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

[2026] SGHC 140

In the matter of Originating Claim No 185 of 2024

Between

ETHOZ CAPITAL LTD

… Claimant

And

(1) **GOKEN AESTHETICS PRACTICE PTE. LTD**
(2) **NOR BAHRI @ ADAM HARIS**
(3) **SIN YONG (SHEN YONG)**

… Defendants

And

CHEN QIAO NING

…Third Party

Counterclaim of 3rd Defendant

Between

SIN YONG (SHEN YONG)

… Claimant in Counterclaim

And

ETHOZ CAPITAL LTD

… Defendant in Counterclaim

Version No 2: 03 Aug 2026 (19:11 hrs)

JUDGMENT

[Contract — Misrepresentation]
[Contract — Mistake]

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Ethoz Capital Ltd
v
Goken Aesthetics Practice Pte Ltd and others (Chen Qiao Ning, third party)

[2026] SGHC 140

General Division of the High Court — Originating Claim No 185 of 2024
Tan Siong Thye SJ
12, 13, 14 January, 25, 27 February, 29 April 2026

3 July 2026 Judgment reserved.

Tan Siong Thye SJ:

Introduction

1 This is a claim by the Claimant, Ethoz Capital Ltd, against the three defendants for the breach of a term loan facility of $600,000 dated 3 March 2026 ("Term Loan Facility") granted by the Claimant to the first defendant, Goken Aesthetics Practice Pte Ltd ("First Defendant"). The second defendant, Nor Bahri @ Adam Haris ("Second Defendant"), and the third defendant, Sin Yong (Shen Yong) ("Third Defendant"), stand as personal guarantors for the Term Loan Facility. The First Defendant and the Second Defendant did not contest the Claimant's action, and default judgment was entered against them. The Second Defendant has acknowledged liability and is currently making instalment payments to the Claimant. The Third Defendant denies personal

liability under the guarantee and thus the trial proceeds only against the Third Defendant. He has filed a Counterclaim against the Claimant.

2 The Third Defendant was represented by solicitors of his choice. However, towards the end of the trial he discharged his solicitors as he faced financial difficulties and is self-represented for the remainder of the trial.

Facts

The parties

3 The Claimant is a company carrying on business in Singapore, *inter alia*, in equipment financing, car rental and vehicle financing. The Claimant also provides other finance related services, products and solutions to companies and businesses in Singapore.[1]

4 The First Defendant is a company that provides medical aesthetics services in Singapore.[2] The Second Defendant was a shareholder of the First Defendant and a guarantor for the Term Loan Facility.[3] The Third Defendant was a shareholder and director of the First Defendant. He was also a guarantor for the Term Loan Facility.[4]

5 The Third Defendant initially included Chen Qiao Ning as a third party in his Counterclaim. She was a senior loan consultant at Pinnacle Advisory Pte Ltd, a company engaged in the provision of management and finance consulting

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1 Cai XianDe Brandan's Affidavit of Evidence-In-Chief sworn on 4 September 2024 and filed on 17 September 2024 ("Brandan's AEIC") at para 4.

2 Brandan's AEIC at para 7.

3 Brandan's AEIC at paras 8 and 10, pp 123 and 140.

4 Brandan's AEIC at para 13, pp 123 and 140.

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services.[5] In this capacity, Chen Qiao Ning assisted the customers in obtaining finance for their businesses through banks or private lenders.[6] Eventually, the court in HC/ORC 5593/25 directed that the Third Party action be struck off.

6 Central to the Third Defendant's case is Foong Chong Hung. The Third Defendant claims that sometime in 2019, he was interviewed by Foong Chong Hung, the owner of Bionexus Meditech Pte Ltd ("Bionexus"), for the role of an aesthetics doctor for the First Defendant, which was the aesthetics practice arm of Bionexus.[7] Thus, at his employment with the First Defendant, Foong Chong Hung was one of the persons the Third Defendant reported directly to.[8]

Background to the dispute

7 On 9 February 2021, the three Defendants signed an agreement to appoint Pinnacle Advisory Pte Ltd to source and apply for credit facilities for the First Defendant (the "Brokerage Agreement").[9] Chen Qiao Ning, as representative of Pinnacle Advisory Pte Ltd, assisted the First Defendant in securing credit facilities.[10]

8 On 26 February 2021, the Claimant issued a letter of offer to the First Defendant for the Term Loan Facility under Enterprise Singapore's Financing

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5 Chen Qiao Ning's Affidavit of Evidence-In-Chief sworn on 6 June 2025 and filed on 6 June 2025 ("Chen Qiao Ning's AEIC") at para 5.

6 Chen Qiao Ning's AEIC at para 5.

7 Sin Yong's Affidavit of Evidence-In-Chief sworn on 19 August 2024 and filed on 12 September 2024 ("Sin Yong's AEIC") at para 4.

8 Sin Yong's AEIC at para 7.

9 Agreed Bundle of Documents dated and filed on 8 January 2026 ("ABOD") at pp 545–550.

10 Agreed Statement of Facts dated and filed on 6 January 2026 ("ASOF") at para 2.

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Scheme ("Letter of Offer").[11] A condition of the Term Loan Facility was that it would be guaranteed by the Second Defendant and the Third Defendant.[12]

9 On 1 March 2021, a meeting was held in the First Defendant's office for the Term Loan Facility and other related documents to be signed (the "Meeting").[13] The Meeting was attended by the Second Defendant, the Third Defendant, Koh Jia Wen (the Claimant's relationship manager at the material time),[14] Foong Chong Hung,[15] one Lim Boon Chiang (a director of the First Defendant at the time of the meeting)[16] and Chen Qiao Ning .[17]

10 At the Meeting, the Third Defendant signed the relevant documents of the Term Loan Facility on behalf of the First Defendant.[18] He also signed on every page of the Claimant's Letter of Offer[19] and the Term Loan Facility.[20] The Second Defendant and the Third Defendant then signed a Deed of Guarantee dated 1 March 2021 ("Deed of Guarantee").[21] At the time of the signing of the

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11 ABOD at pp 562–567.

12 ASOF at para 4; ABOD at p 562.

13 ASOF at para 5.

14 Brandan's AEIC at para 11.

15 ASOF at para 5.

16 Brandan's AEIC at p 123.

17 ASOF at para 5.

18 Brandan's AEIC at pp 140, 167; ASOF at para 6.

19 Brandan's AEIC at pp 135–140; ASOF at para 6.

20 Brandan's AEIC at p 167; ASOF at para 6.

21 ASOF at para 6.

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Deed of Guarantee, the Third Defendant was a shareholder[22] and director of the First Defendant.[23]

11 Along with the Term Loan Facility and the Deed of Guarantee, two other documents were signed at the Meeting, namely, an Application for Enterprise Financing Scheme ("ESG Form") and a Declaration Form on Safe Distancing Measures ("SDM Form").[24] The signing of these forms were necessary because the Term Loan Facility was part of Enterprise Singapore's Financing Scheme which was offered to companies during the COVID-19 period.[25] Although the Meeting took place on 1 March 2021, Koh Jia Wen backdated the ESG Form to 17 February 2021 and the SDM Form to 9 February 2021.[26]

12 The Claimant subsequently disbursed $577,718 (being $600,000 less the first instalment, commitment fee and facility fee) to the First Defendant by a cheque dated 4 March 2021.[27]

13 In early June 2021, the First Defendant breached the Term Loan Facility as it failed to pay the monthly instalment. Accordingly, the Claimant terminated the Term Loan Facility on 23 June 2021.[28]

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22 Brandan's AEIC at p 120.

23 ASOF at para 6.

24 Koh Jia Wen's Affidavit of Evidence-In-Chief affirmed on 4 September 2024 and filed on 17 September 2024 ("Koh Jia Wen's AEIC") at pp 13–19.

25 Koh Jia Wen's Supplementary Affidavit affirmed on 18 September 2025 and filed on 3 October 2025 ("Koh Jia Wen's Supplementary Affidavit") at para 3.

26 Koh Jia Wen's Supplementary Affidavit at para 5.

27 ASOF at para 8.

28 ASOF at para 12.

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14 Between 4 May 2021 and 29 June 2021, there were several telephone calls between the Third Defendant and the Claimant's employees as the former no longer wished to be a guarantor for the Term Loan Facility.[29] The telephone calls were recorded by the Claimant's telephone system.[30] In these telephone calls, the Third Defendant alleged that he was a victim of a scam perpetuated by Foong Chong Hung and others against him.[31] The Third Defendant repeated this allegation during a meeting between himself and representatives of the Claimant on 1 July 2021, which he surreptitiously recorded.[32]

15 On 19 May 2021, the Third Defendant made a police report about the alleged fraud.[33] Foong Chong Hung has since been charged in Court on 21 February 2023 for financial related crimes.[34] The police investigations against Foong Chong Hung are, however, immaterial to this case. In fact, the police did not pursue the Third Defendant's case against Foong Chong Hung.[35]

The Claimant's case

16 The Claimant's case is straightforward: the Third Defendant signed the Deed of Guarantee as a condition of the Term Loan Facility and was personally liable as a guarantor upon the First Defendant's default on the loan.

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29 Brandan's AEIC at paras 20–21.

30 ASOF at paras 9–10.

31 ASOF at para 11.

32 ABOD at pp 445–494; ASOF at para 14.

33 ASOF at para 11.

34 Sin Yong's AEIC at para 42.

35 Brandan's AEIC at para 25.

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17 The Claimant contends that the Third Defendant's defences were fabricated to escape liability.[36] As a qualified medical doctor with years of experience in the public healthcare sector, it is highly doubtful and unbelievable that the Third Defendant would have mistakenly believed that no personal liability would follow, despite signing the Deed of Guarantee which plainly stated that he would stand as a guarantor.[37] The Third Defendant could not claim ignorance of his personal liabilities by alleging that he knew nothing about the Term Loan Facility, because he was aware of the loan application through Pinnacle Advisory Pte Ltd, the First Defendant's broker who secured the Term Loan Facility from the Claimant.

18 The Claimant refers to documentary evidence to show that the Third Defendant received $120,000 from the First Defendant immediately after the loan was disbursed to the First Defendant.[38] The Third Defendant subsequently sought to be replaced as a guarantor.[39] This shows that the Third Defendant knew his potential liability as a guarantor who signed the Deed of Guarantee. In support, the Claimant further relies on the recorded telephone conversations with the Third Defendant at the meeting on 1 July 2021 to prove that the Third Defendant understood his personal liability as a guarantor.

The Third Defendant's case

19 The Third Defendant states that he was an employee of the First Defendant who was suddenly made interim medical director on 1 February 2021

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36 Claimant's Opening Statement dated and filed on 8 January 2026 at para 7; Claimant's Closing Submissions dated 15 April 2026 at para 27.

37 Claimant's Opening Statement dated and filed on 8 January 2026 at paras 14 and 17.

38 ABOD at p 605.

39 Claimant's Opening Statement dated and filed on 8 January 2026 at para 26.

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by Foong Chong Hung.[40] Thereafter, he was rushed into signing documents relating to the Term Loan Facility at the unplanned Meeting on 1 March 2021 without adequate time to review them.[41] In particular, the Third Defendant alleges that Foong Chong Hung represented to him that he would have no personal liability, since:[42]

(a) his signature was merely procedural;

(b) the documents required a medical doctor's signature; and

(c) it was a corporate loan.

20 Further, the Claimant's representative, Koh Jia Wen, was present at the Meeting when the representation by Foong Chong Hung that he would not be personally liable was made. However, Koh Jia Wen failed to correct the alleged representation made by Foong Chong Hung, thereby representing that it was accurate.[43]

21 The Third Defendant in his Counterclaim seeks declarations that the Deed of Guarantee is void or has been rescinded, and damages. In doing so, the following defences were raised:

(a) The guarantee was unenforceable due to unilateral *mistake*, as he signed it under the mistaken belief that he would not be personally liable.

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40 Third Defendant's Opening Statement dated and filed on 11 January 2026 ("DOS") at para 9.

41 DOS at paras 3, 5 and 18.

42 DOS at paras 14, 15, and 17; Third Defendant's Closing Submissions dated 15 April 2026 at paras 10, 14,

43 DOS at para 17.

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(b) The guarantee was unenforceable by way of *fraudulent misrepresentation* as he was induced by Foong Chong Hung to sign it.

(c) The guarantee was voidable by way of *negligent misstatement* as the Claimant failed to discharge its duty of care to ensure that the Third Defendant understood the nature of the guarantee.

(d) The guarantee was unenforceable by way of *ex turpi causa* due to procedural irregularities and backdating.

Issues to be determined.

22 The issues for determination are:

(a) Whether Foong Chong Hung misrepresented that the Third Defendant would not be personally liable when he signed the Deed of Guarantee.

(b) Whether the Third Defendant signed the Deed of Guarantee consciously and voluntarily with full knowledge of its attendant liabilities.

My decision

Issue 1: Whether Foong Chong Hung misrepresented that the Third Defendant would not be personally liable when he signed the Deed of Guarantee.

23 Common to every species of misrepresentation, the following elements must be proven for the misrepresentation to be actionable (*Banque de Commerce et de Placements SA, DIFC Branch and another v China Aviation Oil (Singapore) Corp Ltd (Shangdong Energy International (Singapore) Pte Ltd, third party; Golden Base Energy Pte Ltd, fourth party*) [2024] SGHC 145

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at [170], citing *Rahmatullah s/o Oli Mohamed v Rohayaton bte Rohani and Others* [2002] SGHC 222 at [73]):

(a) a representation was made by one party;

(b) the representation was acted on by an innocent party; and

(c) the innocent party suffered detriment as a result.

24 In the case of *Xia Zhengyan v Geng Changqing* [2015] 3 SLR 732 at [99], the Court of Appeal provided guidance in relation to misrepresentation claims:

> … we wish to emphasise that trial judges dealing with misrepresentation claims need to analyse the facts carefully, going through the process of considering such matters as (a) whether the representations were made, (b) what the representation in question was exactly, (c) whether it was untrue or not, (d) if untrue, how on the evidence it may be characterised (*ie*, as innocent or negligent or fraudulent), and/or (e) whether there was reliance – although this list is obviously by no means exhaustive. While in a given case a trial judge may decide that it is not necessary to do that, in general this discipline enables the appellate court to analyse the case appropriately. …

25 Therefore, it is clear that the party alleging misrepresentation must prove that the representation, as pleaded, was made in the first place (see also *Asia-Euro Capital SPV I LLP v Regulus Advisors Pte Ltd and others* [2024] SGHC 279 at [70]). Throughout the proceedings, the Third Defendant maintained that it was represented to him that he would not be personally liable for the Term Loan Facility, despite signing the Deed of Guarantee.

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26 The Third Defendant alleges it was Foong Chong Hung who made the representation,[44] and that Koh Jia Wen remained silent despite being present in the meeting room.[45]

27 I find that the Third Defendant failed, on a balance of probabilities, to prove that Foong Chong Hung made the relevant representation at the Meeting.

28 In my view, it is clear from the evidence that Koh Jia Wen explained to the Third Defendant the nature of the documents relating to the Term Loan Facility, including the Deed of Guarantee. The relevant testimony from the cross-examination of Koh Jia Wen is as follows:[46]

> Q: And you don't actually remember what you said at the meeting, correct?
>
> A: What do you mean I don't exi---I---of course, I don't remember word for word.
>
> Q: So what do you remember?
>
> A: Okay. Of course, this happened, I mean, some time back, 4 years back. So I cair---it's impossible for me to remember word for word what really transpired during the meeting. But what I can remember, the best of my recollection, and I'm very sure, is that, like, all the kust---like, from day 1 since I started at Citibank till now, *my standard procedure of explaining loan documentations to customers is whereby I will start with the lett---offer letter.* Because this is where the main terms of the loan is being stated, such as the loan amount, the interest rate, the tenure, who's coming in as personal guarantee, whether there's any prepayment penalty. These are clauses that are very---are important to the loan. So typically, I will go through that first. And---yah.
>
> Q: So what about the guarantee? What do you explain in respect to guarantee?

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44 Third Defendant's Defence and Counterclaim dated 12 April 2024 ("Defence") at paras 6(i) and 8(d)(v).

45 Defence at para 6(m).

46 12 January 2026 Transcript at p 22 line 29 to p 23 line 17, p 23 line 22 to p 23 line 30.

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> A: So during the---during the meeting, I went through---I remember when started the Ethoz letter of offer, they will indicate the---the loan amount, the interest rate, the tenure, and then they will in---then *I will also go on and mention who will be the personal guarantors coming in for this loan application.*
>
> Q: Did you do any sort of explanation in respect of the obligations of the guarantees---of the guarantors?
>
> …
>
> A: Yes, I will---*whenever customer is signing the personal guarantee form, I will have them know that because each form my customer has signed, you have to briefly let them know what is it for.* So I did let them know that this is because both of you are coming in as personal guarantors, then you have to sign this gairan---personal guarantee form.
>
> Q: And all of this explanation that you just explained to the Court is based on your standard explanation that you state, that you make to every customer when you meet them for such signings, correct?
>
> A: Yes, these are the---these are the important information.
>
> [emphasis added]

29 It is thus apparent that Koh Jia Wen explained to the Third Defendant the obligations that come with being a guarantor for the Term Loan Facility at the Meeting. In her capacity as a representative of the Claimant, this was part of her usual procedure in explaining the terms of the loans offered by the Claimant.

30 I observe that the Third Defendant did not challenge Koh Jia Wen's explanation on the details of the Term Loan Facility and the Deed of Guarantee. The Third Defendant's case, which I reject, was instead premised on the more specific allegation that Koh Jia Wen remained silent whilst Foong Chong Hung made the alleged representation.

31 There is no evidence that, at the Meeting, Foong Chong Hung made the representation to the Third Defendant that he would not be personally liable

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under the guarantee. I find this to be the Third Defendant's bare and self-serving assertion. In this regard, Koh Jia Wen's answers to my questions at the close of her testimony are relevant:[47]

> Court: Okay. Now, again, listen to my question very carefully: At the meeting, did you hear [Foong Chong Hung] telling the 3rd defendant that he will not be personally liable for signing the guarantor to the loan agreement?
>
> A: No, Your Honour, that didn't happen.
>
> Court: Did the 3rd defendant ask you or anyone in the meeting that he didn't want to be personally liable for this loan?
>
> A: No, Your Honour, that didn't happen.

32 My findings are further fortified by the fact that the Third Defendant has failed to call Foong Chong Hung as a witness to support the representation purportedly made by Foong Chong Hung. The latter's testimony would have been vital to the Third Defendant's defence, if true. For reasons best known to the Third Defendant, he did not call Foong Chong Hung to be his witness.

33 Furthermore, the Third Defendant had spoken to the representatives of the Claimant on numerous occasions, seeking to replace himself as a guarantor. This includes Koh Jia Wen and her superior, Brandan Tan, the Sales Team Lead, as well as Terence Tan, the Vice President Credit Control of the Claimant. These telephone conversations were recorded, and the transcripts admitted as evidence. However, despite the many opportunities during these conversations, the Third Defendant did not mention that the reason he signed the Deed of Guarantee was because Foong Chong Hung assured him that he would not be personally liable and that Koh Jia Wen nodded her head in approval. The Third Defendant could not provide a satisfactory explanation for this omission. If what the Third Defendant said were true, that Foong Chong Hung assured him that

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47 13 January 2026 Transcript, at p 34 lines 1–8.

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he would not be personally liable and Koh Jia Wen nodded her head with approval, he would have alleged such a representation to at least one representative of the Claimant. Instead, the Third Defendant told Brandan Tan that he was induced into signing the Deed of Guarantee in anticipation that the loan of $600,000 was to be transferred to him. The following is the relevant transcript of their telephone conversation, which occurred on 4 May 2021:[48]

Brandan Ethoz:	Then why did you sign in the first place?
[Third Defendant]:	Because [Foong Chong Hung] induced me to sign
Brandan Ethoz:	Induce you via what?
[Third Defendant]:	Yeah, via telling me that the 600K will be transferred to me.
Brandan Ethoz:	Okay, then?
[Third Defendant]:	For safe keeping. But it wasn't done.

34 The Third Defendant further alleges that during the police investigation into Foong Chong Hung around May 2021, the investigating officer told him that Koh Jia Wen admitted in her police statement that she failed to explain the Deed of Guarantee to him.[49] There is no evidence to support this bare assertion. Further, the Third Defendant did not call the investigating officer to testify. Thus, this is hearsay evidence which is inadmissible.

35 The Third Defendant further refers to the letter from the Claimant's solicitors to the Third Defendant, dated 22 February 2024, where it stated that during the Meeting when the Deed of Guarantee was signed, "[the Third Defendant] did not ask any questions of Ms. Koh and neither did Ms. Koh speak

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48 ABOD at p 361.

49 Third Defendant's Reply Submissions dated 28 April 2026 and filed on 29 April 2026 at p 5; Sin Yong's Affidavit of Evidence-In-Chief in Third Party Action sworn and filed on 6 June 2025 ("Sin Yong's 3PAEIC") at para 69.

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to [the Third Defendant] on the matter".[50] Therefore, quoting the words "[the Third Defendant] did not ask any questions of Ms. Koh and neither did Ms. Koh speak to [the Third Defendant] on the matter" ("Quoted Words"), the Third Defendant alleges that Koh Jia Wen did not explain the Deed of Guarantee to him at the Meeting. The Quoted Words relied on by the Third Defendant have to be looked at in the context of paragraph 7 of the letter of the Claimant's solicitors. I now reproduce paragraph 7 of the letter:

> "The Guarantee was signed by you voluntarily in the presence of our officer Ms. Koh Jia Wen on [1 March 2021] after you had read and perused the Guarantee. We are instructed that as recalled by Ms. Koh, you had signed the Guarantee after Mr. Foong Chong Hung had explained to you that it was a Guarantee to guarantee to [*sic*] Term Loan to be lent by our clients to the Borrower. *You did not ask any questions of Ms. Koh and neither did Ms. Koh speak to you on the matter.* Your allegation that you had in the presence of Ms Koh asked your "ex-employer" whether you will have any personal liability and that your "ex-employer" had assured you that you would have no liabilities is wholly untrue and is denied. It is simply incredible to suggest that you had agreed to be a guarantor for the Term Loan Facility but would have no liabilities for the same. *Your allegation that our clients had kept silent despite hearing false representations made to you by your ex-employer with regards to the Guarantee is thus false and is denied. …*"
>
> [emphasis added]

36 The Third Defendant's reliance on the Quoted Words in paragraph 7 of the letter is, however, misplaced, as it fails to account for the broader context in which those Quoted Words were made. It must be appreciated that the letter was the Claimant's response to an email by the Third Defendant to the Claimant dated 21 February 2024.[51] In that email, the Third Defendant repeatedly made the allegation, to the Claimant, that Koh Jia Wen had allowed Foong Chong Hung to reassure him that no liabilities would follow the signing of the Deed of

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50 Sin Yong's 3PAEIC at p 77.

51 ABOD at p 239.

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Guarantee. Hence, the Quoted Words, that the Third Defendant now relies on, were actually written by the Claimant's solicitors to refute the Third Defendant's claim that Foong Chong Hung had explicitly assured him that he would bear no personal liability. Read in that light, the Quoted Words, that the Third Defendant "did not ask any questions of Ms. Koh and neither did Ms. Koh speak to [the Third Defendant] on the matter", plainly refer to the alleged assurance from Foong Chong Hung that never happened. It cannot be taken as an admission that Koh Jia Wen had failed to explain the liability of a guarantor to the Third Defendant.

37 Taken together, I find that Foong Chong Hung did not tell the Third Defendant that he would not be personally liable as it was a corporate loan. In fact, at [28] above, I find that Koh Jia Wen had explained the liability of a guarantor to the Third Defendant. Thus, the Third Defendant fails to establish an actionable misrepresentation. Consequently, the Third Defendant's claims on both fraudulent and negligent misrepresentation are not made out.

38 In any event, my determination of whether Foong Chong Hung had made the purported misrepresentation is of no consequence to the Third Defendant's case. Indeed, the Deed of Guarantee was entered into between the Claimant and the Third Defendant. Foong Chong Hung was not a party to this agreement. A misrepresentation made by a non-party will not allow a representee to rescind the contract if the misrepresentation was neither made on behalf of the other contracting party nor with the knowledge of the other contracting party (*Tjong Very Sumito and others v Chan Sing En and others* [2012] SGHC 125 at [287]). Even if Foong Chong Hung had made the alleged misrepresentation, the contract between the Claimant and the Third Defendant cannot be vitiated. The Third Defendant's real fight is in proving that he did not

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sign the Deed of Guarantee with full knowledge of its attendant liabilities, to which I shall now turn to.

Issue 2: Whether the Third Defendant signed the Deed of Guarantee consciously and voluntarily with full knowledge of its attendant liabilities.

39 I shall now consider the Third Defendant's defence of unilateral mistake. The doctrine of unilateral mistake underscores the principle that "a party who is aware of the error made by the other party cannot claim that there is *consensus ad idem*" (*Quoine Pte Ltd v B2C2 Ltd* [2020] 2 SLR 20 ("*Quoine Pte Ltd v B2C2 Ltd*") at [81], citing *Chwee Kin Keong and others v Digilandmall.com Pte Ltd* [2005] 1 SLR(R) 502 at [31]).

40 For a unilateral mistake to vitiate a contract, it must be proven that (*Lim Zhipeng v Seow Suat Thin and another matter* [2020] 2 SLR 1151 at [74], citing *Broadley Construction Pte Ltd v Alacran Design Pte Ltd* [2018] 2 SLR 110 at [42]):

(a) one party has made a mistake;

(b) the mistake is a sufficiently important or fundamental mistake *as to a term* of the contract; and

(c) the non-mistaken party has actual knowledge of the mistaken party's mistake.

41 The mistake must relate to a term of the contract, and not merely a mistaken assumption about the circumstances under which the contract was concluded (*Quoine Pte Ltd v B2C2 Ltd* at [82]). For the Third Defendant's defence to succeed, it must be proven that he did not know that the document that he had signed was the Deed of Guarantee, or that he was unaware of the

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obligations attendant to the Deed of Guarantee, and that the Claimant was aware of such a mistake.

42 The Third Defendant's defence on unilateral mistake fails. I find that the Third Defendant was never mistaken as to his obligations in relation to the Deed of Guarantee.

43 To start with, the Deed of Guarantee itself clearly bore the words "DEED OF GUARANTEE", with the words "the Guarantor" appearing directly at the top of his signature.[52] I find it unlikely that a highly educated medical doctor could have harboured the mistaken belief that there would be no personal liability, given these patent words before him.

44 The Third Defendant further claims he was in a hurry to attend to his patients on the day when he signed the Deed of Guarantee and therefore did not carefully read the Deed of Guarantee before signing it.[53] However, the reading of the Deed of Guarantee would not have taken significant time. Even if he truly did not have the opportunity to read the Deed of Guarantee carefully, the fault is his and he cannot give the excuse that he had to attend to his patients.

45 In any event, it is clear that the Third Defendant fully understood the *nature* and implication of the Deed of Guarantee. First, the evidence reveals that he fully understood that a guarantor ensures that the loan is repaid to the lender. The relevant portion of the Third Defendant's evidence is as follows:[54]

> Court: So, basically, you know what this---what the guarantor connotes or what is the responsibility of a guarantor, correct?

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52 ABOD at p 599.

53 Sin Yong's AEIC at para 23.

54 27 February 2026 Transcript at p 99 lines 15–21.

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A: Yes.

Court: Depending on the---on what the guarantor wanted to guarantee, the guarantor can say, "I want only to---I only want to be liable for 10% of the loan."

A: Yes, Your Honour.

46 Second, throughout the course of events after the Meeting, the conduct of the Third Defendant did not at all evince that he laboured under the belief that he was not personally liable for the Term Loan Facility in the event of a default.

47 In my view, it is particularly telling that on 12 March 2021, barely two weeks after he signed the Deed of Guarantee, the Third Defendant sought to be replaced as a guarantor.[55] Nowhere in the request for change did the Third Defendant seek to clarify if he was, in fact, a guarantor, or to understand what a guarantee stood for. Nor, on his version of events, did he clarify with the Claimant that it was Foong Chong Hung who told him that he would not be personally liable for the corporate loan of the First Defendant should there be a default.

48 Indeed, in the transcript of a telephone conversation between the Third Defendant and Koh Jia Wen on 4 May 2021, the Third Defendant only stated that: "I'm looking at changing the guarantor".[56]

49 In the transcript of the Third Defendant's own surreptitious recording of the meeting between himself and a representative of the Claimant in Credit Control, Jeremy Lim Zhi Wei, on 1 July 2021, the Third Defendant said: "So

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55 ABOD, pp 199–200.

56 ABOD, p 350.

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I'm aware that there is a personal guarantee",[57] and "if you are saying that because there are three entities involved in this, there's [the First Defendant], there's [the Second Defendant], there's also me who has been put down as a personal guarantee, [w]hat do you think is an amount that is fair on your side that you want myself to handle so that I'll be discharged from the personal guarantee".[58]

50 One would reasonably expect a person who had just discovered his personal liability for a loan to seek immediate clarification. If the Third Defendant truly believed that he would not be personally liable, why did he make no attempt to clarify his misapprehension? There were numerous occasions presented to the Third Defendant to do so. At the trial, the Third Defendant explained his inaction by claiming he was "very distressed".[59] On balance, I find it unlikely that he was so distressed as to be unable to make these reasonably expected clarifications, whilst simultaneously having sufficient presence of mind to request the Claimant to replace him as a guarantor.

51 Further, it is not open to the Third Defendant to suggest that he was unaware of the obligations that come with the Deed of Guarantee, in light of events which occurred even *prior* to the Meeting. Sometime in or around December 2020, Foong Chong Hung and Chen Qiao Ning, along with other individuals, discussed with the Third Defendant about a property purchase on Duxton Road (the "Duxton Property Purchase") for the First Defendant.

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57 ABOD, p 448.

58 ABOD, p 458.

59 27 February 2026 Transcript at p 58 lines 26–27.

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52 According to the Third Defendant, Foong Chong Hung mentioned an intent to have the Third Defendant be involved in the Duxton Property Purchase as a guarantor.[60] The Third Defendant testified that sometime in November or December 2020, the guarantee for the Duxton Property Purchase was signed.[61] On 14 December 2020, the Third Defendant clarified with Chen Qiao Ning about the specifics of the guaranteed obligations in relation to the Duxton Property Purchase.[62] Therefore, the Third Defendant demonstrated an understanding of the *nature* of guarantee agreements, and the personal liabilities that follow a default of the principal agreement even before the Meeting.

53 Finally, I find the Third Defendant's evidence regarding the alleged misrepresentation unreliable. At the trial, the Third Defendant initially maintained his claim that Foong Chong Hung assured him that there was no personal liability under the guarantee. However, when questioned, he presented two additional versions of the events that occurred during the Meeting, as follows:[63]

> Court: So now I got three versions from you, alright. I got three versions. First, you say that regarding the loan of $600,000, the lender is Ethoz. In that episode, you told us that you would be---that [Foong Chong Hung] assured you that you will not be personally liable.
>
> A: Yes.
>
> Court: That's one version.
>
> A: That's true.
>
> Court: The second version was the conversation that you had with Brandan. You had said whereby you told him you were induced into signing. And he asked you, "What is

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60 Sin Yong's 3PAEIC at para 25.

61 25 February 2026 Transcript at p 7 lines 3–9.

62 Sin Yong's 3PAEIC at para 27.

63 27 February 2026 Transcript at p 104 lines 4–26.

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> this inducement?" And you say that you are supposed to receive the $600,000---
>
> A: For safekeeping.
>
> Court: ---to be transferred to you.
>
> A: For safekeeping, for the business needs.
>
> Court: Right. So this is another version which you gave. You didn't tell Brandan about [Foong Chong Hung] assure you that you will not be personally liable. But you only told [Foong Chong Hung]---only---you only [told] Brandan about the---that you were induced. Now you have a---I have a third version, that you are financially threatened into signing the guarantor agreement for the $600,000. So, Dr Sin, can you please tell me, out of the three versions, which version is the correct version? Do you see the three versions?
>
> A: Yes, Your Honour.

54 When I asked the Third Defendant to clarify which version should be accepted, he vacillated between different combinations of these accounts: at one point claiming all three to be correct,[64] then selecting the third version,[65] before ultimately reverting to claiming that multiple versions were simultaneously correct.[66] This pattern of inconsistent testimony at the trial severely undermines the Third Defendant's credibility on his evidence that he was mistaken as to his personal liability under the Deed of Guarantee.

55 In totality, the evidence indicates that the Third Defendant understood the nature of guarantee agreements. Additionally, nothing suggests that he was under any illusions or misapprehension in relation to the attendant personal liabilities that were imposed on him following the signing of the Deed of Guarantee at the Meeting.

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64 27 February 2026 Transcript at p 104 lines 27–28.

65 27 February 2026 Transcript at p 106 lines 8–9.

66 27 February 2026 Transcript at p 107 lines 1–7.

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The Third Defendant's inconsistencies and evasiveness

56 Throughout the course of the trial, I found several aspects of the Third Defendant's evidence to be problematic, inconsistent and evasive. This illustrated a lack of credibility on his part. I highlight two aspects which were particularly striking.

57 First, in relation to the signing of the Brokerage Agreement (see [7] above), the Third Defendant initially claimed that he "did not know that [Goken was] looking for a loan, that is TBL, until 1st March where [he] was signing the documents".[67] He also maintained that the first time he saw the Brokerage Agreement in its entirety was in June 2021.[68] He claimed that on 9 February 2021, only the last page, which required his signature, was presented to him, and that he signed it without knowing what it was for.[69] The last page does not have any substance of the document as it only contained the signatures of the Third Defendant and the Second Defendant.[70]

58 However, the evidence shows that on 10 February 2021, Chen Qiao Ning sent the complete Brokerage Agreement to a WhatsApp chat group comprising, *inter alia*, herself, Foong Chong Hung and the Third Defendant.[71] The Brokerage Agreement was accompanied by a message by Chen Qiao Ning stating: "Good afternoon, this is the agreement we signed yesterday".[72] Although the Third Defendant was a participant of the chat group, he maintained

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67 25 February 2026 Transcript at p 48 lines 27–28.

68 25 February 2026 Transcript at p 27 lines 30–32.

69 25 February 2026 Transcript at p 20 lines 21–31.

70 ABOD at p 550.

71 Claimant's Bundle of Documents dated 13 January 2026 and filed on 14 January 2026 at p 16; ABOD at p 188; 25 February 2026 Transcript at p 28 line 27 to p 29 line 2.

72 ABOD at p 188.

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that he did not look at the contents of the Brokerage Agreement which was sent to participants of the chat group for their information.[73] I find it incredibly difficult to accept the Third Defendant's evidence that he, being a medical professional, would repeatedly sign documents without reading them, particularly when the complete document was made available to him the very next day.

59 The inconsistent account of his reading, or lack thereof, of the Brokerage Agreement is further compounded by the contradiction between his pre-trial evidence and his trial testimony. Prior to the trial, the Third Defendant stated in his Affidavit of Evidence-In-Chief in the Third-Party Action ("3PAEIC") that when the Brokerage Agreement was given to him to sign on 9 February 2021, there were no terms in the Brokerage Agreement which alluded to him being a personal guarantor.[74] However, that evidence by itself implies that the Third Defendant had read the Brokerage Agreement in coming to the conclusion that there were no terms which alluded to him being a personal guarantor. Inexplicably, his position shifted at the trial where he maintained that he never read the Brokerage Agreement in full in the first place.

60 In my view, his testimony at the trial that he was unaware of the Brokerage Agreement appears to be a convenient fabrication to distance himself from his participation in appointing Pinnacle Advisory Pte Ltd to source for a loan from the Claimant.

61 Second, the Third Defendant's testimony regarding his involvement as a guarantor for the Duxton Property Purchase was also riddled with

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73 25 February 2026 Transcript at p 42 lines 9–23.

74 Sin Yong's 3PAEIC at para 42.

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inconsistencies. In the Third Defendant's 3PAEIC, he consistently stated that he never agreed to be a guarantor for the Duxton Property Purchase, thus portraying himself as an unwitting participant who was unaware of what documents he had signed in relation to the Duxton Property Purchase:[75]

(a) At paragraph 25: "I also wish to clarify that I never agreed to be guarantor in respect of the Duxton Purchase".

(b) At paragraph 28: "I never agreed to be guarantor for the Duxton Purchase".

(c) At paragraph 29: "It was only in about June 2021 that I learnt from the Third Party during over WhatsApp that she had apparently submitted my name as a guarantor for the Duxton Purchase in about December 2020 (which I did not even know she did or consent to!)".

However, at the trial, the Third Defendant testified that he indeed signed the guarantee agreement for the Duxton Property Purchase, and he explained that he was "financially threatened" by Foong Chong Hung to do so.[76] The Third Defendant later admitted that his 3PAEIC contained the incorrect statement that he "never agreed to be guarantor" for the Duxton Property Purchase.[77] Even then, the Third Defendant's allegation of being "financially threatened" was later amended in court to one of being "financially compromised". When asked which is correct, the Third Defendant hesitated and changed the allegation back to one of being "financially threatened":[78]

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75 Sin Yong's 3PAEIC at pp 8-9.

76 25 February 2026 Transcript at p 12 lines 27–29.

77 25 February 2026 Transcript, p 13 line 15 to p 14 line12.

78 27 February 2026 Transcript at p 106 lines 22–23, p 107 lines 10–19.

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Witness:	Which is the one that---that I was financially threatened---financially compromised since April 2020.
…	
Court:	Financially threatened and financially compromised, they are two different matters altogether, right. So now you are giving me two versions. Were you financially threatened? Or were you financially compromised?
A:	I only remember he told me that if---
Court:	No, no, please, please.
A:	Okay.
Court:	Answer my question directly: Were you financially threatened?
	Or were you financially compromised?
A:	Financially threatened, Your Honour.

62 Regardless of whether he was "financially threatened" or not, the evidence demonstrated that the Third Defendant was aware that he did, in fact, enter into a guarantee agreement in relation to the Duxton Property Purchase. It is troubling that the Third Defendant continued to provide baseless excuses for agreeing to be a guarantor for the Duxton Property Purchase, despite having already conceded that his 3PAEIC contained the incorrect statement that he "never agreed to be guarantor" for the Duxton Property Purchase (see [61] above). In my view, this pattern of denial and untruthfulness on the part of the Third Defendant on crucial issues, even in his sworn affidavit, followed by reluctant admissions under cross-examination, evinces that the Third Defendant has not been entirely forthcoming before the court.

Whether the doctrine of ex turpi causa *operates*

63 Finally, I make brief remarks on the Third Defendant's defence of *ex turpi causa*.

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64 The doctrine of *ex turpi causa* operates to disentitle a claimant from relief where the conduct underlying the entitlement is illegal in another context, thereby preventing any inconsistency in the law (*ANC Holdings Pte Ltd v Bina Puri Holdings Bhd* [2013] 3 SLR 666 at [80]). To bring the doctrine of *ex turpi causa* into operation, it must be proven that (*Ong Bee Chew v Ong Shu Lin* [2019] 3 SLR 132 at [132]):

(a) there must be turpitude;

(b) the claimant must found his cause of action on that turpitude; and

(c) the turpitude must be the claimant's own turpitude.

65 I find that the Claimant did not engage in any turpitude throughout the course of events.

66 I reject the Third Defendant's assertions that there was procedural irregularity. As I found, the Claimant's representative, Koh Jia Wen, explained to the Third Defendant the obligations that come with being a guarantor to the Term Loan Facility at the Meeting as part of her usual procedure (see [29] above).

67 As for the backdating of the ESG Form and the SDM Form of which the Third Defendant made a mountain out of a molehill, I find that the forms themselves were mere formalities owing to the circumstances of the Meeting which occurred at the height of the Covid-19 pandemic, and were certainly ancillary to the Term Loan Facility. Koh Jia Wen explained that the backdating of these documents was for the purpose of convenience and practical consideration.[79] I am satisfied that there is no sinister motive or intention

[79] Koh Jia Wen's Supplementary Affidavit at paras 5–6.

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regarding the backdating, although it should not have been done. This clearly does not constitute the turpitude that typically brings the doctrine into operation.

The Third Defendant's unpleaded claims

68 On 15 April 2026, the Third Defendant filed his closing submissions which included the following *additional fresh* claims that are not in his pleaded Defence:

> (a) As part of a premeditated fraud scheme, the Claimant engineered to appoint the Third Defendant as a director of the First Defendant to secure the Third Defendant as a guarantor for the Term Loan Facility.[80]
>
> (b) The Claimant should have been put on inquiry as the Claimant had, as a result of Foong Chong Hung's fraudulent conduct, processed multiple loans for different companies operating out of the same location as the First Defendant.[81]

69 I reject the additional unpleaded claims, which the Third Defendant has included in his closing and reply submissions, as his Defence and Counterclaim were confined to those set out in [21]. The Court cannot allow the Third Defendant to introduce these claims on account of the trite principle that parties in an adversarial litigation system are bound by their pleadings (see *V Nithia (co-administratrix of the estate of Ponnusamy Sivapakiam, deceased) v Buthmanaban s/o Vaithilingam and another* [2015] 5 SLR 1422 at [26]–[38]; see also *Terrence Fernandez v Lim Shao Ying Genevieve and another* [2020]

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80 Third Defendant's Closing Submissions dated and filed on 15 April 2026 at para 5.

81 Third Defendant's Closing Submissions dated and filed on 15 April 2026 at para 23.

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SGHC 278 at [58], citing *Review Publishing Co Ltd and another v Lee Hsien Loong and another appeal* [2010] 1 SLR 52 at [128]).

70 The Third Defendant also alluded to the unpleaded defence of *non est factum* without further elaboration.[82] To succeed in the defence of *non est factum*, the Third Defendant must prove that first, there was a radical difference between what was signed and what was thought to have been signed; and second, he must prove that he took care in signing the document, that is, he must not have been negligent (*Mahidon Nichiar bte Mohd Ali and others v Dawood Sultan Kamaldin* [2015] 5 SLR 62 at [119]). However, it was never the Third Defendant's case that there was a difference between what was signed and what he thought was signed. Instead, his position was always that he knew he was signing the Deed of Guarantee, but believed he would not be personally liable under it. As such, the defence of *non est factum* is also not available to the Third Defendant, and I accordingly reject this unpleaded claim.

Conclusion

71 For the foregoing reasons, I reject the Defence and Counterclaim raised by the Third Defendant. There is no evidence of the alleged misrepresentation. To the contrary, the Third Defendant's conduct after signing the Deed of Guarantee for the Term Loan Facility – including his request to be replaced as a guarantor just two weeks later – demonstrated an understanding of his liability from the outset. Therefore, I allow the Claimant's claim against the Third Defendant under the Deed of Guarantee and dismiss the Counterclaim.

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82 Third Defendant's Closing Submissions dated and filed on 15 April 2026 at p 10.

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72 I shall now hear parties on costs.

Tan Siong Thye
Senior Judge

Sean Lim Thian Siong and Lee Pei Yi Jamey
(Hin Tat Augustine & Partners) for the claimant;
Pang Khin Wee (I.R.B Law LLP) for the third defendant;[83]
The third defendant in person.[84]

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[83] Up till solicitor's discharge on 25 February 2026.

[84] After solicitor's discharge on 25 February 2026.

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