

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

[2025] SGHC 35

Originating Applications Nos 1134 of 2024 and 1136 of 2024

Between

Primepulse Consultancy Pte.
Ltd.

... Applicant

And

- (1) Chan Pau Tee
- (2) Serene Quek Shuet Ling
(Serene Quo Xueling)

... Respondents

GROUND S OF DECISION

[Land — Caveats — Remedies of caveatee]

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Primepulse Consultancy Pte Ltd
v
Chan Pau Tee and another and another matter

[2025] SGHC 35

General Division of the High Court — Originating Applications Nos 1134 and 1136 of 2024

Wong Li Kok, Alex JC

29 November 2024

28 February 2025

Wong Li Kok, Alex JC:

Introduction

1 At first glance, these applications sought my decision on a simple matter of whether caveats lodged by the applicant should remain in place. Below the surface, the same applications raised the unresolved question on whether s 115(3)(a) of the Land Titles Act 1993 (2020 Rev Ed) (“LTA”) has broad application to allow mere contractual interests in the proceeds of sale of land to be caveatable interests under the LTA.

Facts

The parties

2 The applicant is a Singapore-incorporated company in the business of providing short-term loan facilities to accredited investors and companies.¹ It is an excluded moneylender under the Moneylenders Act 2008 (2020 Rev Ed).²

3 The respondents are Mr Chan Pau Tee (“Mr Chan”) and Ms Serene Quek Shuet Ling (Serene Guo Xueling) (“Ms Quek”), the joint tenants of two adjacent condominium units that have been combined into a single bigger unit (respectively, “Unit #01-23” and “Unit #01-24”, and collectively, the “Properties”).³

4 Ms Quek is also the sole proprietor of a hair and nail salon under the name of QD Hair & Nail Beauty Salon (the “QD Salon”).⁴

5 The rest of the facts are disputed. I will therefore present the applicant’s and the respondents’ accounts separately.

¹ Applicant’s Written Submissions dated 25 November 2024 in Originating Application No 1134 of 2024 (“AWS-1134”) at para 3.

² AWS-1134 at para 3.

³ AWS-1134 at para 4.

⁴ Serene Quek Sheut Ling’s affidavit dated 21 November 2024 in Originating Application No 1134 of 2024 (“SQS-1134”) at para 5; Serene Quek Sheut Ling’s affidavit dated 21 November 2024 in Originating Application No 1136 of 2024 (“SQS-1136”) at para 5.

The respondents’ account

6 Mr Chan paid the full purchase price and all the instalments for the Properties.⁵ At some point, Ms Quek was added as a joint tenant. It is not clear from the affidavit at what point she was added, but, in any event, for the purposes of this decision, she was a joint tenant at the material time. The respondents live together in the Properties but are not legally married.

7 In or around the months of October 2023 to March 2024, Ms Quek fell victim to a scam, where she had given up her SingPass credentials to a “financial advisor”.⁶ The “financial advisor” then used her identity to take out various loans and credit facilities in her name.

8 As a result of the scam, Ms Quek was indebted to many banks and financial institutions.⁷ She thus approached Raleigh Investments Pte Ltd (“Raleigh”) to borrow money to repay those debts.⁸ According to Ms Quek, Raleigh instructed Ms Quek to set up a company, as “the loan from Raleigh ... had to be disbursed from a company”.⁹ As such, Ms Quek incorporated QD Hair&Nail Beauty (SA) Trading Pte Ltd (“QD Pte Ltd”) on 13 June 2024.¹⁰ As at 13 June 2024, she was the sole director and shareholder of QD Pte Ltd.

⁵ SQS-1134 at para 4, Chan Pau Tee’s affidavit dated 21 November 2024 in Originating Application No 1134 of 2024 (“CPT-1134”) at para 4; Chan Pau Tee’s affidavit dated 21 November 2024 in Originating Application No 1136 of 2024 (“CPT-1136”) at para 4.

⁶ SQS-1134 at para 6; SQS-1136 at para 6.

⁷ SQS-1134 at para 8; SQS-1136 at para 8.

⁸ SQS-1134 at para 9; SQS-1136 at para 9.

⁹ SQS-1134 at para 9; SQS-1136 at para 9.

¹⁰ SQS-1134 at para 10; SQS-1136 at para 10.

9 On 21 June 2024, QD Pte Ltd entered into a loan agreement with Raleigh for a loan of \$50,000.00.¹¹ Subsequently, on 25 July 2024, Ms Quek received a message from one “Joel”, who purported to be an employee of Raleigh, reminding her to make her first installation payment in 3 days’ time. She did so shortly after.¹² On 26 August 2024, she received another reminder from Joel to make payment of the second instalment.¹³ However, on this occasion, she was unable to make payment.

10 On or around 10 September 2024, Mr Chan learned of caveats lodged against the Properties by Raleigh through a letter from the Singapore Land Authority.¹⁴ When he confronted Ms Quek, she told him not to worry about it as she would settle the matter.

11 She then arranged to meet Joel on 13 September 2024 to discuss her debt.¹⁵ At the meeting, Joel suggested that she take out a new loan to pay off her debt owing to Raleigh, which, by this point, had increased to approximately \$59,111.00.

12 By this point, Ms Quek had also asked her friend, Teng Siok Ngoh (“Ms Teng”), to temporarily take over as shareholder and director of QD Pte Ltd. This was because Ms Quek did not want any issues with QD Pte Ltd to affect the business of QD Salon.¹⁶

¹¹ SQS-1134 at paras 11–12; SQS-1136 at paras 11–12.

¹² SQS-1134 at para 13; SQS-1136 at para 13.

¹³ SQS-1134 at para 14; SQS-1136 at para 14.

¹⁴ SQS-1134 at para 15, CPT-1134 at para 5; SQS-1136 at para 15, CPT-1136 at para 5.

¹⁵ SQS-1134 at para 16; SQS-1136 at para 16.

¹⁶ SQS-1134 at para 17; SQS-1136 at para 17.

13 As such, Ms Quek and Ms Teng had a meeting with Joel on 18 September 2024, where QD Pte Ltd (as the borrower), and Ms Quek and Ms Teng (jointly and severally as guarantors), entered into a written loan agreement with the applicant for a loan of \$120,000.00 (the “Facility Agreement”).¹⁷

14 Ms Quek alleged that as she was anxious to remove Raleigh’s caveats over the Properties, she signed the documents without obtaining a proper explanation of what they were.¹⁸ She also claimed that the loan was a loan to her personally – the applicant was not interested in, nor did it ask for, any documents from QD Pte Ltd. Instead, it was only interested in the personal guarantees signed by Ms Quek and Ms Teng, as well as the deed of assignment and notice of assignment executed by Ms Quek.¹⁹

15 On 29 September 2024, Mr Chan once again received notices from the Singapore Land Authority informing him of caveats lodged on the Properties, this time by the applicant.²⁰ He then approached Ms Quek to inquire what had happened, as he had not consented to any such caveats being lodged.

The applicant’s account

16 The applicant alleged that the loan was clearly for QD Pte Ltd.²¹ It claimed that Ms Quek has not furnished any evidence of her claim that the loan was actually for her. As she was neither a shareholder nor a director of QD Pte

¹⁷ SQS-1134 at para 18; SQS-1136 at para 18.

¹⁸ SQS-1134 at para 18; SQS-1136 at para 18.

¹⁹ SQS-1134 at para 25; SQS-1136 at para 25.

²⁰ CPT-1134 at para 6; CPT-1136 at para 6.

²¹ AWS-1134 at para 19.

Ltd when the loan was entered into, it was illogical that any money disbursed to QD Pte Ltd could be routed to Ms Quek.²²

17 In any case, it noted that pertinent terms of the Facility Agreement are as follows:²³

Clause 18.2.1

[Ms Quek] is *one of the joint owners* of the property Lot No. MK17-U51641M, comprised in Subsidiary Strata Certificate of Title Volume 530 Folio 171 and known as [Unit #01-24] and Property Lot No. MK17-U51645T, comprised in Subsidiary Strata Certificate of Title Volume 530 Folio 175 and known as [Unit #01-23] (the “**Property**”).

Clause 18.2.2

[Ms Quek] *hereby irrevocably and unconditionally consent* [sic] to *the sale of the Property*, and that [QD Pte Ltd] will apply the proceeds from the sale of the Property to repay the outstanding loan amounts due under this Agreement.

Clause 18.2.4

In furtherance to Clause 18.2.2 above, [Ms Quek] *irrevocably and unconditionally consents* to the *lodgement of a caveat* (and renewal thereof) by the [applicant] in its sole and absolute discretion on the Property for the duration of which the loan amounts under this Agreement remain outstanding.

[original emphasis in bold; emphasis added in italics]

18 Pursuant to the Facility Agreement, Ms Quek also assigned all her interests in the proceeds of sale of each of the Properties as a “*continuing security* for the payment of [her total debt to the applicant]” [emphasis added]

²² AWS-1134 at para 19–20.

²³ Teo Peck Geok’s affidavit dated 1 November 2024 in Originating Application No 1134 of 2024 (“TPG-1134”) at para 7, Tab-2 of TPG-1134 at pp 36–37; Teo Peck Geok’s affidavit dated 1 November 2024 in Originating Application No 1136 of 2024 (“TPG-1136”) at para 7, Tab 2 of TPG-1136 at pp 36–37.

by a written deed of assignment dated 18 September 2024 (the “Assignment”).²⁴ At this juncture, I would note that there is some uncertainty as to whether Ms Quek signed only one deed of assignment for both Properties, or one deed of assignment for each property, as both deeds of assignment adduced by the applicant in both Originating Applications 1134 and 1136 of 2024 only relate to Unit #01-23.²⁵ For the avoidance of doubt, any reference to the Assignment is a reference to the deeds of assignment in both suits, as they appear to be identical.

19 Some pertinent terms of the Assignment are as follows:²⁶

WHEREAS:-

(1) [Ms Quek is] the Borrower for a loan agreement entered into among **QD HAIR&NAIL BEAUTY (SA) TRADING PTE. LTD.**, a company incorporated in Singapore, registration number 202424000E, with its registered office address APT BLK 66 KALLANG BAHRU, #01-497, SINGAPORE 330066 as the Borrower, **PRIMEPULSE CONSULTANCY PTE. LTD.**, a company incorporated in Singapore, registration number 202420006E, with its registered office address at 140 BUKIT BATOK ST 11, #12-45, SINGAPORE 650140 as the Lender, and such other obligors named therein [sic] (**Credit Facilities**) which the Credit Facilities together with the Total Indebtedness (defined below), is secured by, *inter alia*, an assignment of the proceeds of sale of the property at [Unit #01-23], more particularly described in the Schedule hereto (**referred to as the Property**).

(2) [Ms Quek is] the only registered proprietor(s) of the Property.

...

2. THE ASSIGNMENT

In consideration of the premises, [Ms Quek] HEREBY ASSIGNS unto the Lender all [her] rights, title, interest, benefit,

²⁴ TPG-1134 at para 9; TPG-1136 at para 9.

²⁵ Tab-4 of TPG-1134 at pp 47 and 53; Tab-4 of TPG-1136 at pp 47 and 53.

²⁶ Tab-4 of TPG-1134 at pp 47–48 and 53; Tab-4 of TPG-1136 at pp 47–48 and 53.

advantages, permits, licences and remedies which [Ms Quek] may have in under or arising out of the Sale Agreement including all the sale proceeds thereof and other monies payable or to become payable thereunder as a continuing security for the payment of the Total Indebtedness PROVIDED ALWAYS that upon payment to the Lender in full of the Total Indebtedness and [Ms Quek] having duly complied with all of [her] respective undertakings covenants and obligations made given and entered into with the Lender pursuant to the terms of this Deed, the Lender will at the request and expense of [sic] [Ms Quek] re-assign to [Ms Quek] the rights, title, interest, and benefits hereby assigned, or will otherwise discharge or cancel the security hereby created.

...

IN WITNESS WHEREOF [Ms Quek] has hereunto set his/her/their hand(s) and seal(s):

THE SCHEDULE ABOVE REFERRED TO

(i) The whole of Property Lot No. MK17-U51645T, comprised in Subsidiary Strata Certificate of Title 530 Folio 175 and known as [Unit #01-23];

[emphasis in the original]

20 Pursuant to the Facility Agreement and the Assignment, the applicant lodged caveats over both Properties on 25 September 2024.²⁷

21 QD Pte Ltd failed to pay any instalments under the loan.²⁸

22 On 29 October 2024, the applicant received a notice from the Singapore Land Authority that the respondents filed an application to cancel the caveats on the ground that the caveats had been lodged vexatiously, frivolously and/or not in good faith, pursuant to s 127(2) of the LTA.²⁹

²⁷ TPG-1134 at para 10; TPG-1136 at para 10.

²⁸ TPG-1134 at para 11; TPG-1136 at para 11.

²⁹ TPG-1134 at para 15; TPG-1136 at para 15.

23 In response, on 1 November 2024, the applicant filed two applications under s 127(4) of the LTA for orders that the caveats be maintained.

24 The applicant also filed a separate suit, Originating Claim No 904 of 2024 (“OC 904”), against Ms Quek, Ms Teng, and QD Pte Ptd in respect of breaches under, *inter alia*, the Facility Agreement on 18 November 2024.³⁰

The parties’ arguments

25 The applicant argued that the caveats were not lodged vexatiously, frivolously or not in good faith, as (a) the applicant had an interest in the sale proceeds of the Properties pursuant to the Facility Agreement and the Assignment, and (b) and said interest constituted a caveatable interest in land pursuant to s 115(3)(a) of the LTA.³¹

26 The respondents argued that the Facility Agreement and the Assignment were sham agreements hiding the true nature of the transaction, namely, an illegal personal loan to Ms Quek, and thus unenforceable.³² Even if the agreements were enforceable, (a) they did not confer upon the applicant an interest in the proceeds of sale of the Properties as there was no proper assignment of such by both respondents as joint tenants; and (b) the applicant’s mere contractual interest in the proceeds of sale of the Properties was not a caveatable interest.³³

³⁰ TPG-1134 at para 18; TPG-1136 at para 18; Notes of Evidence (“NE”) dated 29 November 2024 at p 2.

³¹ AWS-1134 at para 67.

³² Respondents’ Written Submissions dated 25 November 2024 Originating Application No 1134 of 2024 (“RWS-1134”) at para 18.

³³ RWS-1134 at para 19.

Issues to be determined

27 The key issues were thus as follows:

- (a) whether the applicant had demonstrated that the caveats were not lodged vexatiously, frivolously, or not in good faith;
- (b) whether the caveats filed were for an interest in land within the meaning of the LTA; and
- (c) whether the moneylending transaction was a sham.

The caveats were lodged vexatiously, frivolously and/or not in good faith

28 The applicant relied on Goh Yihan JC’s (as he then was) holding in *Nimisha Pandey v Divya Bothra* [2023] 5 SLR 1254 (“*Nimisha Pandey*”) that all a caveator needs to do when served with a notice pursuant to s 127(2) of the LTA is to furnish satisfactory evidence to show that the caveat was not lodged vexatiously, frivolously and/or not in good faith such that the cancellation should be withheld or deferred (at [29]).³⁴ The caveator “need not, in an application under s 127(4), convince the court that the caveat should be maintained because there is *a serious question to be tried*, and that *on the balance of convenience* it would be better to maintain the status quo until the trial of the action” [emphasis added] (at [32]). Instead, the standard to be employed is “similar to that employed by the courts in deciding whether to strike out pleadings and other documents” (at [31]).³⁵

29 As for the meaning of “vexatious”, “frivolous” and “not in good faith”, the applicant again relied on Goh JC’s guidance in *Nimisha Pandey* that such

³⁴ AWS-1134 at para 40.1.

³⁵ AWS-1134 at para 41.

would imply that the lodgement of the caveat was made with improper motive, or utterly groundless and unable to withstand a challenge to cancel it (at [27]–[28]).³⁶

30 The respondents argued that Goh JC’s position appeared to be contrary to Parliament’s intention to put the onus on the caveator to justify its claim of interest in a property.³⁷ They also argued that it made no sense to have different thresholds for applications made under s 127(1) of the LTA as compared to those made under s 127(4) of the LTA.³⁸ The different thresholds would mean that a respondent who was unable to resist an application under s 127(4) of the LTA would then be able to take out another application under s 127(1) of the LTA, which would require the caveator to meet a higher threshold. It did not make submissions on the meaning of “vexatious”, “frivolous” and “not in good faith”.³⁹

31 I agreed with the test put forward by the applicant. I did not agree with the respondents’ argument that the differing thresholds “made no sense”. As noted by Goh JC, s 127(2) of the LTA allows the caveat to be automatically cancelled after a short period of 30 days, which “confers a considerable advantage on the caveatee” (at [21]). This justifies the imposition of a lower threshold for the caveator. Moreover, it is not as if the caveator does not need to justify its claim of interest in a property under the lower threshold. The caveator still needs to show cause why the caveat was not lodged vexatiously,

³⁶ AWS-1134 at para 41.

³⁷ NE at pp 11–12.

³⁸ NE at pp 11–12.

³⁹ NE at p 12.

frivolously, and/or not in good faith – in other words, it needs to show that the lodgement is not utterly groundless.

32 As such, I agreed that to succeed in its application under s 127(4) of the LTA, the applicant was merely required to furnish satisfactory evidence that the caveats were not lodged with improper motive, or utterly groundless and unable to withstand a challenge to cancel it.

33 However, I found that the applicant had failed to satisfy even the lower threshold. On a cursory examination of the documents, the applicant had failed to provide satisfactory evidence that the caveats were not raised vexatiously, frivolously, or in bad faith.

34 The respondents noted that “[a]ll joint tenants must act together”, citing the Court of Appeal’s holding in *Goh The Lee v Lim Li Pheng Maria and others* [2010] 3 SLR 364 that “[i]n a joint-tenancy, each joint tenant holds the whole jointly and nothing severally” (at [11]).⁴⁰ However, though the Properties were held in the names of both respondents as joint tenants, only Ms Quek had signed the relevant documents.⁴¹ Mr Chan “was completely oblivious” to the transaction, much less in agreement.⁴²

35 The applicant’s position with respect to this point is that its interest is, effectively, an artificial interest in land arising specifically from s 115(3)(a) of the LTA and thus not an actual interest in land that requires the attention of both joint tenants.⁴³

⁴⁰ RWS-1134 at para 23.

⁴¹ RWS-1134 at para 24.

⁴² RWS-1134 at para 24, citing CPT-1134 at para 6.

⁴³ NE at pp 5–6.

36 Assuming I accepted that argument, the applicant’s interest ought to be accurately and properly described under the caveats and their supporting documents. In other words, if the applicant’s interests as described in the caveats are inconsistently stated and raises doubts as to the true interest claimed in the caveats and the supporting grounds, I had reason to find that the caveats were lodged vexatiously, frivolously and/or not in good faith.

37 In *Alrich Development Pte Ltd v Rafiq Jumabhoy* [1993] 1 SLR(R) 598 (“*Alrich Development*”), the terms of the caveat only need to give “a fair indication of what estate or interest the caveator claims and the ground of his claim”, and “the court should not be astute to find fault with the terms of a caveat so long as they are not positively misleading and the interests of others are not prejudiced” (at [44]–[45]). In *Ong Chay Tong & Sons (Pte) Ltd v Ong Hoo Eng* [2009] 1 SLR(R) 305 (“*Ong Chay Tong*”), which involved an interest in land arising out of a sale and purchase agreement which had been varied, the Court of Appeal found that as the caveat was stated to be based on the original sale and purchase agreement, and not the varied sale and purchase agreement, the defect with the caveat “[went] to the very foundation upon which the caveat was lodged” (at [81]–[82]). As such, the caveat had to be removed, following *Alrich Development* (at [82]).

38 The caveats were each lodged on the following terms:⁴⁴

REGISTERED PROPRIETOR

⁴⁴ Tab-5 of TPG-1134 at pp 57–58; Tab-5 of TPG-1136 at pp 57–58.

ID / Co Regn No :	[NRIC redacted]
Name :	CHAN PAU TEE
Citizenship / Place of Incorporation :	SINGAPORE
Address (within Singapore for service of notice) :	[address redacted]

ID / Co Regn No :	[NRIC redacted]
Name :	SERENE QUEK SHUET LING (SERENE GUO XUELING)
Citizenship / Place of Incorporation :	SINGAPORE
Address (within Singapore for service of notice) :	[address redacted]

INTEREST CLAIMED

I, the Caveator claiming an ESTATE OR INTEREST in land as Lender.

GROUND OF CLAIM

By virtue of

1. A Facility Agreement dated 18.09.2024 (the "Facility Agreement") made between QD HAIR&NAIL BEAUTY (SA) TRADING PTE. LTD. (as Borrower) of the first part, Caveator (as Lender) of the second part and Serene Quek Shuet Ling (Serene

Guo Xueling) (one of the Registered Proprietors) and Teng Siok Ngoh (collectively known as Guarantors) of the third part;

2. The Indebtedness arising from the Facility Agreement shall be known as the “Indebtedness”;

3. A Deed of Assignment dated 18.09.2024 made between the Guarantors, Serene Quek Shuet Ling (Serene Guo Xueling) and Teng Siok Ngoh, and the Caveator whereby the Guarantors undertake to pay the Indebtedness (the “Assignment”);

4. The Caveator is claiming interest in the proceeds of sale of the land pursuant to Section 115 of the Land Titles Act by virtue of the Facility Agreement and the Assignment in which one of the Registered Proprietor [*sic*], Serene Quek Shuet Ling (Serene Guo Xueling), has irrevocably and unconditionally agreed to apply the proceeds from the sale of the property to repay the Indebtedness.

39 Under the “Grounds of Claim”, the applicant noted that its claim was based on an “interest in the proceeds of sale of the land” under s 115 of the LTA “by virtue of” the Facility Agreement and the Assignment.

40 However, a cursory review of the Assignment and the Facility Agreement is where things start to go wrong for the applicant. The Assignment and the Facility Agreement was only executed by one of the two joint tenants of the property, Ms Quek. However, the Assignment (at Preamble (2)) stated that Ms Quek was the “only registered proprietor” of the property, yet purported to assign (at the execution page) the whole of the property (see above at [19]).

41 Worse, though the Assignment is referenced in the “Grounds of Claim” for both caveats, the Assignment only relates to Unit #01-23. Preamble (1) of the Assignment states that the assignment is for “the proceeds of sale of the property at [Unit #01-23]”. Similarly, at the execution page, the Assignment assigns the whole of the property “known as [Unit #01-23]” (see above at [19]). If there was a separate assignment for Unit #01-24, it was not brought to my attention.

42 The Assignment was entered into pursuant to and refers to the Facility Agreement. The Facility Agreement is similarly troubling in that, whilst it acknowledges (at cl 18.2.1) that Ms Quek is one of the joint owners of the property, it then goes on to say (at cl 18.2.2) that Ms Quek alone consents to the sale of the property (see above at [17]).

43 The applicant had pointed me to the New South Wales case of *Allen Taylor & Company Pty Ltd t/as Boral Timber v Norman Leslie Harrison* [2010] NSWSC 1021 saying that a caveat was accepted in similar factual circumstances in that case where only one joint tenant (the defendant in that case) had agreed to credit facilities and the other joint tenant (his wife) disputed the caveat lodged. However, the applicant failed to point out the court’s observation that the caveat in that case was “carefully drawn to achieve the purpose of identifying and affecting only the interest in the land held by [the defendant]” (at [28]). Only the defendant’s name had been entered against the description “Registered Proprietor”. In the “Nature of the estate or interest in the land” claimed, only the defendant was referred to as the “registered proprietor”, and the interest claimed was only “over the freehold interest of the registered proprietor”. That was why the Supreme Court of New South Wales in that case was comfortable with the caveat remaining in place.

44 There was no such carefully drawn position in the current case. *Both* Mr Chan and Ms Quek are listed against the description “REGISTERED PROPRIETOR” (see above at [38]). This would suggest that the interest claimed is that of both Mr Chan and Ms Quek. At no point in the caveats does the respondent clarify that the interest claimed is only against Ms Quek’s interest in the Properties. In the grounds of claim (at [38] above), the applicant notes that it has an “interest in *the proceeds* of sale of *the land*” from “one of the Registered Proprietor[s]”, Ms Quek, having “irrevocably and

unconditionally agreed to apply *the proceeds* from the sale of *the property* to repay the Indebtedness” [emphasis added]. This was at best ambiguous, and at worst, suggested that the interest claimed is the interest in the whole of the property, not Ms Quek’s interest in the property.

45 Specifically, where joint tenants are concerned, a caveator needs to exercise care in identifying the specific interest that leads to the lodgement of the caveat. Otherwise, it is open for joint tenants whose interests are unfairly infringed upon to challenge its basis, as Mr Chan has done.

46 In this case, a cursory examination of the caveats and their underlying documentation shows the ambiguity and inconsistency in their preparation (see above at [40] and [44]). The applicant’s written submissions state that the lodging of caveats in these types of transactions is “an important aspect in the industry of excluded moneylenders” and “an important safeguard”.⁴⁵ If this is the applicant’s position, I would expect the applicant to pay closer attention to its documentation and to ensure that it properly reflects the interest that is being caveated. The applicant should not be so indifferent and exercise such disregard as to its documentation and then expect the court to perpetuate such indifference and disregard in coming to its rescue. Section 127 of the LTA does not give a *carte blanche* to allow all manner of loose descriptions of interests to be caveated. As the caveats were positively misleading for the reasons I had stated and prejudiced the rights of Mr Chan by creating the impression that he had consented to the caveats being lodged when this was clearly not the case, these caveats clearly could not be allowed to remain (see *Alrich Development* at [44]–[45] and *Ong Chay Tong* at [82]).

⁴⁵ AWS-1134 at paras 26 and 28.

47 On this basis alone, the applications were dismissed.

Interest in land under s 115(3)(a) of the LTA

48 This application also raised an unsettled question of law – what types of proceeds of sale of land fall within the scope of caveatable interests in land under s 115(3)(a) of the LTA?

49 Section 115(3)(a) of the LTA reads as follows:

(3) For the purposes of this Part, and without limiting its generality, a reference to a person claiming an interest in land includes a reference to any of the following persons:

(a) any person who has an interest in the proceeds of sale of land, not being an interest arising from a judgment or order for the payment of money;

50 There are at least four reported cases on the issue of the scope of s 115(3)(a) of the LTA, decided over the span of the last two decades.

51 The two earlier cases suggest that all interests in proceeds of sale of land, including mere contractual interests, are caveatable interests pursuant to s 115(3)(a) of the LTA.

52 First, in *Abdul Hamid Bin Mohamed Ismail and Others v Shaik Raheem s/o Abdul Shaik Shaik Dawood and Another Action* [2005] SGDC 28 (“*Abdul Hamid*”), the plaintiffs obtained a \$20,000 loan from a licensed moneylender (at [6]). Under the terms of the loan agreement, the plaintiffs had assigned the proceeds of the sale of their flat to the moneylender for the repayment of their loan (at [7]).

53 The district judge held that the moneylender’s interest in the proceeds of sale of the flat entitled it to lodge a caveat on said flat. The plaintiffs had argued that on a proper interpretation of s 115(3)(a) of the LTA, a caveator who claims an interest in the proceeds of sale of land must first have a claim to an interest in the land (at [11]). In response to this, the district judge found that the “wording of s 115(3)(a) read in their plain and literal sense clearly intended to widen the scope of ‘interest in land’ for purposes of caveats to include a person who has an interest in the proceeds of sale of the land which may not necessarily arise from recognised categories of interests in land” (at [19]). She also noted that “the amendment in 2001 to delimit the categories of interests to those ‘*not being an interest arising from a judgment or order for the payment of money*’” [emphasis in original] similarly suggested that Parliament had contemplated that the caveatable interests under s 115(3)(a) of the LTA would include interest other than what is traditionally understood as interests in land (at [20]). Accordingly, she “had to find” that the interest of the moneylender in the sale proceeds of the flat qualified as caveatable interests under s 115(3)(a) of the LTA (at [22]).

54 Second, in *Ho Seek Yueng Novel and another v J & V Development Pte Ltd* [2006] 2 SLR(R) 742, the owner for the defendant company (“Mr Tan”) had caused caveats to be lodged against 12 properties (at [6]). He offered two bases to support the caveats: (a) he had granted the plaintiffs a loan in respect of the sale and purchase of the twelve properties by way of oral agreement; and (b) pursuant to that same oral agreement, the plaintiffs had also granted him a right of first refusal in respect of the sale and purchase of those properties (at [7]–[8]).

55 Andrew Phang J (as he then was) accepted Mr Tan’s version of events and held that both the loan and the right of first refusal independently conferred

on Mr Tan a caveatable interest in the properties. In relation to the loan, Phang J simply stated that the loan gave the defendant an interest in the sale proceeds, which was “clearly an interest in land that is caveatable under the LTA”, as “[t]his is in fact *expressly provided for* under s 115(3)(a) of the LTA” [emphasis in original] (at [39]).

56 On the other hand, the two latter cases suggest that not *all interests* in proceeds of sale of land are caveatable interests in land.

57 First, in *Salbiah bte Adnan v Micro Credit Pte Ltd* [2015] 1 SLR 601 (“*Salbiah*”), the plaintiff and her ex-husband (“Zam”) were the joint tenants of a property (at [1]). Zam took out two loans of \$1,000 each from the defendant pursuant to loan agreements which stated that a caveat would be lodged on the property if payment was not prompt (at [6] and [8]). He also signed a document authorising and consenting to the lodgement of a caveat by the defendant (at [7]–[8]). He repaid the first loan fully, but failed to repay the second loan (at [9]). The defendant lodged a caveat on the property on the basis that Zam had agreed to repay the second loan out of the proceeds of sale of the property.

58 Edmund Leow JC found that the loan agreement did not confer on the defendant any legal, equitable or contractual interest in the sale proceeds (at [42]). As such, there was no need to determine if the defendant’s non-existent interest in the sale proceeds fell within s 115(3)(a) of the LTA.

59 However, Leow JC went on to consider John Baalman’s commentary on s 93(3) of the Land Titles Ordinance 1956 (the “LTO”), the progenitor to s 115(3)(a) of the LTA (at [30], citing *The Singapore Torrens System* (The Government of the State of Singapore, 1961) (“*The Singapore Torrens System*”) at pp 195–196). Based on this, he remarked in *obiter* that the purpose of

s 115(3)(a) of the LTA is to allow individuals with a “definite entitlement” to the sale proceeds, but no interest in the land itself, to lodge caveats to protect their interest (at [34]). Examples of such definite entitlements would be the interest of a beneficiary under a trust for sale, or the interest of a foreign person who inherits residential property – in both situations, the caveator “has a definite entitlement to the proceeds of sale because the trustee or the personal representative is charged with a *duty* of sale” [emphasis in original] (at [31] and [33]). He therefore questioned whether s 115(3)(a) of the LTA was intended to allow a person with a mere contractual right to be paid out of the sale proceeds of a property to lodge a caveat on that property (at [41]). This was especially so because allowing such an approach would go beyond the purpose of the caveat system by, in effect, making the property a quasi-security for the loan and giving the defendant more than what it had bargained for (at [41]).

60 Second, in *Kok Zhen Yen and another v Beth Candice Wu* [2024] 3 SLR 730, the defendant lodged a caveat against a property on the ground that there was an agreement for her to be paid from the sale proceeds of the property (at [13]–[18]). Goh JC found that the defendant had failed to prove such an agreement existed (at [30]–[34]). He then went on to note that, despite there being no need for him to adopt the reasoning in *Salbiah*, he agreed with Leow JC’s concern of allowing such agreements to function as a form of quasi-security, which “could not be the purpose of the caveat mechanism” (at [38]).

61 The applicant relied on the two former cases for the proposition that any interest in proceeds of sale constituted a caveatable interest under s 115(3)(a) of the LTA.⁴⁶ Hence, as the Assignment granted the applicant an interest in the sale proceeds of the Properties, the applicant had a valid basis for lodging the caveats

⁴⁶ AWS-1134 at para 47.

over the Properties. It also noted that any doubts raised in the latter two cases were made in *obiter*.⁴⁷

62 In turn, the respondents argued that the latter two cases stood for the proposition that the applicant’s contractual interest in the proceeds of sale of the Properties did not constitute a caveatable interest under s 115(3)(a) of the LTA, and that the applicant should not be allowed to use the mechanism of caveats as a quasi-security.⁴⁸

63 On my review of the authorities (above at [50]–[60]), the cases differ in their views of whether the plain meaning of s 115(3)(a) of the LTA is ambiguous, such that s 9A(2)(b) of the Interpretation Act 1965 (2020 Rev Ed) operates to allow the use of extraneous material to ascertain the true meaning of s 115(3)(a) of the LTA. The two earlier cases take the position that the ordinary meaning of s 115(3)(a) of the LTA is clear and unambiguous – it refers to *any* interest in proceeds of sale of land (except those arising from a judgment or order for the payment of money). The two latter cases, in turn, discuss in *obiter* that there is ambiguity with regard to which *types of interests* fall within the scope of s 115(3)(a) of the LTA. *Salbiah* at [41] also notes that the plain meaning of s 115(3)(a) of the LTA is creates “an anomaly whereby a creditor who has a contractual right to have a loan repaid out of the sale proceeds of property may lodge a caveat on the basis of his contractual claim, but a creditor who successfully sues the debtor on the same contract (so that his claim is extinguished by the judgement and merged into the latter) may not”.

⁴⁷ AWS-1134 at para 48.

⁴⁸ RWS-1134 at paras 20–22.

64 On this point, I noted that in interpreting s 115(3)(a) of the LTA, the court must assume that Parliament does not legislate in vain, nor does it legislate tautologously (see *Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 (“*Tan Cheng Bock*”) at [38]). The fact that s 115(3)(a) of the LTA refers to “any person who has an interest in the proceeds of sale of land, not being an interest arising from a judgment or an order for the payment of money” [emphasis added], would, in its ordinary meaning, imply that *any* and all interests in the proceeds of sale of land, barring only the two explicit exceptions, would constitute a caveatable interest in land. Moreover, I agree with the district judge in *Abdul Hamid* that on a purposive interpretation of s 115(3)(a) of the LTA, the fact that Parliament has seen fit to include two exclusions shows that it *has* applied its mind to the issue of whether there should be any exclusions (at [20]). The fact that it had not chosen to include any other exclusions shows that it *did not* intend to exclude any other types of interests in proceeds of sale of land.

65 The ambiguity alleged in the latter two cases thus does not appear to be borne out by the plain wording of s 115(3)(a) of the LTA. As such, extraneous material such as *The Singapore Torrens System* ought not to be used as a basis from departing from the ordinary meaning of said provision (*Tan Cheng Bock* at [48]).

66 In any case, even if I accepted that the meaning of s 115(3)(a) of the LTA was ambiguous, such that extraneous material may be adduced in determining the specific purpose of said provision, Baalman’s commentary does not reflect Parliament’s own intentions regarding s 115(3)(a) of the LTA.

67 Alongside the amendment in 2001 to delimit the categories of interest in s 115(3)(a) of the LTA to those “not being an interest arising from a judgment or order for the payment of money” (see above at [64]), Parliament’s intentions

regarding the scope of s 115(3)(a) of the LTA can also be evinced from statements made during a Parliamentary debate regarding an amendment to the Housing and Development Act (Cap 129, 2004 Rev Ed) (the “HDA”).

68 In 2010, Parliament amended s 51 (now s 58) of the HDA to prohibit proceeds of sales of HDB flats from being used as “security or collateral for any debt, obligation, or claim”, and prohibit interests in such from creating any “interest in land ... under the provisions of ... The Land Titles Act (Cap 157)”. When introducing the Housing and Development (Amendment) Bill (No 18 of 2010), the then-Minister for National Development, Mr Mah Bow Tan (“Minister Mah”), noted a rising trend of “HDB flat owners borrowing from moneylenders and agreeing to assign the sales proceeds from their flats as repayment” (*Singapore Parliamentary Debates, Official Report* (19 July 2010) vol 87 at col 723). Based on these agreements, the “moneylenders then lodge caveats against the flats to claim an interest in the sales proceeds”, and “[s]uch caveats enable the moneylender to determine repayment owed before he agrees to withdraw the caveat to allow the sale transaction of the flat to go through” (at col 725). From this statement, Parliament appears to refer to a practice where a *caveat*, in and of itself, is lodged as a quasi-security. Minister Mah clearly states that it is the *caveat* that enables moneylenders to determine repayment owed, as opposed to the assignment itself.

69 Minister Mah then states that “this is permitted under the current legislative framework” (at col 723). While he does not specifically mention what “legislative framework” to which he is referring, I surmise that he can only be referring to s 115(3)(a) of the LTA.

70 Finally, he states that as this practice “undermines the intention of the home ownership policy which seeks to provide a home for our people for long-

term stay” (at col 723), Parliament has decided to disallow the lodging of caveats to “claim an interest in the sales proceeds of [HDB flats]” in particular (at col 726).

71 In summary, Minister Mah has explicitly referred to the practice of lodging caveats as a form of quasi-security – the main criticism of allowing persons with a mere contractual right to proceeds of sale of land to lodge a caveat over the land that was raised by Leow JC in his judgment in 2015, after the amendments to the HDA – and states that “this is permitted under the current legislative framework”. That is why Parliament saw the need to amend s 51 of the HDA to disallow such practices where they involve HDB flats, due to policy reasons specific to HDB flats.

72 Turning to the current case, the Assignment did not create a mere contractual interest – rather, it amounted to an equitable charge that granted the applicant a *proprietary interest* in the subject-matter of the Assignment. As noted by the applicant, the Assignment only granted an entitlement to the proceeds of sale *up to the outstanding debt amount*, not the entirety of the proceeds (as would be expected from a standard assignment).⁴⁹ From this, it appears that the intention of the parties was for the Assignment to function as a security, and only as a security, for Ms Quek’s debt to the applicant. Hence, the Assignment amounted to an equitable charge over the proceeds of sale (see *Tembusu Growth Fund II Ltd and another v Yee Fook Khong and another* [2020] SGHC 104 at [135], citing *SCK Serijadi Sdn Bhd v Artison Interior Pte Ltd* [2019] 1 SLR 680 at [22] and [25]).

⁴⁹ NE at p 5.

73 That being the case, there was no need for me to definitively consider the issue of whether s 115(3)(a) of the LTA extended to mere contractual interests. Even if I adopted the narrower scope espoused by Leow JC (see above at [59]), this was a case where, pursuant to the Assignment, the applicant had a proprietary interest that would fall within Leow JC's narrower scope of caveatable interests under s 115(3)(a) of the LTA.

74 Therefore, I found that the applicant's interest in the proceeds of sale of the Properties arising from the Assignment constituted a caveatable interest.

75 However, given that I had found (at [47]) that the applicant had failed to provide satisfactory evidence that the caveats were not lodged vexatiously, frivolously, and/or not in good faith on separate grounds, this is rendered moot.

No decision required on whether the moneylending transaction is a sham

76 Having disposed of this matter at [47], there is no need for me to evaluate the respondents' argument that the moneylending transaction was a sham. Furthermore, the applicant has also filed an action in this court, OC 904, against Ms Quek, Ms Teng, and QD Pte Ltd for the outstanding sums under the loan agreement. In their defence on the merits, the defendants in that suit have raised the same issue – that the moneylending transaction was a sham and thus should not be enforced.

77 Bearing in mind there are only three relatively brief affidavits before me, and the crux of this application rests on whether I should allow the caveats to remain, I was of the view that I should allow OC 904 to run its full course with the full range of evidence that will be made available to determine if the moneylending transaction is indeed a sham.

78 As such, I refrained from making a decision on this issue so as to not create *res judicata* for the ongoing determination of this issue in this court.

Conclusion

79 For the reasons set out above, the applications were dismissed. I also ordered costs to be paid to the respondents in the amount of S\$20,000 (including disbursements) for both applications.

Wong Li Kok, Alex
Judicial Commissioner

Tong Chuan Lim (Excelsior Law Chambers LLC) for the applicant;
Toh Kok Seng, Tan Hong Xun, Enzel and Drashy Umang Trivedi
(Lee & Lee) for the first and second respondents.
