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

[2026] SGHC(A) 3

Appellate Division / Civil Appeal No 24 of 2025

Between

(1) Zhang Jinxia
(2) Wang Quancheng

… *Appellants*

And

Zhu Yuhua

… *Respondent*

EX TEMPORE JUDGMENT

[Credit and Security — Money and moneylenders — Loans of money]
[Damages — Liquidated damages or penalty]

Zhang Jinxia and another
v
Zhu Yuhua

[2026] SGHC(A) 3

Appellate Division of the High Court — Civil Appeal No 24 of 2025
Ang Cheng Hock JCA, Woo Bih Li JAD and Debbie Ong Siew Ling JAD
26 January 2026

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Ang Cheng Hock JCA (delivering the judgment of the court *ex tempore*):

1 The present case involves, first, Ms Zhu Yuhua's ("Zhu") claim for sums loaned to Mr Wang Quancheng ("Wang") under two written loan agreements (one of which was guaranteed by his wife, Ms Zhang Jinxia ("Zhang")), and second, Wang's counterclaim for sums repaid in excess to Zhu. In respect of the first written loan agreement ("First IOU"), the judge below ("Judge") found that there was an overpayment of RMB 56,000 by Wang. In respect of the second written loan agreement ("Second IOU"), the Judge found that Wang owed S$190,000 of principal and S$36,000 as interest. Having reviewed the evidence and considered the parties' submissions, we agree with most of the Judge's findings, save for an obvious error in calculating Wang's overpayment in respect of the First IOU loan and an adjustment to the amount of interest due under the Second IOU loan. As such, we allow the appeal in part.

Facts

2 Zhu is a businesswoman who operates beauty salons. She gave loans to Wang, a businessman, under the First and Second IOU:

(a) The First IOU dated 19 January 2016 was for RMB 1 million. The due date for repayment was 22 January 2017. Interest would accrue at 2%, or RMB 20,000, every month, but need only be paid every three months.

(b) The Second IOU dated 4 July 2016 was for S$240,000. The due date for repayment was 3 July 2017. No interest was to be charged if the loan was repaid by the due date. However, Clause V of the Second IOU provides that, if the sum remained unpaid after the due date, interest would accrue on the unpaid amount at 0.5% every day for 30 days. After 30 days, Wang's and Zhang's property (which was a condominium unit) would become collateral for the unpaid amount.

3 Apart from these two written loan agreements which are the subject of Zhu's claims, there were several other loans which Zhu extended to Wang from December 2016 to April 2017. These were based on oral agreements and were short-term, interest-free loans.

4 In June 2023, Zhu commenced action against Wang and Zhang. In February 2024, Wang filed his counterclaim against Zhu. The trial was heard in November 2024. On 28 March 2025, the Judge gave judgment in favour of Zhu on her claim and for Wang for part of his counterclaim. On 22 April 2025, Wang and Zhang (the "Appellants") filed the present appeal against the Judge's decision. We now deal with their arguments on appeal.

The calculation error

5 As a preliminary point, we note that the Judge found that the total amount due under the First IOU loan, including principal and interest, was RMB 1.24 million, and that Wang had made payments to Zhu in the amount of RMB 1.8 million. As such, the Judge found that there was an overpayment. However, he determined the amount of Wang's overpayment to be RMB 56,000. The parties agreed that this was an obvious calculation error by the Judge and the amount of overpayment should have been RMB 560,000, as that is the difference between RMB 1.24 million and RMB 1.8 million. We agree that the figure should be corrected.

Whether Zhu handed RMB 40,000 in cash to Wang as part of the disbursement under the First IOU loan

6 We turn now to the first issue, which was the sum disbursed under the First IOU loan. The Judge accepted Zhu's evidence that Wang needed funds urgently, and that she handed over RMB 40,000 in cash to Wang on 19 January 2016, as part of the disbursement under the First IOU loan. She then asked her brother in China to disburse the remaining amount of RMB 960,000 to Wang over two bank transfers on 21 and 22 January 2016. This was a finding of fact, which the Appellants argued should be overturned. According to Wang, only RMB 960,000 was ever disbursed under the First IOU loan.

7 In our view, none of the arguments made by Wang show that the Judge's finding was against the weight of the evidence or was obviously wrong. Wang argued that Zhu did not procure a signed receipt from Wang for the RMB 40,000 cash, even though she had procured a signed receipt from Zhang when she handed her S$240,000 in cash for the Second IOU loan. But the short answer to this is that S$240,000 is a far larger amount than RMB 40,000 (which is

roughly S$8,000). It therefore made sense for Zhu to be more careful when handing over the much larger sum of S$240,000 in cash.

8 Wang also made the rather weak argument that the cash disbursement was inconsistent with the terms of the First IOU, which provided that the loan would be disbursed by bank transfer. But there was nothing to prevent the parties from agreeing to another mode of disbursing part of the loan, particularly when Wang was urgently in need of funds.

9 Wang's main argument was that Zhu allegedly withheld RMB 40,000 because this amounted to two months' interest, and when this was added to the RMB 20,000 that Wang paid Zhu on 24 January 2016, this worked out to three months' interest (from 22 January to 21 April 2016). This was consistent with the First IOU, which provides that interest was to be paid every three months. However, the Judge's finding was equally consistent with the First IOU. The Judge found that the RMB 20,000 paid on 24 January 2016 was for the first month's interest (from 22 January to 21 February 2016), then the RMB 60,000 paid on 29 April 2016 was for the next three months' interest (from 22 February to 21 April 2016), and then the RMB 60,000 on 15 August 2016 was for the next three months' interest (22 April to 21 July 2016). There was nothing in the First IOU which stipulates that the payment of the three months of interest must be in advance of the period of interest, as Wang attempted to argue in this appeal.

10 Further, as the Judge pointed out, Wang had never alleged that the principal amount he received under the First IOU was anything less than RMB 1 million until his defence in the proceedings below. The Judge found that Wang's claim that he did not receive RMB 40,000 in cash from Zhu on 19 January 2016 was an afterthought. We are of the same view.

Whether the payments made by Wang in relation to the First IOU loan went first to reduce the principal amount owing instead of paying the interest

11 We turn to the second issue. This was Wang's new argument on appeal that the Judge should have calculated his repayments under the First IOU loan to first reduce the principal outstanding, which meant that the interest would accrue on a lower principal amount progressively. For example, by Wang's payment of RMB 20,000 on 24 January 2016, the principal outstanding amount was reduced to RMB 980,000 by 24 January 2016.

12 While Wang was not precluded from raising this new argument since it involved the interpretation of the First IOU and not some contested issue of fact, this argument was not a valid one as there was nothing in the First IOU which supported his interpretation. The only part of the First IOU which refers to early repayment of principal was a sentence that Zhu can recall the loan in advance of the repayment date, but only after giving Wang one month advance notice. As such, we did not agree that the Judge erred in finding that the repayments made by Wang should first be applied to any accrued and outstanding interest before the outstanding principal.

13 Further, we note that, if Wang was correct that repayments he made would reduce the principal amount owed under the First IOU loan, he should have been paying interest at the rate of 2% per month on a lower amount each time he made an interest payment, and not RMB 20,000. However, the evidence showed that Wang paid interest of 2% per month on a principal amount of RMB 1 million even after his first payment of RMB 20,000 on 24 January 2016. For example, on 29 April 2016, Wang paid RMB 60,000 to Zhu, being three months' interest from February to April 2016. This was completely inconsistent with Wang's argument that his payments went to reduce the principal owed.

Whether Zhu's transfer of RMB 300,000 to Ms Hong Mei Na on 14 April 2017 was pursuant to an oral agreement between Zhu and Wang

14 We turn to the third issue, which was whether Zhu's transfer of RMB 300,000 to Ms Hong Mei Na ("Hong"), Wang's secretary, on 14 April 2017 was pursuant to an oral agreement between Zhu and Wang. As mentioned, Zhu had extended several short-term interest-free loans to Wang pursuant to oral agreements between them. Wang's defence was that he had never taken one of these loans which was for RMB 300,000. Flowing from this, he contended that some of the payments he made to Zhu were not repayments for that loan of RMB 300,000 but were instead repayments under the First IOU loan. Wang's first argument was that Zhu had pleaded in her Statement of Claim (Amendment No 2) that RMB 300,000 was transferred to Wang by way of bank transfer. Zhu's evidence at trial that the monies were transferred instead to Hong departed from her pleaded case. As a result, Wang claimed to have suffered prejudice because he could have called, but did not call, Hong as a witness to adduce evidence from her that she, and not Wang, had taken a loan from Zhu. Second, Wang argued that the Judge erred in concluding that the transfer of RMB 300,000 was pursuant to a loan made to Wang.

15 We do not see any merit in the first argument. While it was true that Zhu's evidence differed from her pleaded case, this position would have been apparent to Wang from the time that the parties exchanged their affidavits of evidence-in-chief ("AEIC") on 1 August 2024 and even earlier as we elaborate later. In Zhu's AEIC, she stated at [31] that she had disbursed the sum of RMB 300,000 to Hong by way of bank transfer and also provided documentary evidence of the bank transfer. The trial only commenced on 5 November 2024. As such, Wang (who was represented by counsel) had ample time to consider

Zhu's evidence and decide whether to call Hong as a witness. But he decided not to make any application to adduce any supplementary AEIC from Hong.

16 Further, Wang, in resisting an earlier summary judgment application brought by Zhu in February 2024, had procured an affidavit from Hong in support of his case. This was filed on 8 March 2024, in reply to Zhu's affidavit filed on 22 February 2024 in support of her summary judgment application. In Zhu's affidavit, she described how she transferred RMB 300,000 to Hong on 14 April 2017 pursuant to the oral loan agreement reached with Wang. This was relevant for three reasons:

(a) First, that Hong filed an affidavit in the summary judgment application showed that Wang was likely to have been able to procure Hong as a witness for the trial if he had wanted to call her. It appeared that Hong was already based in China at the time she made her affidavit in March 2024. As such, Wang would have had more than sufficient time to persuade her to give evidence at the trial. We note that Wang did not suggest that he would have faced difficulties procuring Hong's attendance as a witness for the trial if he wanted to do so.

(b) As early as 22 February 2024, well before the exchange of AEICs on 1 August 2024, Wang had already been put on notice of Zhu's case that the RMB 300,000 had been transferred to Hong (and not Wang) and that this was in relation to the oral loan agreement between him and Zhu on 14 April 2017. In short, he ultimately decided not to call Hong to give evidence at trial despite being fully aware of Zhu's evidence at an early stage of the proceedings.

(c) In Hong's affidavit in the summary judgment proceedings, she did not claim that she herself had borrowed this RMB 300,000 from Zhu

> or that it was a loan to someone else other than Wang or provide any explanation for her receipt of those funds. Hong could only state that she did not have her banking records and could not remember that she had received the sum of RMB 300,000 in April 2017 on behalf of Wang from Zhu.

17 Hence, notwithstanding Zhu's pleaded case, Zhu was not precluded from proving that the RMB 300,000 loan to Wang was made by transfer of the sum to Hong's account. The evidence before the court was that Zhu did not know Hong at all, except through Wang. Her evidence was that Wang had approached her for a short-term loan of RMB 300,000 and asked for the moneys to be transferred to Hong. After the transfer of RMB 300,000 to Hong on 14 April 2017, Zhu received two payments from Wang on 3 May and 5 May 2017 which added up to RMB 300,000. Given the state of the evidence, we do not agree with Wang that the Judge's decision to accept the evidence of Zhu that this was a short-term loan to Wang was against the weight of the evidence or obviously wrong.

Whether Wang had partially repaid the Second IOU loan by making a S$20,000 donation to the Hua Yuan Association

18 We turn to the fourth issue, which was whether Wang had partially repaid the Second IOU loan by making a S$20,000 donation to the Hua Yuan Association (the "Association"). The Judge rejected Wang's claim that he made a donation of S$20,000 to the Association at the request of Zhu. This again was a finding of fact, which the Appellants argued should be overturned.

19 The Appellants made several arguments. We deal first with their reliance on the minutes of the Association's Committee meeting on 7 July 2019, where it was recorded that Zhu was present and Zhu had sponsored S$20,000, and a

receipt issued by the Association dated 10 October 2019 for S$20,000 from Zhu. The short point here is that there was no evidence that Zhu ever had sight of these two documents. Wang did not prove that the receipt or the minutes were sent to Zhu. Neither did he prove that the minutes accurately recorded that Zhu was present at the committee meeting or that its contents were accurate. Zhu's evidence was that she could not recall being present at that meeting, although she insisted that she never agreed to give a donation of S$20,000 to the Association.

20 More fundamentally, there was also no evidence that the Association received S$20,000 from Wang. Although there was evidence in the form of the Association's email to Zhu on 5 November 2019, about a month after the purported donation, where it was stated that she had made a donation of S$10,000, this did not assist Wang. This was because Wang did not advance a case that Zhu had approved or authorised a S$10,000 donation to the Association. We also note that Zhu had consistently maintained that she was requested to make a S$10,000 donation to the Association but she declined to do so. Wang did not adduce any evidence to show that the Association received an amount of S$10,000 from Zhu.

21 As for the WeChat message from Zhu where she asked that "[t]he amount that was donated to [the Association]" be deducted from the interest, Zhu's evidence was that she was only prepared to "sponsor a table" for S$2,000, and even this had to come out of the interest owed by Wang to her.

22 In our view, the evidence was far from clear as to whether (a) a donation of S$20,000 was actually made to the Association by Wang; and (b) if there was such a donation, Zhu had agreed that this donation of S$20,000 be made on her behalf and would constitute repayment for the Second IOU loan. Given the

circumstances, we do not agree that the Judge's finding that Wang had not proven that the S$20,000 donation, if made, was a repayment of the Second IOU loan could be said to be obviously wrong or against the weight of the evidence. We accept, however, that because Zhu has conceded that she approved of a S$2,000 donation to the Association, to be paid from the interest owed under the Second IOU loan, the interest due under that loan should be reduced by that amount from S$36,000 to S$34,000. Hence, the total amount owed by the Appellants under the Second IOU loan (including the principal) should be reduced from S$226,000 to S$224,000.

Whether Clause V of the Second IOU was a penalty

23 We turn finally to the fifth issue, which was whether Clause V of the Second IOU is a penalty. We start by making two observations on the law here. First, the law places the burden on the Appellants to show that Clause V is a penalty clause: *CLAAS Medical Centre Pte Ltd v Ng Boon Ching* [2010] 2 SLR 386 at [63]. Second, the test of whether a clause amounts to a penalty is whether the stipulated sum is extravagant and unconscionable in amount in comparison with the greatest loss that could conceivably be proved to have followed from the breach: *Dunlop Pneumatic Tyre Co, Ltd v New Garage and Motor Co, Ltd* [1915] AC 79 at 87, affirmed in *Denka Advantech Pte Ltd v Seraya Energy Pte Ltd* [2021] 1 SLR 631. In this regard, one view taken in our High Court decisions is that there is a strong initial presumption that the parties are the best judges of what constitutes a legitimate provision where the contracting parties are properly advised and are of comparable bargaining power: *iTronic Holdings Pte Ltd v Tan Swee Leon* [2016] 3 SLR 663 ("*iTronic*") at [177]. Further, a clause will not be regarded as a penalty just because it results in overpayment in particular circumstances and the parties are allowed a generous margin to determine the agreed damages to be payable upon a breach: *iTronic* at [176].

24 We do not think that the Appellants had discharged their burden of showing that Clause V is a penalty clause. Clause V imposes a requirement to pay 0.5% every day within one month of failure to repay the loan by the due date. The Judge concluded that the interest would accrue for only 30 days. This was accepted by Zhu and not contested by Wang. The interest works out to S$36,000. The Appellants did not show that this figure was extravagant and unconscionable in comparison with the greatest loss that could conceivably be proved following from the breach. While this figure may appear high, it might well have been within the range of possible losses flowing from the breach. It was for the Appellants to show what was the range of possible losses and that the figure of S$36,000 fell beyond that range, but there was no evidence to demonstrate this.

25 In addition, it appears to us that Wang and Zhu were of comparable bargaining power. Wang is a businessman and claimed to be "well-versed in interest" on loans. That being the case and, given the absence of any evidence to show the possible range of losses arising from the breach, there was little to rebut the presumption that the contracting parties considered Clause V to be a legitimate provision that was enforceable.

26 The latter part of Clause V only required Wang to transfer his condominium unit to Zhu as collateral for the unpaid loan and not as payment for the loan which was what the Appellants were suggesting initially. However, in oral submissions, the Appellants appeared content to proceed on the basis that the property was to be used as collateral only. That did not render the clause a penalty.

27 The Appellants relied on *Ethoz Capital Ltd v Im8ex Pte Ltd* [2023] 1 SLR 922 ("*Ethoz Capital*") at [76] to argue that it was not incumbent on them

to lead evidence to show Clause V was an enforceable penalty. However, they have misconstrued the relevant passage in *Ethoz Capital*. First, the circumstances in that case were quite different, in that there was already sufficient evidence before the court there that the amount due upon breach was extravagant. As such, there was no need for the defaulting party to further prove that the clauses in question were penalties. Second, the different commercial context in this case cannot be ignored. Here, Wang and Zhu were of equal bargaining power, and they agreed that Wang would have the benefit of a 12-month interest free loan, but on the condition that, if there is a default in payment after 12 months, interest would accrue at 0.5% per day on the outstanding principal amount, limited to a maximum of 30 days. Given the bargain between the parties, we cannot agree that Clause V allows a claim by Zhu that is extravagant or unconscionable. Hence, we reject the argument that Clause V was an unenforceable penalty.

Conclusion

28 In the result, we allow the appeal in part, only to the extent of correcting the calculation error, and reducing the interest due under the Second IOU loan by S$2,000 such that amount owed by the Appellants under the Second IOU loan is S$224,000 and not S$226,000.

29 As for costs, we are of the view that the Appellants should bear the costs of the appeal. There was no need for the Appellants to have appealed to correct the calculation error by the Judge as they could have requested for the error to be corrected under the slip rule. We only make a small allowance on the costs payable by the Appellants on account of the fact that they succeeded in reducing the amount of interest due under the Second IOU loan by S$2,000. While we assess the costs of the appeal in the amount of S$42,500 (all-in), we order the

Appellants to pay costs to the Respondent in the amount of S$41,500 (all-in), with the usual consequential orders to apply.

Ang Cheng Hock
Justice of the Court of Appeal

Woo Bih Li
Judge of the Appellate Division

Debbie Ong
Judge of the Appellate Division

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