certain very specific and limited circumstances", endorsing the following observations set out in *Edler v Auerbach* [1950] 1 KB 359 at 371:

> [F]irst, that, where a contract is *ex facie* illegal, the court will not enforce it, whether the illegality is pleaded or not; secondly, that, where … the contract is not *ex facie* illegal, evidence of extraneous circumstances tending to show that it has an illegal object should not be admitted unless the circumstances relied on are pleaded; thirdly, that, where unpleaded facts, which taken by themselves show an illegal object, have been revealed in evidence (because, perhaps, no objection was raised or because they were adduced for some other purpose), the court should not act on them unless it is satisfied that the whole of the relevant circumstances are before it; but, fourthly, that, where the court is satisfied that all the relevant facts are before it and can see clearly from them that the contract had an illegal object, it may not enforce the contract, whether the facts were pleaded or not.

124 Keeping the above principles in mind, I refuse to make a finding of illegality. First, the contracts for the purchase of the Software were not *ex facie* illegal. Secondly, neither the defendants nor GC Lease pleaded that Mr Loh was

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part of the conspiracy. Thirdly, in so far as the evidence of Mr Schulz and Ms Rita suggested an illegal object, I cannot make a definitive finding without the evidence of the introducers such as Andy, who seemingly played a key role.

125 Even if I find that the contracts for the purchase of the Software were tainted by illegality, Mr Loh's knowledge of the illegality should not be attributed to GC Lease. When considering attribution in this context of the defence of illegality, the key question is whether allowing GC Lease's claim, which could only be done if Mr Loh's knowledge and acts were not attributed to GC Lease, would be consistent with the purpose of the defence (*Red Star Marine Consultants Pte Ltd v Personal Representatives of Satwant Kaur d/o Sardara Singh, deceased* [2020] 1 SLR 115 at [42]). Between GC Lease and D2/6, it is clear that they were not equally tainted by the same wrong. D2/6, in the transaction involving FSL, knew that the transaction was a disguise for a loan. They directly participated in the fraud. Conversely, if it is true that Mr Loh was also a participant in the fraud, GC Lease was but an innocent party exploited by a rogue internal employee. Allowing GC Lease's claims would not be assisting a wrongdoer to recover the fruits of its wrongdoing. On the contrary, barring the claim would be assisting the wrongdoers to retain the illegal proceeds.

126 Thus, I disagree with D6's submission[137] (which was made only after I raised the issue of illegality) that the illegality defence is a complete defence to GC Lease's claim.

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137 MS, 5 November 2025, p 11.

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Loss suffered by GC Lease

127 To conclude the preceding discussion, I find that D6 is personally liable for GC Lease's losses resulting from D2's fraudulent misrepresentation in the transaction involving FSL.

128 In its SOC, GC Lease only pleaded one counterfactual, *viz*, it would not have entered into the contract and purchased the Software from D2 if it knew that any of the representations was false and untrue.[138] Ms Rita asserted the same in her AEIC, and this was not challenged in cross-examination.[139] It was not disputed that the price GC Lease paid to D2 for the Software was $90,000.[140] Given the counterfactual basis for GC Lease's claim, the statement of accounts showing FSL's arrears of $112,351.47 is irrelevant.[141] GC Lease has only proved losses of $90,000.

129 For completeness, I also deal with D3/7's (*not* D6's) argument that any loss was caused by GC Lease's own deficient internal processes or its poor credit assessment.[142] This issue has been properly considered under the question of whether the Genuine Reseller Representation induced GC Lease into entering into the transaction, notwithstanding any deficient internal processes or poor credit assessment (see [74] above). The fraud resulted in the transaction. The question now is whether the loss resulted from the transaction. The answer is yes. FSL was a customer introduced to GC Lease *by* D2/6. Relying on the Genuine Reseller Representation, GC Lease believed itself to be buying and

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138 SOC at para 22.

139 NR-7 at para 62.

140 3 ABD 1125, 1230.

141 4 ABD 1635.

142 D3/7WS at paras 172 and 175.

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then leasing the Software but ended up providing a loan. On Mr Chandrahason's own evidence, one reason he stopped making payments to GC Lease is the non-receipt of the Software.[143] This is not a loss which GC Lease would have suffered in any case, even if it had not entered into the transaction.

130 One valid concern that the defendants raised was the potential for double recovery by GC Lease. Ms Rita testified that, since the proceedings were first commenced, GC Lease has recovered some $1.5m from the customers.[144] Some customers and their representatives continue to make payments.[145] This is an out-of-court process that I have no oversight of or control over. Solicitors for GC Lease offered to provide an undertaking to disclose to relevant parties any sums which GC Lease successfully recovers from the defendants through enforcement of the judgment in these proceedings, and similarly to disclose to the defendants here any sums which it successfully recovers through other channels. This ensures that GC Lease would not receive more than was due to it, *ie*, the loss it suffered. I agree and hereby accept the solicitors' undertaking.

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143 NE, 23 July 2025, 45:14–23.

144 NE, 12 August 2025, 94:17–25.

145 NE, 13 August 2025, 120:3–9.

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In this regard, I draw their attention to r 13(4) of the Legal Profession (Professional Conduct) Rules 2015.

Conclusion

131 In light of the foregoing, I dismiss GC Lease's claims against D3/7 and D8 entirely. D6 is liable to GC Lease for $90,000, less any amount recovered from third parties, such as FSL or Mr Chandrahason, in respect of the same loss.

132 I will hear the parties on interest and costs.

Wong Li Kok, Alex
Judge of the High Court

Ng Fook Yun, Farrah Joelle Isaac, Yeo Shan Hui and Chang Guo En Nicholas Winarta Chandra (I.N.C. Law LLC) for the plaintiff;
The first and fifth defendant in person;
The second and fourth defendant absent;
Luke Anton Netto, Julian Martin Michael, Aylwyn Seto Zi You and Nidesh s/o Muralidharan (Netto & Magin LLC) for the third and seventh defendant;
Mohammad Shafiq bin Haja Maideen (M Shafiq Chambers LLC) for the sixth and eighth defendant.

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