IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGSCT 15

Small Claims Tribunals – Claim No 21655 of 2025

Between

JHC

… *Claimant*

And

JHD

… *Respondent*

GROUNDS OF DECISION

[Contract — Joint obligations — Whether all promisors to a joint promise must be joined as respondents to the action]
[Contract — Contract of indemnity — Whether indemnified party has proved liabilities falling within the scope of the indemnity]
[Commercial Transactions — Consumer protection — Whether third-party indemnity clauses satisfy requirement of reasonableness under the Unfair Contract Terms Act 1997]

JHC
v
JHD

[2026] SGSCT 15

Small Claims Tribunals – Claim No 20703 of 2025
Tribunal Magistrate Joel Tan
20 March 2026, 6 July 2026

6 July 2026

Tribunal Magistrate Joel Tan:

Introduction

1 This case concerned a claim for indemnification arising from property damage allegedly caused during a wedding reception. The claimant, a venue operator, commenced an action to recover from one of two contracting parties the cost of replacing a damaged glass door, relying upon contractual indemnity provisions. The claim raised questions about the enforcement of consumer indemnities, the evidential requirements for indemnification, and the proper joinder of parties to such claims.

Facts

2 The claimant operates a rooftop venue and sky garden as lessee of premises situated atop a building in Singapore's central business district.

3 The respondent and his wife engaged the claimant's services for their wedding reception, entering into a contract for the sum of $34,771. The claimant leases these premises from a third-party lessor (the "Lessor").

4 The wedding reception proceeded as planned on 17 May 2025. During the evening's festivities, however, a glass panel forming part of a door at the building's lift lobby sustained damage in the form of a crack.

5 The circumstances surrounding this damage were somewhat obscure. Whilst the existence of the crack is undisputed, its cause rested entirely upon the testimony of the claimant's employees. The respondent and his wife learned of the damage only after their wedding had concluded, when the claimant informed them that one of their guests had inadvertently knocked over a decorative spear-like ornament, which then struck and cracked the glass panel. The claimant claimed to have discovered this sequence of events through reviewing closed-circuit television footage. However, this footage was neither disclosed to the respondent nor adduced as evidence in these proceedings.

6 According to the claimant, the damaged glass door required complete replacement. But this door formed no part of the premises actually leased by the claimant. Rather, it is said to belong to the building's common areas. Nevertheless, the claimant's representative ("CR") testified at the hearing that the lease agreement obliges the claimant to maintain the rooftop's common property in good repair and condition, thereby rendering the claimant liable for such damage. No documentary evidence, including this lease agreement, supporting this assertion was presented to the tribunal.

7 Acting upon this purported obligation, the Lessor demanded that the claimant bear the replacement costs. The lessor initially quoted $32,013.30 for

the work. Through subsequent efforts, however, the claimant obtained an alternative quotation at a substantially reduced cost of $11,000, which the Lessor approved.

8 According to the claimant, its own insurance arrangements provided no relief as regards the replacement costs. Whilst the company maintains property damage coverage, I was told that this extended only to the leased premises proper, not to common areas. Since the damaged door is said to lie beyond the leased premises' boundaries, the claimant could not recover these losses through its existing insurance.

9 Confronted with this liability, the claimant turned to the respondent and his wife, demanding indemnification for the $11,000 replacement cost. This demand was based on contractual provisions within their agreement, which I shall term the "Indemnity Promises":

> The Client is responsible for, and agrees to indemnify the Company for all damage to the Company and its grounds during an event as a result of the actions of invitees, guests and other persons engaged or invited by the Client in relation to the event (including, but not limited to, entertainers, contractors, transportation and property removal personnel). Should there be any damage to the Company or its grounds in relation to the event, the Client shall bear the full cost of repairs or replacement in relation to the Company or its grounds.
>
> […]
>
> The Client shall indemnify, defend and hold the Company harmless from all demands, claims and damages to persons or property, losses and liabilities arising out of or caused by the Client and its guests' wrongdoing, negligence or wilful misconduct.

10 The parties attempted resolution through mediation at the Singapore Mediation Centre, but reached no accord. The couple expressed willingness in principle to compensate for damage caused by their guest's negligence, yet

disputed the reasonableness of the $11,000 cost. The respondent produced four alternative quotations ranging from $4,142 to $5,450, maintaining these covered identical replacement work.

11 The claimant rejected these alternatives. CR explained that any contractor selection required the Lessor's approval, and the Lessor had effectively insisted upon the $11,000 option.

12 Settlement having proved impossible, the claimant commenced these proceedings against the respondent alone, seeking $11,000 based upon the Indemnity Promises. The respondent's wife was not joined as a co-respondent to the action, despite her status as co-contracting party and co-promisor in respect of the Indemnity Promises.

13 I heard the parties on 20 March 2026 and dismissed the claim, delivering brief reasons *ex tempore*. What follows are my full grounds for that decision.

The cause of action

14 Before examining the issues raised in this case, it is helpful to establish the precise cause of action upon which the claimant proceeded.

15 The claimant in the present case did not allege any tortious wrongdoing or breach of contract by the respondent or his wife. As to tort, it was undisputed that the respondent was not himself the tortfeasor—that role belongs to one of his wedding guests. Moreover, based upon CR's evidence, the damaged glass door formed no part of the premises leased by the claimant but rather constituted common property belonging to the Lessor.

16 As to breach of contract, there were no express terms in the contract that might be said to have been violated. Although there was a clause headed "Damage to Property" in the Contract, that provision however reads:

> No nails, staples or screws shall be drilled into the walls, doors, pillars, or any other parts of the structures of the Company. No materials shall be attached with masking tape or double-sided tape etc. to any surface of the Company's structures. The Client will reimburse the Company for repairs and restoration work.

17 Put simply, this clause governed only specific categories of damage—namely, the creation of holes and the attachment or adhesion of materials to structures owned by the claimant. Therefore, this provision proved inapplicable to the present circumstances. Not only did the alleged damage bear an entirely different character, but it had been inflicted upon property belonging to the Lessor rather than the claimant. Consequently, no breach of this clause, or any other term in the Contract, could have been established for which the respondent might bear liability in damages.

18 Rather, the action was a claim upon the Indemnity Promises, each being on proper construction "a promise to hold the indemnified person [i.e. the claimant] harmless against a specified loss or expense": *Firma C-Trade SA v Newcastle Protection and Indemnity Association (The Fanti) (No 2)* [1991] 2 AC 1 at 35. In particular, the parties accepted that the combined scope of the Indemnity Promises were sufficiently broad to encompass the Lessor's present demand against the claimant, requiring either repair of the glass door to be arranged by the claimant, or if repair is carried out by the Lessor's contractor, compensation to the Lessor for the repair costs.

19 That such promises had been given by the respondent and his wife to the claimant was indisputable. Yet, three distinct but reinforcing impediments barred the claimant's successful recovery:

(a) First, a procedural defect undermined this action—the claimant's failure to join all joint promisors to the Indemnity Promises rendered the proceedings defective.

(b) Second, even were this procedural hurdle surmounted, the claimant failed to discharge the evidential burden necessary to establish its entitlement to indemnification.

(c) Third, and most fundamentally, the Indemnity Promises themselves fail the statutory test of reasonableness under the Unfair Contract Terms Act 1977 (2020 Rev Ed) (the "UCTA") and could not be enforced against the respondent and his wife as consumers.

20 Each impediment, in my judgment, proved independently fatal.

The procedural impediment: Failure to join all joint promisors

21 I start first with the procedural impediment, which raised the issue of whether a promisee seeking to enforce a contractual promise must sue all promisors or may proceed against one alone.

22 In the present case, the Indemnity Promises had been given by both the respondent and his wife. However, the claimant chose only to commence the action against the respondent. The respondent's wife was not joined as a co-respondent in these proceedings.

23 Where there are two or more promisors in a contract, issues of several, joint, or joint and several liability may arise. In the present case, the respondent and his wife had, in the same instrument, jointly undertaken the same obligations under the Indemnity Promises. This was therefore not a case of several liability.

24 Where two or more promisors jointly promise to do the same thing, the presumption is that the promise gives rise to joint liability; rather than joint and several liability: see *Richard Adler (t/a Argos Rederei) v Soutos (Hellas) Maritime Corporation (The "Argo Hellas")* [1984] 1 Lloyd's Rep 296 at 300. There were no words of severance in the Contract to displace the presumption, nor did any recognised exception to this presumption apply in the present case. In other words, the Indemnity Promises created joint liability on the part of the respondent and his wife.

25 In this regard, joint liability is "subject to a number of strict and technical rules of law": see *Chitty on Contracts* (Hugh G Beale QC gen ed) (Sweet & Maxwell, 34th Ed, 2021) ("*Chitty on Contracts*") at paragraph 19-002. One of these rules at common law is that, as a matter of civil procedure, all surviving promisors are generally required to be joined as defendants to any action commenced by the promisee seeking to enforce such obligation: see *Chitty on Contracts* at paragraph 19-009, citing *Kendall v Hamilton* (1879) 4 App. Cas. 504 ("*Kendall v Hamilton*") at 542–544.

26 The rationale is that where joint liability is concerned, there exists only a single, indivisible obligation owed collectively by all promisors. Hence, where the promisee seeks to sue on that obligation, all promisors owing that obligation should be joined as parties to the proceedings. It is unlike joint and several liability where, in addition to the joint obligation, there are also "as many several obligations as there are joint and several promisors", which then allows the claimant to sue any one of the promisors on one of the several obligations: see *Chitty on Contracts* at paragraph 19-003.

27 In modern civil litigation, the failure to join all joint promisors as defendants typically does not encounter serious issues, given that civil

procedure rules allow the court to add one or more parties to the action as may be necessary: see Order 9 rule 10(1) of the Rules of Court 2021.

28 However, the Small Claims Tribunals Act 1984 (2020 Rev Ed) confers no power upon this tribunal or the Registrar to add respondents to the proceedings. To be sure, section 19(1)(b)(ii) requires the Registrar to cause a copy of the claim and notice of the hearing to be served on "every person who appears from the claim form to have a sufficient interest in the settlement of the dispute to which the claim relates". But it is not at all clear what role such interested persons would play in the dispute—merely serving the claim and giving notice of the hearing would not effectively join such persons as parties to the proceedings. Perhaps legislative amendments are necessary to clarify the function of this provision, and to otherwise equip the Small Claims Tribunals with the necessary powers to add or remove parties to proceedings. In any case, the respondent's wife had not been served the claim or made to attend the hearing.

29 Despite the absence of any such power, potential issues arising from this common law rule applicable to joint liability had been highlighted to the claimant by the assistant registrar at the pre-trial consultation for the claimant to seek legal advice. But the claimant decided against joining the respondent's wife to the action given that the case had been ongoing for some time, and it had been liaising primarily with the respondent. Moreover, according to CR, the claimant's lawyers had apparently advised that it was their decision whether to add the respondent's wife as a co-respondent, and that there were no issues with carrying on with the respondent alone.

30 For the reasons explained, I disagreed with the legal advice given to the claimant, assuming of course that CR had accurately recounted it at the hearing.

There would not have been any issues with suing the respondent alone if the Indemnity Promises had created joint and several liability, but there was no basis to find that they did.

31 Separately, I also observe for completeness that section 17 of the Civil Law Act 1909 (2020 Rev Ed) ("CLA") (being a re-enactment of section 3 of the Civil Liability (Contribution) Act 1978 (c 47) (UK), which had been introduced in Singapore by virtue of the Civil Law (Amendment) Act 1998) may be thought to have abrogated the common law rule for the joinder of joint promisors to the action. However, such an interpretation is, in my view, wrong. The provision reads:

> Judgment recovered against any person liable in respect of any debt or damage shall not be a bar to an action, or to the continuance of an action, against any other person who is (apart from any such bar) jointly liable with him in respect of the same debt or damage.

32 Properly understood, this provision addresses a different but related common law rule, which held that a judgment against one or more joint promisors in an earlier action operated to bar any subsequent action against any other joint promisor not previously joined to the earlier action.

33 Such situations may arise upon the confluence of two events. First, where the other joint promisor being sued in the subsequent action had not been joined for some reason—perhaps because the promisee was unaware of the existence of that other joint promisor's interest, and the joint promisors sued in the earlier action had not objected to the non-joinder. Second, despite obtaining judgment against the joint promisors in the earlier action, the judgment remained unsatisfied, often due to the insolvency of the judgment debtors. As a result, and often upon discovery of the existence of the other joint promisor, the promisee would commence a subsequent action.

34 However, the subsequent action was barred at common law. At least two justifications were given for this rule. One was that joint promisors possessed a right to be sued together, and the promisee, in suing some of the joint promisors in an earlier action, became disabled from suing other joint promisors in a subsequent action. This justification was articulated by Earl Cairns LC in *Kendall v Hamilton* at 515–516:

> It is the right of persons jointly liable to pay a debt to insist on being sued together. If then there are three persons so liable, and the creditor sues two of them, and those two make no objection, the creditor may recover judgment against those two. But should he afterwards bring a farther action against the third, that third may justly contend that the three should be sued together. It is no answer to him to say that the other two were first sued and made no objection, for the objection is the objection of the third, and not of the other two. Nor is it any answer to him to say that whatever he pays on the judgment against himself he may have allowed in account with the others, because he may fairly require, with a view to his right of account or contribution, to have the identity and the amount of the debt constituted and declared in one and the same judgment with his co-contractors. If, therefore, when the third is sued, and requires that the other two should be joined as parties, the creditor has to admit that he cannot join the other two because he has already recovered a judgment against them in the same cause of action, this is equivalent to saying that he has disabled himself from suing the third in the way in which the third has a right to be sued.

35 The other justification rested upon the doctrine of merger. The doctrine was explained by Lord Sumption in *Virgin Atlantic Airways Ltd v Zodiac Seats UK Ltd* [2013] 4 All ER 715 at [17] as follows:

> [T]here is the doctrine of merger, which treats a cause of action as extinguished once judgment has been given upon it, and the claimant's sole right as being a right upon the judgment… it is in reality a substantive rule about the legal effect of an English judgment, which is regarded as "of a higher nature" and therefore as superseding the underlying cause of action…

36 Accordingly, under this doctrine, where judgment is obtained against some but not all joint promisors, that judgment is considered as having

extinguished the original cause of action as against all joint promisors by operation of merger. Consequently, as the High Court explained in *The Bank of East Asia Ltd v Tan Chin Mong Holdings (S) Pte Ltd* [2000] 3 SLR(R) 769 at [45]:

> The act of court transformed the claims into a superior right empowering the creditor to take execution proceedings. A judgment against one joint [promisor] extinguished the only cause of action that existed. This was so, even though the judgment remained unsatisfied.

37 In this regard, section 17 of the CLA was enacted to alleviate the hardship arising from the operation of this rule. This purpose is made clear by the explanatory statement to the corresponding bill, which provides that:

> The new section 11B [now re-numbered as section 17] abolishes the legal principle that a judgment obtained against one person jointly liable with another in respect of the same debt or damage is a bar to an action against that other.

38 It is therefore clear that the effect of section 17 is to abrogate only the common law rule concerning the bar to subsequent actions; it does not affect the rule requiring all joint promisors to be joined. This interpretation aligns with the academic view expressed in *Chitty on Contracts*, where it is observed at paragraph 19-009 that:

> The rule does not appear to have been affected by the Civil Liability (Contribution) Act 1978, although that Act… has abolished the related common law rule that an action against a joint contractor served to bar any other proceedings against another joint contractor.

39 Therefore, given that the respondent's wife as a joint promisor to the Indemnity Promises had not been joined as a co-respondent in the present action, this ground alone warranted dismissal of the action.

The evidential impediment: Failure to establish third-party liability

40 Yet, even were the procedural defect capable of remedy, the claim would have foundered upon evidential grounds.

41 When an indemnified party seeks recovery from an indemnifier for losses allegedly arising from third-party liabilities, it bears the burden of establishing, among other things, that such liabilities fall within the scope of the indemnity according to the standard of validity expressed therein: see Wayne Courtney, *Contractual Indemnities* (Hart Publishing, 1st Ed, 2014) ("*Contractual Indemnities*") at paragraph 6-30.

42 Even assuming most favourably to the claimant that the Indemnity Promises required the claimant to establish the alleged third-party liability by proving the existence of a reasonable settlement (rather than establishing actual liability through *de novo* legal analysis), the claimant would have still borne the burden of demonstrating at the very least that the Lessor's claim was reasonably considered to be of sufficient strength to justify settlement, and that the $11,000 repair cost represented a reasonable settlement in the circumstances: see *John F Hunt Demolition Ltd v ASME Engineering Ltd* [2008] 1 All ER 180 at [61]; see also *Contractual Indemnities* at paragraphs 6-49 to 6-52.

43 Yet the claimant adduced no evidence whatsoever regarding the third-party liability it claimed to have incurred to the Lessor under the lease agreement. The claimant instead invited both the respondent and this tribunal to assume that such third-party liability exists to the extent of $11,000 and that a corresponding right to indemnification against the respondent had crystallised.

44 The claimant's invitation could not be accepted. The appropriateness of the $11,000 settlement figure constituted precisely the sort of contested factual

matter requiring proof, rather than assumption. Indeed, the respondent and his wife produced quotations purporting to demonstrate that identical repair work could be accomplished at substantially lower cost—ranging from $4,142 to $5,450. These alternative quotations raised legitimate questions about the manner in which the claimant managed and settled its claim with the Lessor, and whether such settlement could properly be characterised as reasonable.

45 Having elected not to submit evidence establishing the reasonableness of its purported settlement with the Lessor, the claimant could not have hoped to prove that the third-party liability it claimed to have incurred fell within the scope of the Indemnity Promises. The evidential burden was undischarged, and the claim necessarily failed on this ground as well.

The substantive impediment: Unreasonable consumer indemnities

46 Finally, even assuming both procedural regularity and evidential sufficiency, the claim encountered yet another obstacle in substantive law—that is, consumer protections against unreasonable indemnities.

47 Based on the claimant's case, the Indemnity Promises engaged section 4 of the UCTA, which provides that clauses requiring a consumer to indemnify another person in respect of liability that may be incurred for negligence or breach of contract must satisfy the requirement of reasonableness to be enforceable. Neither party challenged this provision's applicability to the present circumstances. Section 4 states:

> **Unreasonable indemnity clauses**
>
> **4.**—(1) A person dealing as consumer cannot by reference to any contract term be made to indemnify another person (whether a party to the contract or not) in respect of liability that may be incurred by the other for negligence or breach of

> contract, except in so far as the contract term satisfies the requirement of reasonableness.
>
> (2) This section applies whether the liability in question —
>
> (a) is directly that of the person to be indemnified or is incurred by him vicariously;
>
> (b) is to the person dealing as consumer or to someone else.

48 The question, then, was whether the Indemnity Promises satisfy the requirement of reasonableness under section 11(1) of the UCTA—namely, whether "the term shall have been a fair and reasonable one to be included having regard to the circumstances which were, or ought reasonably to have been known to or in the contemplation of the parties when the contract was made". The burden of establishing reasonableness rests upon the party seeking to enforce the indemnity, and the assessment must be conducted as at the time the contract was made.

49 The claimant could not discharge this burden. CR's submission at the hearing—that it would prove unfair for the claimant to bear replacement costs when damage resulted from a guest's negligence—addressed neither the statutory test nor the circumstances prevailing at the time of contracting. Rather, it focused upon the specific circumstances in which liability to the Lessor allegedly crystallised, which was irrelevant towards the assessment of reasonableness.

50 In my judgment, the Indemnity Promises could not be considered fair and reasonable for at least three reasons.

51 First, the clause was drafted in exceptionally broad terms, potentially exposing the respondent and his wife to unlimited liability for all demands, claims and damages the claimant might face—liability that may well be wholly disproportionate to the value of their event booking.

52 Consider the implications had the Lessor insisted upon proceeding with the initial quotation of $32,013.30, and that such amount had been reasonable in the circumstances. The indemnity clause, if enforceable, would have saddled the couple with costs approaching the entire value of their wedding reception contract. Such liability could even exceed what they committed to pay for the venue booking itself. The absence of any monetary ceiling rendered the potential exposure under this provision wholly disproportionate to both the consideration they provided and the benefits they received. This unlimited scope of liability could not satisfy the requirement of reasonableness when assessed against the modest consumer transaction they had entered into for their wedding celebration.

53 Second, the provision was presented on a standard-form basis to the respondent and his wife planning their wedding, and there was no evidence that the potential scope of liability—particularly extending to third-party property not owned or insured by the claimant—had been adequately disclosed or explained to them at the time of contracting. It cannot be fair and reasonable to enforce such an indemnity provision when the risks to be assumed were neither known nor reasonably contemplated by the consumers at the time they entered into the agreement.

54 Third, the provision directly transferred commercial risks relating to claimant's third-party liability to the couple as consumers, who lacked both the resources and expertise to assess and manage such risks appropriately. Such an arrangement effectively transformed what should be a straightforward venue booking into a potentially open-ended guarantee of the claimant's commercial risks, a transformation that no reasonable consumer could be expected to accept or adequately price into their decision-making.

55 Indeed, where third-party indemnities are concerned, consumers are ordinarily unable to exercise any meaningful control, knowledge or oversight over the negotiations between the indemnified party and the third parties involved. In the present case, the respondent had no voice in the Lessor's selection of contractors, no opportunity to challenge the reasonableness of quotations obtained, and no ability to influence the approval process that ultimately determined the quantum of his liability. Requiring consumers to bear responsibility for decisions made entirely beyond their purview or influence ordinarily represents an unreasonable allocation of risk and responsibility.

56 As a commercial venue operator, the claimant is better positioned to understand the scope of potential third-party liabilities and to mitigate the risks accordingly, including arranging comprehensive insurance coverage. If it has failed to do so, the costs of such omission should not be transferred to specific consumers through the use of such broadly worded indemnity clauses. By contrast, the respondent and his wife are individual consumers engaging in a one-off transaction for their wedding celebration, lacking both the commercial sophistication or financial capacity to evaluate and price such extensive risk exposure.

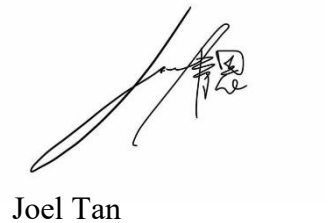
57 Therefore, I found that the Indemnity Promises failed to satisfy the requirement of reasonableness and are unenforceable by virtue of section 4(1) of the UCTA. The claim would therefore have failed on this basis even absent the procedural and evidential deficiencies identified above.

Conclusion

58 For the reasons given, I dismissed the claim. The procedural defect alone warranted dismissal, reflecting the strict requirements governing joint promisors. The evidential failures compounded this deficiency, demonstrating

the claimant's misunderstanding of what a claim on an indemnity requires. Most significantly, the substantive invalidity of these consumer indemnities under the UCTA meant that these provisions should never have been enforced against individual consumers in the first place. Together, these impediments exposed a claim that was misconceived and unsustainable from its inception.

59 In my judgment, an order of costs was warranted in these circumstances, having regard to the factor set out in rule 19A(1)(a) of the Small Claims Tribunals Rules. I ordered the claimant to pay costs of $300 to the respondent.



Joel Tan
Tribunal Magistrate

The claimant in person;
The respondent in person.