

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

[2025] SGHC 223

Originating Claim No 466 of 2023

Between

See Jen Sen (Xue Rensheng)

... Claimant

And

Prudential Assurance Company
Singapore (Pte) Ltd

... Defendant

Counterclaim of Defendant

Between

Prudential Assurance Company
Singapore (Pte) Ltd

... Claimant in Counterclaim

And

See Jen Sen (Xue Rensheng)

... Defendant in Counterclaim

JUDGMENT

[Contract — Contractual terms — Implied term of good faith, mutual trust, confidence and goodwill]

[Contract — Contractual terms — Unfair Contract Terms Act]

[Contract — Contractual terms — Interpretation]

[Restitution — Unjust enrichment]

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See Jen Sen
v
Prudential Assurance Co Singapore (Pte) Ltd

[2025] SGHC 223

General Division of the High Court — Originating Claim No 466 of 2023
Choo Han Teck J
11 – 12 September, 31 October 2025

10 November 2025

Judgment reserved.

Choo Han Teck J:

1 Mr See Jen Sen (“Claimant”) was an agent, associate manager and agency leader of Prudential Assurance Company Singapore (Pte) Ltd (“Defendant”) from 29 January 2003, under the terms of a written contract (“Agency Agreement”). His service was terminated on 21 March 2022. The Defendant communicated with its agents through Agency Instructions (“AI”), which is an internal circular that the Defendant sends to its agents. This included the dissemination of terms and conditions of various schemes.

2 In October 2020, the Claimant was a Financial Services Director (“FSD”) of the Defendant when he came to know of advertisements for life insurance on social media by representatives of the Defendant and third parties, which he believed were not in compliance with advertising guidelines set out by Monetary Authority of Singapore (“MAS”)

3 The Claimant raised his concerns with the Defendant’s compliance team on 12 October 2020. On 17 October 2020, the Claimant wrote to the then-CEO of the Defendant, Mr Dennis Tan (“CEO”), who referred the Claimant’s complaint to the Chief Risk Officer (“CRO”). Investigations were conducted for about three months with no result. The Claimant contacted the CEO again on the 7 January 2021. The CEO replied on 11 January 2021, and the Claimant responded the same day with some proposals. The CEO did not respond to the Claimant’s email. Subsequently, the Claimant wrote to MAS on 13 separate occasions between 10 May 2021 until 18 October 2021 under the pseudonym “Patrick Goh”, to notify MAS of the breaches.

4 On 2 November 2021, the Defendant sent an email to the Claimant entitled “Re: levying of complaints to Prudential Assurance Company Singapore (Pte) Limited (“PACS”) and/or Prudential Corporation Asia Limited (“PCA”) and/or the MAS under the identity of ‘Patrick Goh’”. A meeting took place on 8 November 2021, where the Claimant met with Raymond Chew (Head of Conduct Surveillance), Xaiver Yong (Head of Distribution Business Partner) and Jayaprakash Thiyagrajan (Head of Legal). On 7 March 2022, the Defendant served a termination notice under cl 13(c) of the Agency Agreement on the Claimant, giving him 14 days’ notice of termination.

5 In this action, the Claimant is suing the Defendant for wrongful termination. He claims that he was dismissed because he was a “whistle-blower” (as pleaded). The Claimant claims shares and cash rewards, under the Agency Leaders Long-Term Incentives Scheme (“AL-LTI Scheme”) pursuant to AI 006(A)/18 and AI 006(A)/19, which he would have been entitled to had he not been dismissed. Further, the Claimant alleges that the Defendant arbitrarily, capriciously and wrongfully rejected his application for the sell-out/retirement scheme (“Sell-out Scheme”) pursuant to AI 005/14.

Consequently, he claims entitlement to payments under the Sell-out Scheme at the time of the alleged wrongful termination. The Claimant also asserts that the Defendant was unjustly enriched by retaining the monies due and payable to him.

6 In its defence, the Defendant say that the termination was within its contractual right to terminate with notice. Therefore, the Defendant says that the Claimant is not entitled to payment under the AL-LTI Scheme because he did not have a valid agency agreement at the point of payment. Further, the Claimant is unable to participate in the Sell-out Scheme because his application was not valid. Accordingly, the Claimant is not entitled to the rights that arise from the AIs. The Defendant denies that it is liable in unjust enrichment. Furthermore, the Defendant is counterclaiming against the Claimant for breach of the Agency Agreement because he did not lodge his complaints through the proper channels set up in the Defendant’s corporate structure.

7 In response, the Claimant says that the terms which require the Claimant to have a valid agency agreement are unenforceable under the Unfair Contract Terms Act 1977 (2020 Rev Ed) (“UCTA”). He also says he submitted a valid application under the Sell-out Scheme. Further, the Claimant says that the Defendant’s counterclaim is wholly without merit.

8 The issues to be resolved at this trial are:

- (a) Was the Claimant wrongfully terminated by the Defendant? (“Wrongful Termination Claim”);
- (b) is the Claimant entitled to the payments under the AL-LTI Scheme? (“AL-LTI Scheme Claim”);

- (c) is the Claimant entitled to participate in the Sell-out Scheme? (“Sell-out Scheme Claim”);
- (d) are the terms in the AI in breach of the UCTA? (“UCTA Claim”);
- (e) was the Defendant unjustly enriched? (Unjust Enrichment Claim”); and
- (f) was the Claimant in breach of the Agency Agreement? (“Counterclaim”)

Wrongful Termination Claim

9 I am of the view that the Wrongful Termination Claim fails. The Claimant’s case is that the Defendant’s right under cl 13(c) of the Agency Agreement to terminate the Agency Agreement is subject to an implied term of good faith, mutual trust, confidence and goodwill. Clause 13(c) of the Agency Agreement provides as follows:

13(c) Any party may terminate this Agreement by giving to the other party fourteen (14) days’ notice of termination in writing.

10 Counsel for the Claimant, Mr Ragbir Singh s/o Ram Singh Bajwa, argues that the Defendant had terminated the Agency Agreement because it was upset and angry at the Claimant for complaining directly to MAS. Mr Bajwa contends that the Defendant’s termination of the Claimant was “retaliation and vindictiveness and [an] exercise of extreme bad faith”. In essence, that the Defendant’s had the wrong reason for terminating the Claimant’s Agency Agreement, thereby breaching the implied term of good faith, mutual trust, confidence and goodwill.

11 I disagree. To succeed, the Claimant must establish that an implied term of good faith, mutual trust, confidence and goodwill exists in the contract and that it applies to the termination clause (*ie*, cl 13(c) of the Agency Agreement). I find that he has not done so. It is settled law that implied terms, such as the one in question here, do not apply when there are express termination clauses to the contrary.

12 In *Maybank Singapore Ltd v Synergy Global Resources Pte Ltd* [2024] 3 SLR 1316 at [25] illustrates that when exercising an express contractual right of termination, there is no requirement to give reasons. This is because the implied term of good faith, mutual trust, confidence and goodwill, which are normally applies to the exercise of contractual discretions do not apply to the discretion to terminate the contract. The Appellate Division of the High Court in *Dong Wei v Shell Eastern Trading (Pte) Ltd and another* [2022] 1 SLR 1318 (“*Dong Wei*”) at [92] observed that by imposing limitations of contractual discretion to the discretion to terminate a contract would limit the parties’ freedom to contract (and conversely, to exit contracts), which is a fundamental premise of contract law.

13 Clause 13(c) of the Agency Agreement is an express contractual right of termination. Therefore, there is no basis for the Claimant to assert that the Agency Agreement was terminated for the wrong reasons. I find that the Defendant was within its strict legal rights in terminating the Claimant via notice pursuant to cl 13(c) of the Agency Agreement. Thus, the Wrongful Dismissal Claim fails.

AL-LTI Scheme Claim

14 If the termination of the Agency Agreement was not wrongful, the AL-LTI Scheme Claim must also fail. Under both sets of AIs (*ie*, AI 006(A)/18 and AI 006(A)/19), which form the basis of the AL-LTI Scheme Claim, there was cl 5.1 that stipulates the conditions for payment. Although cl 5.1 in both AIs differs slightly, the common requirements for payment under both are:

- 3-year vesting period; and
- Qualifier reaching a minimum 10 years' length of service from first appointment of manager rank; and
- Agency leaders are required to hold a valid PACS agency agreement at point of payment. Agency leaders without a valid PACS agency agreement will not be entitled to any payment.

15 Both sets of AIs also follow the same payment schedule, differing only in percentage of payout, is reproduced below:

Years	Year 0 (Y0)	Year 3 (Y3)	Year 6 (Y6)	Year 9 (Y9)	Year 12 (Y12)
Description	Year qualifier met conditions	Y0 + 3 years	Y3 + 3 years	Y6 + 3 years	Y9 + 3 years
Payout % AI 006(A)/18	30%	20%	20%	20%	10%
Payout % AI 006(A)/19	20%	20%	20%	20%	20%

16 During his career, the Claimant had qualified under the AL-LTI Scheme from 2010-2017 (under AI 006(A)/18) and 2018–2021 (under AI 006(A)/19). Under the payment schedule above, the next tranche of payment under the AL-LTI Scheme was only due to be paid from 2023 onwards. The Claimant's Agency Agreement was terminated on 21 March 2022. Therefore, when

payments became due under the AL-LTI Scheme, the Claimant did not have a valid PACS Agency Agreement, which is a requirement for payment under cl 5.1 of the AIs. Accordingly, the AL-LTI Scheme Claim fails.

Sell-out Scheme Claim

17 I also find that the Sell-out Scheme Claim fails. AI 005/14 forms the basis of the Sell-out Scheme. The relevant contractual clause for this claim is cl 4:

4 Application Process

- 4.1 The Application must be submitted at least three months before the Sell-out Date, except for Clause 3.2(a) to 3.2(d) (in which case, a notification needs to be filed to the Company).
- 4.2 The Applicant is required to:
 - (a) fulfil the requirements as set out in Clause 3;
 - (b) accept and agree to the Reference Price computed by the Company; and
 - (c) accept and agree to the Agreed Price with the Receiving Agency Leader and for scenarios under Clauses 3.1 and 3.2(e), both the Applicant and the Receiving Agency Leader may negotiate the Agreed Price within a range of +/- 20% of the Reference Price.
- 4.3 The Reference Price will be used as the Agreed Price in the scenarios under Clauses 3.2(a), 3.2(b), 3.2(c) and 3.2(d).
- 4.4 Notwithstanding any provision in this AI, an Agency Leader shall not be permitted to participate in the Sell-out Scheme unless the Company at its sole discretion gives its approval for such participation. If the Company gives its approval to any Agency Leader's participation in the Sell-out Scheme, the Company will specify the Sell-out Date for the Agency Leader.

18 The Claimant’s case is that the two emails sent to the Defendant dated 14 March 2022 and 20 March 2022 constituted his application under cl 4 for the Sell-out Scheme. The relevant portions of the emails are reproduced:

14 March 2022

“The request for senior management to reconsider their decision to terminate without cause is due to my belief that my good intentions to protect the interests of the company and to a certain extent public interest have been misunderstood

...

With reference to Agency Instruction No. 005/14, Clause 3.1(a) and 3.1(c), I am eligible for retirement and allowing me to retire would mean I am leaving on terms set out by Prudential in the said Agency Instruction.

I believe a fairer way forward would be for senior management to allow me to retire pursuant to Agency Instruction No. 005/14, together with payment of Agency Leader’s Long Term Incentive.

I therefore would like to respectfully ask that senior management consider my requests above, taking into account my long service and loyalty to Prudential, as well as my strong belief that I have always acted in the interests of the company throughout my career with Prudential.”

20 March 2022

“Since senior management are not agreeable to my application for retirement, this will result in my financial loss of 72 months of past sales over-rider (OR) and commissions. I humbly request for confirmation that my Agency V55 past sales over-rider (OR) will be paid to my Tier 3 Agency Leader C01, Geraldine Bay, upon transfer of V55 to C01.”

19 I am of the view that the Sell-out Scheme Claim fails because the Claimant did not make a valid application under AI 005/14. Counsel for the Claimant argues that the Claimant’s 14 March 2022 and 20 March 2022 emails constituted such an application. However, the emails do not contain any of the details required under cl 4.2 of AI 005/14. Under cl 4.2, an applicant is required to “accept and agree to the Reference Price computed by the Company” and

“accept and agree to the Agreed Price with the Receiving Agency Leader ...”. In the present case, neither of these requirements were satisfied, and therefore, no valid application was made. Furthermore, the Claimant himself had conceded under cross-examination that the emails did not contain the required information.

20 Counsel for the Claimant argued that the Defendant acknowledged the 14 March 2022 email was an application because they replied to it with “Senior management are not agreeable to your request for retirement” in an email dated 17 March 2022. However, that was not a rejection of an application under AI 005/14. Rather, it was a rejection of a request to participate in the Sell-out Scheme as an alternative to termination by notice. This is made clear by the second line of the 17 March 2022 email, which reads “Senior management will however, in principle, be amenable to your resignation from PACS”. From the Defendant’s reply, it is clear that it viewed the 14 March 2022 email as a plea to the management to allow the Claimant to participate in the Sell-out Scheme as an alternative to the termination by notice. This is further supported by the Claimant’s own words in the 14 March 2022 email, where he “respectfully ask[s] that senior management consider [his] request” to participate in the Sell-out scheme as a “fairer way forward”, as opposed to “their decision to terminate without cause”. Accordingly, the emails were not an application under AI 005/14. Having made no valid application under AI 005/14, the Sell-out Scheme Claim fails.

UCTA Claim

21 I am of the view that the UCTA Claim has no merit. The Claimant’s case is that cl 5.1 of AI 006(A)/18 and AI 006(A)/19, which the Defendant relies on to deny the AL-LTI Claim, contravenes the UCTA. Counsel for the Claimant

argues that cl 5.1 is “in the nature of exclusion clauses and [is] unenforceable” in accordance with ss 3(2)(a), 3(2)(b) and 11 of the UCTA; and in the alternative, cl 5.1 infringes s 3(2)(b) of the UCTA as it “renders the performance of the agreement substantially different from what was expected of the Defendant or renders no performance at all”.

22 However, I am of the view that the Claimant fails to establish his claim. First, his claim under s 3(2)(a) of the UCTA is procedurally defective because it had already been struck out. In *See Jen Sen v Prudential Assurance Co Singapore (Pte) Ltd* [2024] SGHC 76 at [16], I upheld the Assistant Registrar’s decision during the interlocutory stage, striking out the Claimant’s claim under s 3(2)(a) of the UCTA. When a claim is struck out, it no longer has any “reasonable cause of action” under O 9 r 16 of the Rules of Court 2021. Yet, Mr Ragbir continues to make the same argument at trial, namely that cl 5.1 is an exclusion clause.

23 Second, the Claimant failed to establish his claim under s 3(2)(b) of the UCTA. s 3(2)(b) provides as follows:

Liability arising in contract

3.— (1) ...

(2) As against that party, the other cannot by reference to any contract term —

(a) ...

(b) claim to be entitled —

- (i) to render a contractual performance substantially different from that which was reasonably expected of him; or
- (ii) in respect of the whole or any part of his contractual obligation, to render no performance at all.

24 Counsel for the Claimant argues that cl 5.1 renders the performance of the agreement substantially different from what was expected of the Defendant or renders no performance at all. He contends that the Defendant is expected to pay the Claimant the sums accrued to him when he satisfies the criteria for earning the payments. By relying on cl 5.1 to deny the Claimant his dues, the Defendant renders the performance of the agreement substantially different from what was expected of the Defendant or the Defendant rendering no performance at all.

25 However, I am not convinced by that argument. Clause 5.1 contains conditions that are required to be met before payment is made. Quite apart from “rendering the performance of the agreement substantially different from what was expected”, cl 5.1 clearly lays out what was expected from both parties. I agree with counsel for the Defendant, Mr Terence Seah, that cl 5.1 “precisely delineate[s] the scope of contractual performance by PACS so that agent[s] know when they can and cannot expect to be paid, i.e. they can expect that they are not entitled to payment if they do not hold a valid agency agreement at the point of payment”. Accordingly, I find that cl 5.1 does not contravene s 3(2)(b) of the UCTA.

26 The Claimant also asserts that cl 4.4 of AI 005/14 contravenes the UCTA. However, having found that the Defendant did not need to rely on cl 4.4 of AI 005/14, this claim has no relevance. Therefore, the UCTA Claim is dismissed in its entirety.

Unjust Enrichment Claim

27 I am of the view that the Unjust Enrichment Claim has no merit. The Claimant’s case is that by not paying him under the AL-LTI Scheme, the

Defendant has been unjustly enriched. Under a claim for unjust enrichment, the claimant has to show: (a) the defendant has been enriched; (b) the enrichment was at the expense of the claimant; and (c) the enrichment was unjust; *Benzline Auto Pte Ltd v Supercars Lorinser Pte Ltd and another* [2018] 1 SLR 239 at [45].

28 The Claimant’s case is that he has already accrued the right to payment under AI 006(A)/18 and AI 006(A)/19, and therefore the Defendant is unjustly enriched by retaining the sum for itself. This claim is untenable. The right to payment under the AIs, as explained above at [14], is subject to certain conditions. These conditions include having a valid PACS agency agreement at the time of payment. Here, the Claimant did not have a valid PACS agency agreement in 2023, when his next tranche of payment was due. Accordingly, there are no “accrued rights” to speak of. Therefore, as the Claimant was not entitled to the payment, the Defendant could not have been “enriched at the expense of the Claimant” by not paying it. Accordingly, the Unjust Enrichment Claim fails.

Counterclaim

29 The Defendant fails in its counterclaim. The Defendant’s case is that the Claimant has caused it loss by breaching cll 5 and 18(a)(i) of the Agency Agreement. For clarity, cll 5 and 18(a)(i) are reproduced below:

- 5 The Agent shall observe and comply with all Company's rules, regulations and agency instructions which are currently in force and applicable to its agents on the subject matter of this Agreement, whether included in the Agent's Rates Book or otherwise, and the Agent shall further observe and comply with all Company's rules, regulations and agency instructions which may be declared by the Company and notified to the Agent from time to time subsequently to be in force and applicable

to the Agent as an agent of the Company on the subject matter of this Agreement.

18(a)(i) The Agent shall always: - (i) conduct his insurance business with integrity and honesty; ...

30 Counsel for the Defendant argued that the Claimant had breached cl 5 because he did not adhere to PACS’ guidelines relating to the submission of regulation-related queries and feedback (“Guidelines”). Counsel submitted that by sending an email directly to PACS’ CEO on 17 October 2020 titled “Compliance – Social Media”, and using a false identity “Patrick Goh” to submit complaints against PACS to MAS without first bringing the complaints to the attention of PACS, the Claimant breach the Guidelines, and consequently cl 5. Counsel further argued that those actions constituted a breach of cl 18(a)(i), which provided that the Claimant was to conduct his insurance business with integrity and honesty.

31 From the timeline of events, the Claimant did not ignore the Guidelines. He had raised his first complaint to the compliance team on 12 October 2020, in accordance with the Guidelines. His email to the CEO of PACS on 17 October 2020 was due to his view on the urgency of the matter. This was evidently not taken to be a breach of the Agency Agreement at the time, because the CEO of PACS responded with “Thanks for bringing this to my attention” followed by instructing his CRO, Jackie Chew, to investigate. In my view, this was an acknowledgement by the CEO on the urgency of the matter, and therefore, an acceptance that the Claimant had reached out to him directly, against the Guidelines. Thus, I find that the Defendant cannot rely on this email to the CEO to establish its counterclaim.

32 Next, the complaints to MAS also do not constitute a breach of cl 5. The Claimant had only contacted to MAS after attempting to use the internal

channels under the Guidelines. The documentary evidence shows that the Claimant had approached the CEO again on 7 January 2021, almost three months after his initial complaint, to share his grievances about the “protracted investigation [being] ineffective because the [advertisement] has already been taken down”. The CEO had responded on 11 January 2021 and acknowledged that a proper framework was necessary for the use of social media, and outlined the steps taken by PACS. On the same day, the Claimant had responded to the CEO’s email with some suggestions on how to curb the issues he complained about. However, he was met with no reply for the next four months. It was only on 10 May 2021 that the Claimant lodged the first of his anonymous complaints with the MAS. Therefore, I find that the Claimant was not in breach of the Guidelines in approaching the MAS. It became clear that the internal process, pursuant to the Guidelines, was ineffective in resolving the issues complained of.

33 Without deciding on the merits of the complaints, I find that the complaints in themselves to MAS do not constitute a breach of cl 18(a)(i). The Defendant’s case is that the Claimant’s reports to the MAS is in breach cl 18(a)(i) of the Agency Agreement. Clause 18(a)(i) has been interpreted in *Prudential Assurance Company Singapore (Pte) Ltd v Peter Tan Shou Yi* [2021] SGHC 109 at [154], to mean that the Claimant must deal with, and serve, the Defendant “in good faith and with undivided interest and not do anything during the pendency of his Agency Agreement which may harm [the Prudential Assurance Company Singapore (Pte) Ltd]”. The Defendant says that the Claimant was aware that the Defendant, as an insurance provider was regulated by MAS, and yet he complained to MAS knowing that it would bring Defendant into disrepute. However, I find that the duty of good faith and undivided interest in this context is circumscribed by the broader public duty to report, in good

faith, purported breaches of advertising guidelines of the MAS meant to protect the wider public. From the documentary evidence, it is clear that the acts of the other agents contravened the MAS advertising guidelines. The Claimant's complaints might well have brought necessary actions by MAS to stop those practices. Accordingly, I find that the Claimant was not in breach of cl 18(a)(i) of the Agency Agreement.

34 In conclusion, the Claimant's claims are dismissed. The Defendant's counterclaim is also dismissed. Parties are to submit on cost within seven days.

- Sgd -
Choo Han Teck
Judge of the High Court

Ragbir Singh s/o Ram Singh Bajwa (Bajwa & Co) and Gan Teng
Wei (Castle Law LLC) for the claimant;
Seah Yong Quan Terence and Joavan Christopher Pereira (JWS Asia
Law Corporation) for the defendant.
