2. ADMIRALTY AND SHIPPING LAW

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ADMIRALTY LAW

2.1 The Singapore Court of Appeal handed down two decisions in 2025 which touch on various foundational concepts of admiralty law.

I. *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd*

A. Material facts

2.2 In *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd*,[1] Bank of America NA, Singapore Branch ("BOA") extended a loan facility to Da Hui Shipping (Pte) Ltd ("Da Hui") and An Rong Shipping Pte Ltd ("An Rong") as joint borrowers, secured by mortgages over three vessels: Da Hui's *Sea Equatorial* and An Rong's *Ocean Goby* and *Ocean Jack*. Approximately 29% of the loans were related to Da Hui's vessel and the remaining 71% to An Rong's vessels.[2]

2.3 Following financial difficulties, the *Sea Equatorial* was then sold, and its sale proceeds were applied not only to discharge Da Hui's own indebtedness but also to partially pay off An Rong's debt.[3]

1 [2025] 1 SLR 998.
2 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [2] and [18].
3 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [2] and [19].

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2.4 BOA subsequently commenced admiralty actions *in rem* against An Rong's vessels which were arrested and judicially sold. The sale proceeds were then paid into court and distributed according to priorities with BOA being paid first, leaving a residue for other *in rem* claimants (including PetroChina International (Singapore) Pte Ltd and Societe Generale, Singapore Branch).[4]

2.5 Da Hui, having effectively paid part of An Rong's debt, sought to claim against the sale proceeds by asserting a right of subrogation to BOA's extinguished security. Instead of commencing an admiralty action *in rem*, it brought an *in personam* action seeking declaratory relief.[5]

2.6 At first instance, the General Division of the High Court ("General Division") did not rule out partial subrogation even though Da Hui had merely partially discharged the common debt. However, the General Division ultimately refused subrogation as BOA's mortgages had already been fully enforced and were therefore spent, leaving no proprietary interest to which Da Hui could be subrogated.[6]

2.7 On appeal, the Court of Appeal declined to determine the issue of subrogation, focusing instead on whether Da Hui could assert a proprietary claim on the sale proceeds and priority over other *in rem* claimants without invoking admiralty jurisdiction and without obtaining any judgment *in rem*.[7]

B. Claim to sale proceeds must be brought within admiralty jurisdiction

2.8 The Court of Appeal held that a claim to sale proceeds arising from a judicial sale of the vessel fell squarely within the court's admiralty jurisdiction under the High Court (Admiralty Jurisdiction) Act 1961.[8]

2.9 Admiralty proceedings are governed by a distinct procedural regime, including:[9]

4 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [2], [30], [37] and [65].
5 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [3], [6] and [32].
6 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 4 SLR 816 at [56]–[57].
7 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [5] and [62].
8 2020 Rev Ed. *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [62].
9 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [63(b)]–[63(c)] and [64].

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(a) actions *in rem* against the vessel;

(b) the transfer of claims to sale proceeds upon judicial sale; and

(c) the distribution of those proceeds according to priorities.

2.10 Da Hui's subrogation claim, in so far as it sought a proprietary right to the sale proceeds, was therefore an admiralty matter. However, Da Hui invoked only the civil jurisdiction of the General Division, instead of the General Division's admiralty jurisdiction. The upshot was that the procedural intricacies of admiralty law were not engaged. Accordingly, Da Hui's claim was not properly before a court seized of admiralty jurisdiction.[10]

C. Only claimants with judgments in rem *may participate in distribution of sale proceeds*

2.11 The court reaffirmed the fundamental principle in admiralty law that sale proceeds are available only to claimants *in rem* who have obtained judgments *in rem* against the vessel.[11] Although parties may intervene in admiralty proceedings to protect their interests, priority and payment out of the sale proceeds are confined to the parties who: (a) have commenced actions *in rem*; and (b) have obtained judgment against the vessel or its proceeds.[12]

2.12 Although Da Hui had intervened in the proceedings, it had not commenced any action *in rem* of its own nor obtained any judgment *in rem*. Accordingly, it had no standing to claim against the sale proceeds, regardless of any alleged equitable entitlement to the proceeds.[13]

10 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [62] and [67].

11 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [63(c)] and [68].

12 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [63(c)] and [68].

13 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [32] and [68].

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D. Payment out of sale proceeds cannot be obtained without judgment in rem

2.13 The court further held that it was not possible to obtain payment out of sale proceeds without a judgment *in rem*, as this was required under O 33 r 22 of the Rules of Court 2021.[14]

2.14 The *res* (*ie*, the ship or, upon judicial sale, the sale proceeds) is distributed only through the court's admiralty jurisdiction. Priority between competing admiralty claimants is determined within that jurisdiction. Hence, competing claims must be crystallised through judgments *in rem*. Da Hui's attempt to bypass this through a separate *in personam* action was not permitted.[15]

E. In personam *proceedings cannot be used to vary admiralty priority orders*

2.15 The court rejected Da Hui's strategy of first obtaining a declaration of subrogation in the civil proceedings and then relying on that to reorder the priorities in the admiralty proceedings.[16] Such an approach was flawed because the order of priority can only be addressed within the realm of admiralty proceedings and rights against the *res* must first be established through an admiralty action *in rem*.[17]

F. Conclusion

2.16 This decision underscores the importance of invoking the admiralty jurisdiction in claims against a vessel or its sale proceeds if a party wishes to eventually participate in the distribution of the proceeds of sale after the determination of priority. As a corollary to this, a party who pursues his rights through the route of a civil action would find any crossing over to the admiralty regime extremely difficult. The boundary between an admiralty action and a civil action is clearly marked out.

14 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [68].
15 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [68] and [78].
16 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [76]–[78].
17 *Da Hui Shipping (Pte) Ltd v An Rong Shipping Pte Ltd* [2025] 1 SLR 998 at [78]–[80].

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II. *Natixis, Singapore branch v Seshadri Rajagopalan*

A. Material facts

2.17 In *Natixis, Singapore Branch v Seshadri Rajagopalan*,[18] the appellants were banks and financial institutions, including Natixis, Singapore Branch, which had extended financing to Hin Leong Trading (Pte) Ltd against pledged bills of lading. These bills of lading purportedly evidenced the shipment of goods on board the vessel, the *Chang Bai San*. The bills of lading were issued by Ocean Tankers (Pte) Ltd, which was the demise charterer of the *Chang Bai San* at the material time.[19]

2.18 The *Chang Bai San* was owned by the third respondent, Nan Chiau Maritime (Pte) Ltd ("Nan Chiau") (a company held by one of Hin Leong Trading (Pte) Ltd's related companies), and was mortgaged to Standard Chartered Bank (Hong Kong) Ltd ("Mortgagee").[20] Between April and June 2020, the appellants commenced various admiralty actions *in rem* in Singapore against the *Chang Bai San* in respect of claims for misdelivery and/or loss of cargoes that were purportedly shipped under the bills of lading pledged to them. Statutory liens in respect of such claims came into existence upon the issuance of those writs.[21]

2.19 Although the *Chang Bai San* entered Singapore on some occasions after the writs were issued, the appellants did not arrest the *Chang Bai San*. During this period, Nan Chiau was placed under judicial management, and the first and second respondents, Seshadri Rajagopalan and Paresh Tribhovan Jotangia, were appointed as its judicial managers ("JMs").[22]

2.20 In mid-2021, following unsuccessful negotiations between the JMs and the appellants, the *Chang Bai San* sailed from Southeast Asia to Gibraltar. Upon her arrival in Gibraltar, the *Chang Bai San* was arrested by the Mortgagee, which had earlier commenced admiralty proceedings in that jurisdiction.[23]

2.21 Subsequently, the Gibraltar court ordered the *Chang Bai San* to be sold by way of a judicial sale. It is not disputed that the effect of

18 [2025] 1 SLR 1020.
19 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [7]–[8].
20 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [8]–[10].
21 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [11].
22 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [9] and [12]–[13].
23 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [15].

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the judicial sale was to extinguish all existing liens and encumbrances over the *Chang Bai San*, including the statutory liens that had accrued to the appellants from the issuance of their Singapore writs *in rem*.[24] The Mortgagee's claims were satisfied out of the sale proceeds, lying in the Gibraltar court with the remaining proceeds paid to Nan Chiau.[25]

2.22 The appellants thereafter commenced proceedings in Singapore against the JMs, contending that the issuance of their writs *in rem* in Singapore had given rise to security interests in the *Chang Bai San* and that, by procuring or assisting with the *Chang Bai San*'s arrest and judicial sale in Gibraltar, the JMs had in effect disposed of the *Chang Bai San*, free of such security interests, without obtaining court authorisation under s 100(2) of the Insolvency, Restructuring and Dissolution Act 2018[26] ("IRDA").[27]

2.23 Although the appeal arose from proceedings against the JMs, the factual matrix raises a number of issues of central importance to admiralty law. In particular, the Court of Appeal was required to consider:

(a) the legal character of the statutory liens asserted by the appellants following the issuance of admiralty writs *in rem* against the *Chang Bai San*;

(b) the moment at which security arises in an action *in rem*; and

(c) the legal effect of the subsequent Gibraltar judicial sale on those statutory liens that arose under Singapore admiralty law.

B. Legal effect of statutory lien arising from issuance of writ in rem

2.24 The court had to consider the nature and effect of the "statutory lien" that crystallised upon the issuance of the appellants' writs *in rem* against the *Chang Bai San*, notwithstanding that the *Chang Bai San* was not arrested in the same jurisdiction as where the writ was issued, but was instead arrested and judicially sold in another jurisdiction, extinguishing, by such judicial sale, all existing liens.

24 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [16].
25 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [18].
26 2020 Rev Ed.
27 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [19]–[21].

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2.25 The Court of Appeal held that such a lien was not a proprietary interest or security interest in the vessel, but merely an antecedent right to obtain security, enforceable by arrest.[28] The court cautioned against treating the term "statutory lien"[29] as bearing the same characteristics as other types of liens recognised in the general law of credit and security, emphasising that the expression is a "convenient expression"[30] for the bundle of procedural rights conferred on an admiralty claimant upon issuing a writ *in rem*, chief amongst which is the right to arrest the vessel.[31]

2.26 In arriving at this conclusion, the Court of Appeal undertook a detailed analysis of the relevant history, principles, case precedents and policy considerations.

2.27 From a historical perspective, the court observed that admiralty proceedings were originally commenced by arrest, with the warrant of arrest performing both the jurisdictional and security-creating functions; the subsequent introduction of the writ *in rem* split these functions, but it is the arrest of the vessel which remains the juridical act which crystallises the security.[32]

2.28 As a matter of principle, the court emphasised the distinction between a right to obtain security and the security itself, noting that until arrest, the vessel remains entirely at the disposal of its owner, who is under no obligation to make the vessel available to satisfy the claimant's claim. This is a position which is fundamentally incompatible with the existence of a security interest.[33]

2.29 Turning to precedent, the court explained that earlier authorities which had loosely described statutory lienholders as "secured creditors"[34] did so only in specific contexts, such as change of ownership cases or insolvency leave applications, and none had determined that a statutory lien constituted security prior to arrest; such language was functional rather than doctrinal and had to be understood in its proper context.[35]

28 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [72] and [77].
29 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [72].
30 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [72].
31 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [72]–[73].
32 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [84]–[85].
33 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [87]–[88] and [95].
34 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [108].
35 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [100]–[101] and [108]–[110].

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2.30 Finally, powerful policy considerations reinforce this conclusion: Treating statutory liens (which did not culminate in an arrest) as security would permit fleet-wide "secret"[36] encumbrances through the mere issuance of writs, undermine the "one claim, one ship"[37] structure of admiralty proceedings, as well as impose unworkable burdens on insolvency officeholders by requiring worldwide searches for admiralty writs that are not registrable. These are consequences that Parliament could not have intended.[38]

2.31 Taken together, these considerations compelled the conclusion that a statutory lien is procedural in nature and does not morph into a form of security until the vessel is arrested.

C. Moment at which security arises in an action in rem

2.32 Closely connected to the foregoing is the clarification of the temporal point at which security arises in an action *in rem*.

2.33 Having characterised the statutory lien as merely procedural, the Court of Appeal confirmed that security is not created upon the issuance or service of the writ *in rem*, but arises only upon the arrest of the vessel, which has the effect of bringing the *res* into the custody of the court. Arrest thus marks the juridical moment at which the claimant's inchoate right is transformed into an enforceable security, rendering the vessel (or proceeds of sale thereof) available to satisfy any judgment obtained in the action.[39] Until that point, the claimant's position remains contingent on the arrest of the vessel, and he enjoys no more than a right to seek security should arrest become possible.[40]

D. Effect of foreign judicial sale on Singapore statutory liens

2.34 The Court of Appeal reaffirmed the settled admiralty principle that a judicial sale by a court exercising admiralty jurisdiction constitutes a judgment *in rem*, determining the title to the vessel as against the whole world.[41] Such a sale does not merely effect a transfer between the parties

36 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [118]–[119].
37 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [116].
38 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [115]–[117] and [120]–[122].
39 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [84]–[85] and [87].
40 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [77] and [87]–[88].
41 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [56]–[57].

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but operates to vest the title *erga omnes* in the purchaser. This is why the purchaser of a vessel in a judicial sale acquires a clean title against the world.

2.35 Consistent with long-standing authority, the court held that a judicial sale passed a clean title free of all prior liens and encumbrances, whether they were maritime liens or statutory liens.[42] The Gibraltar court's judgment *in rem* is binding on the entire world as regards title and property in the *Chang Bai San*.[43] This extinguishing effect is unique to judicial sales and distinguishes them from private sales or dispositions in insolvency proceedings, which lack the power to defeat admiralty claims (*ie*, to wipe the *Chang Bai San* clean of all prior encumbrances, including the appellants' statutory liens).[44]

2.36 In this case, the Gibraltar judicial sale was therefore fully effective in admiralty law to extinguish the appellants' statutory liens, notwithstanding that those liens had arisen under Singapore law and remained unsatisfied at the time of sale.[45] The court, in effect, rejected any territorial limitation as to the principle that a judicial sale confers clean title, affirming that a judicial sale ordered by a foreign competent admiralty court will be accorded the same full effect as a judicial sale ordered by a Singapore admiralty court.[46]

2.37 While claims against a vessel may be satisfied out of the proceeds of a judicial sale, this only ensues where the claimant's rights are recognised within the admiralty proceedings supervising the sale. A judicial sale, being a judgment *in rem*, conclusively determines all rights against the vessel as against the world. Since the appellants neither arrested the vessel nor participated in the Gibraltar admiralty proceedings, as they did not and could not file an admiralty writ (the demise charterparty with Ocean Tankers (Pte) Ltd having been terminated earlier), their statutory liens were not transferred into the proceeds of sale lying there and were, in effect, extinguished upon the sale.[47]

42 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [57] and [61].
43 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [61].
44 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [59]–[61].
45 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [56]–[57] and [61].
46 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [58]–[59] and [61].
47 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [56]–[57], [61] and [99(b)].

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E. Exhaustion of admiralty law upon judicial sale

2.38 Once the Gibraltar judicial sale had taken place, the dispute could no longer be characterised as one engaging admiralty law, because the sale operated as a judgment *in rem* conclusively determining all rights against the maritime *res* as against the world. Where a claimant's rights are not asserted within the admiralty proceedings supervising that sale, those rights do not survive the judgment *in rem* and cannot later be revived by claims against the sale proceeds.

2.39 It was against this backdrop that the appellants' attempt, in the Singapore proceedings, to invoke ss 100(5) and 100(6) of the IRDA (seeking orders that the net proceeds of sale be held or applied subject to their alleged security) was treated as a non-admiralty claim notwithstanding the fact that the claims were of an admiralty nature originally.[48]

2.40 The preconditions to applying ss 100(5) and 100(6) of the IRDA were absent. As mentioned, the appellants' statutory liens, having neither been enforced by arrest nor recognised in the Gibraltar proceedings, were extinguished by the judicial sale and could not follow the vessel into the proceeds of sale.[49]

F. Conclusion

2.41 This decision is particularly important as it untangles the many legal difficulties that lie in the interaction between admiralty law and insolvency law.

2.42 On a practical level, it reminds admiralty claimants that vessels over which they have statutory liens by mere issuance of an admiralty writ in Singapore retain their orthodox procedural status which would be extinguished by a judicial sale carried out in a foreign country. The upshot of giving effect to a foreign judgment *in rem* and judicial sale order may be to extinguish such statutory liens. A tactical decision not to participate

48 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [19].
49 *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [56]–[57], [61] and [99(b)].

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in the admiralty proceedings in a particular foreign jurisdiction therefore carries its own peril.[50]

SHIPPING LAW

2.43 Two important shipping decisions were handed down in 2025, namely *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd*[51] and *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd*.[52] These cases examined issues in relation to claims arising out of and/or in connection with bills of lading.

I. *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd*

A. Introduction

2.44 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd*[53] comprised two appeals to the Court of Appeal from the decision of the General Division in *The "Maersk Katalin"*.[54] *The "Maersk Katalin"*[55] was reviewed in an earlier issue of the *Singapore Academy of Law Annual Review of Singapore Cases*.[56] As such, this section will focus on the decision of the Court of Appeal.

B. Material facts

2.45 The dispute in the case arose from a shipment of a cargo of gasoil 10ppm sulphur carried on board the vessel, the *Maersk Princess*. The claimant bank, United Overseas Bank Ltd ("UOB"), claimed as the holders of the original bills of lading ("OBLs") against the defendant shipowner, Maersk Tankers Singapore Pte Ltd ("Maersk"), for the misdelivery of the cargo.

2.46 On 10 February 2020, Winson Oil Trading Pte Ltd ("Winson") voyage chartered the *Maersk Princess* from Maersk for the carriage of the cargo from Taiwan to Singapore.[57]

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50 See *Natixis, Singapore Branch v Seshadri Rajagopalan* [2025] 1 SLR 1020 at [144].
51 [2025] 1 SLR 1371.
52 [2025] 5 SLR 1025.
53 [2025] 1 SLR 1371.
54 [2025] 5 SLR 1.
55 [2025] 5 SLR 1.
56 Toh Kian Sing SC & Vivian Ang, "Admiralty and Shipping Law" (2024) 25 SAL Ann Rev 26 at 39–50.
57 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [7].

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2.47 By way of a sale contract dated 12 February 2020 and amended by an addendum dated 17 February 2020 ("Sale Contract"), Winson contracted to sell the cargo to Hin Leong Trading (Pte) Ltd ("HLT") on delivery *ex* ship ("DES") terms.[58]

2.48 On 21 February 2020, the cargo was loaded on board the *Maersk Princess* in Taiwan and the master of the *Maersk Princess* issued the OBLs for the cargo in triplicate.[59]

2.49 On 26 February 2020, Winson requested that Maersk discharge the cargo on board the *Maersk Princess* to HLT without the presentation of the OBLs and against a letter of indemnity provided by Winson to Maersk.[60]

2.50 On 27 February 2020, the *Maersk Princess* arrived in Singapore and tendered its notice of readiness to discharge. Between 28 and 29 February 2020, Maersk discharged and delivered the cargo to HLT without presentation of the OBLs.[61]

2.51 HLT's purchase of the cargo was financed by UOB, and the following two documents operated as the backdrop to this financing transaction:[62]

(a) A "General Memorandum of Pledge of Goods" dated 6 August 2002 whereby HLT "undertook to grant UOB a pledge of any bills of lading subsequently deposited with the bank in respect of the goods it had financed".[63]

(b) A letter of offer dated 6 April 2018 ("Letter of Offer") whereby:[64]

> … UOB extended to [HLT] uncommitted banking facilities for a total amount of US$250m under various lines of credit … [including, in particular,] the 'LC1' sub-facility for 'sold' cargoes and the 'LC2' sub-facility for 'unsold' cargoes. In relation to the LC2 line, the Letter of Offer required [HLT] to (a) 'allocate' the sale contracts entered into by [HLT] as seller; and (b) assign the receivables thereunder to UOB, all within 21 days from the date when the letter of credit was issued ('Allocation Requirement').

58 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [8].
59 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [10].
60 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [11].
61 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [12].
62 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [13].
63 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [13(a)].
64 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [13(b)].

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2.52 On 3 March 2020, HLT applied to UOB for a letter of credit ("LC") to finance its purchase of the cargo. By this time, the cargo had already been discharged and delivered to HLT.[65]

2.53 On 4 March 2020, UOB approved HLT's application and issued the LC, which was booked under the "LC2" sub-facility. The LC's maturity date was 27 March 2020. In addition, the terms of the LC permitted the presentation of Winson's commercial invoice ("Commercial Invoice") and a letter of indemnity provided by Winson ("Payment LOI") for payment to be effected by UOB where the following documents were not available: (a) the OBLs issued or endorsed to the order of UOB; (b) certificates of quality and quantity at the load port issued or countersigned by an independent inspector; and (c) a certificate of origin.[66]

2.54 On 5 March 2020, Winson presented the Commercial Invoice and Payment LOI to Credit Suisse (Switzerland) Ltd ("Credit Suisse"), its advising and negotiating bank under the LC.[67]

2.55 On 11 March 2020, UOB received the Commercial Invoice and Payment LOI from Credit Suisse, and on 24 March 2020, UOB informed Credit Suisse that the documents were accepted and that UOB would remit payment to Credit Suisse upon maturity of the LC on 27 March 2020. Payment by UOB was thereafter duly effected.[68]

2.56 Pursuant to the "Allocation Requirement"[69] in the Letter of Offer, HLT allocated three contracts on 26 March 2020. On 27 March 2020, HLT drew on credit under a "Trust Receipt Loan"[70] executed on 27 March 2020 which was due for repayment on 8 April 2020. On 8 April 2020, UOB granted HLT's request for a rollover of the Trust Receipt Loan from 8 April 2020 to 17 April 2020. On 9 April 2020, HLT withdrew its allocation of the three contracts without further explanation. HLT announced its insolvency on 14 April 2020 and, soon after that, UOB began pressing Winson for the OBLs which it eventually received on 15 July 2020.[71]

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65 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [14].
66 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [15].
67 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [16].
68 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [17].
69 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [13(b)]; see para 2.51(b) above.
70 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [19].
71 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [19]–[21].

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2.57 On 18 February 2021, UOB wrote to Maersk to demand delivery of the cargo and also issued its writ *in rem* against Maersk. On 15 September 2021, Winson was granted leave to intervene in the action.[72]

C. Decision of General Division of High Court

2.58 In the proceedings below, four categories of defences were raised by Maersk and Winson, namely, the contractual defence ("Contractual Defence"), the consent-based defences ("Consent-Based Defences"), the rights of suit defences ("Rights of Suit Defences") and the causation defence ("Causation Defence"), all of which were rejected by the General Division.

2.59 The Contractual Defence, which was premised on the argument that the voyage charterparty required Maersk to deliver the cargo without the presentation of the OBLs, provided a suitable indemnity was furnished, was rejected by the General Division because, in its view, such clauses merely served to reallocate the legal risk of the carrier's unlawful conduct to the indemnitor and did not absolve nor authorise the carrier's breach of the contract of carriage.[73]

2.60 The Consent-Based Defences essentially contended that UOB had consented to Maersk's delivery of the cargo to HLT without the OBLs having been presented, either prior to the discharge or after the fact.[74] The Consent-Based Defences were rejected by the General Division because the cargo had already been discharged before UOB came into the picture on 3 March 2020, when HLT applied for the LC. There was also no evidence to support the doctrine of ratification as there was no evidence to demonstrate that HLT had professed to act on behalf of UOB in taking delivery of the cargo.[75]

2.61 The Rights of Suit Defences, which challenged UOB's rights of suit under the Carriage of Goods by Sea Act 1992[76] ("UK COGSA"), and which comprised three arguments, also failed. These three arguments were:

> (a) The spent bills defence, *ie*, that the OBLs were spent by the discharge and delivery of the cargo to HLT. This failed as the General Division found that the OBLs were not spent, as it was

72 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [22].
73 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [25].
74 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [26].
75 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [27].
76 c 50 (UK).

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well-established that bills of lading were not spent by delivery of the cargo to a person not entitled to them under those bills, and it was clear in the General Division's view that HLT was never the party entitled to the cargo under the OBLs.[77]

(b) The good faith defence, *ie*, that UOB came into possession of the OBLs by dishonest or improper means, therefore mitigating against the transfer of the title to sue to UOB pursuant to s 5(2) of the UK COGSA. The General Division rejected this argument because it found that there was no dishonesty in the way that UOB became holders of the OBLs. In particular, the General Division held that it was not a want of good faith for a transferee to obtain bills of lading for mere rights of suit, and it was satisfied that UOB's demand for the OBLs was made on a genuine belief as to its rights and entitlements under the Payment LOI and without any implicit enticements or threats directed at Winson.[78]

(c) The endorsement defence, *ie*, that the endorsement of the OBLs to UOB was incomplete as Winson had no intention to transfer the rights of suit by way of endorsement. This was also rejected by the General Division as the OBLs all contained signed, unqualified indorsements by Winson and there was no suggestion that these indorsements were unauthorised or that the physical delivery of the OBLs were not voluntary. In addition, the General Division also found that Winson fully understood the significance of the OBLs and the act of endorsing them to UOB.[79]

2.62 The Causation Defence contended that Maersk's breach of contract did not cause the loss claimed by UOB in the first instance because the causal chain between Maersk's breach of contract and UOB's loss was allegedly severed as UOB would have counterfactually authorised the discharge of the cargo to HLT without presentation of the OBLs. On this argument, the proximate or effective cause of UOB's losses was purported to be the financial collapse of HLT.[80]

2.63 The Causation Defence was rejected by the General Division as the counterfactual was not supported by evidence, particularly in

77 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [28(a)] and [29].

78 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [28(b)] and [30].

79 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [28(c)] and [31].

80 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [32].

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respect of the hypothetical steps that would have led to UOB authorising the discharge of the cargo.[81] The attempts to rely on the argument that UOB must also have known that the cargo would have been immediately delivered to HLT once the *Maersk Princess* arrived at the discharge port, as the sale was on DES terms and OBLs are generally considered redundant in such sale arrangements, also failed. The General Division found that the argument conflated delivery for the purposes of a contract of sale with delivery for the purposes of a contract of carriage. It was only in relation to the former that the OBLs would no longer be as relevant. Moreover, the LC expressly required presentation of the OBLs notwithstanding that the sale was on DES terms. The General Division also found that UOB had no knowledge of the prior delivery of the cargo and did not act in a manner which evinced disregard for the cargo as security. Accordingly, the evidence also did not support a more general inference that UOB would have consented to the discharge of the cargo without presentation of the OBLs.[82]

2.64 The General Division accordingly found that UOB had succeeded in its contractual misdelivery claim against Maersk and awarded damages in the sum of US$39,372,300 to UOB. The damages awarded represented the market value of the cargo based on the average of the Platts benchmark prices on 28 February and 2 March 2020. In deciding to award this amount of damages, the General Division declined to make any deductions from the market value of the cargo on account of UOB having achieved partial recovery of its loan to HLT. In this regard, the General Division held that the arrangement between UOB and HLT was of no relevance to the quantum of damages payable by Maersk to UOB.[83]

D. Arguments on appeal

2.65 On appeal, Maersk and Winson (*ie*, the appellants) premised their arguments on two main grounds: (a) first, that the General Division had erred in finding that Maersk had caused UOB's loss; and (b) secondly, that the quantum of damages awarded should be reduced.[84]

2.66 In relation to the first ground of appeal, the appellants argued that, in light of how UOB structured its financing of the cargo, it did not

81 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [35]–[36].
82 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [39]–[46].
83 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [48].
84 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [49].

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obtain or consider the OBLs or the cargo as security and had relinquished any right to the same.[85]

2.67 In relation to the second ground of appeal, the appellants contended that the General Division erred in its assessment of the quantum of damages on the basis that (a) the General Division should have approached the assessment of the cargo's market value from the perspective of UOB as a notional seller rather than a notional buyer seeking to purchase replacement goods; and (b) the quantum of damages awarded should, pursuant to the rule against double recovery, be reduced by US$10,803,959.77, being the amount already recovered by UOB from HLT.[86]

2.68 In response, UOB submitted that both grounds of appeal were without merit. In relation to the first ground of appeal, UOB argued that the loss in question was the loss of the cargo, and not the outstanding debt owed by HLT. Hence, all it had to show in respect of causation is that it would not have suffered the loss but for Maersk's misdelivery of the cargo. Had Maersk not delivered the cargo to HLT and instead retained possession of the same, the cargo would have been available for delivery to UOB when it demanded this as lawful holder of the OBL.[87]

2.69 Further, UOB noted that on appeal, the appellants had abandoned the counterfactual proposal that UOB would have authorised HLT to take delivery of the cargo without presentation of the OBLs. The appellants, however, maintained that UOB did not look to the OBLs and the cargo as security for its financing, and its loss was caused by HLT's failure to repay it for the purchase of the cargo. UOB argued that the appellants' arguments were flawed as UOB did consider the OBLs as security and the loss in question was the cargo rather than the unrecovered loan extended to HLT.[88]

2.70 In relation to the quantum of damages, UOB argued that:[89]

(a) The General Division's decision on the quantum of damages was correct and supported by expert evidence.

(b) No deductions for UOB's partial recovery of the loan extended to HLT were warranted because:

85 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [50].
86 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [51]–[52].
87 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [54].
88 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [55].
89 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [56].

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(i) the appellants' arguments in this regard had proceeded on the flawed premise that the cause of UOB's loss was HLT's failure to make repayment; and

(ii) in any event, any amount recovered by UOB was *res inter alios acta* between UOB and HLT's liquidators.

E. Issues on appeal

2.71 In light of the foregoing, the issues for the Court of Appeal's determination were as follows:

(a) Did UOB acquire rights to the cargo as an indorsee of the OBLs?

(b) What was the correct quantification of the loss suffered by UOB?

F. Decision of Court of Appeal

(1) Did United Overseas Bank Ltd acquire rights to cargo as indorsee of original bills of lading?

2.72 The Court of Appeal held that UOB did acquire rights to the cargo.[90]

2.73 The court first observed that the appellants' defence was no longer the Causation Defence advanced at trial, as they were no longer pursuing the claim that UOB would have counterfactually consented to the discharge of the cargo without presentation of the OBLs. The Court of Appeal considered this argument to have been rightly abandoned as it could not stand in the light of the fact that UOB only became interested in the cargo on or about 4 March 2020, after the misdelivery.[91]

2.74 The appellants' core contention was therefore that UOB did not acquire any rights to the cargo. To put this contention into proper perspective, the Court of Appeal said that it is imperative to first understand how an indorsee of a bill of lading (such as UOB) acquires rights and defences and whether and when those rights can be displaced.[92]

90 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [78].
91 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [58]–[59].
92 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [60].

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2.75 The Court of Appeal further noted that both in the UK and in Singapore, the transfer of rights of suit to the lawful holder of the bill of lading is governed by statute and occurs by operation of law, and is independent of the banking arrangements which any of the holders of the bill in the chain may have with their bankers.[93] Under s 2(1)(a) of the UK COGSA, which is *in pari materia* with s 2(1)(*a*) of Singapore's Bills of Lading Act 1992[94] ("BLA"), a person who becomes the "lawful holder of a bill of lading" shall "have transferred to and vested in him all rights of suit under the contract of carriage as if he had been a party to that contract". Further, under s 5(2) of the UK COGSA, which is also *in pari materia* with s 5(2) of the BLA, a person is regarded as having become the lawful holder of a bill of lading when he:[95]

> (a) comes into possession of the bill as a result of the completion, by delivery of the bill, of any indorsement of the bill or, in the case of a bearer bill, of any other transfer of the bill; and
>
> (b) becomes holder of the bill in good faith.

2.76 With the aforesaid principles in mind, the Court of Appeal observed as a starting point that it was undisputed that Winson had indorsed and delivered the OBLs to UOB on 15 July 2020 and that the appellants had, on appeal, abandoned certain arguments that they had pursued in the proceedings below: in particular, the Endorsement Defence, the Good Faith Defence and the Consent-Based Defences. The appellants also expressly disavowed any argument that the OBLs were shams in so far as they were not intended to confer the legal rights that they purported to confer.[96]

2.77 In light of these concessions made by the appellants, the Court of Appeal held that the appellants were bound to approach the appeals on the bases that: (a) Winson validly indorsed and delivered the OBLs to UOB; (b) UOB was a holder of the OBLs in good faith; (c) UOB did not consent to the discharge of the cargo without the presentation of the OBLs; and (d) the OBLs were not shams and therefore were intended to confer the legal rights that they purported to confer.[97]

2.78 The only remaining question in the view of the Court of Appeal was, therefore, what rights UOB would have acquired as a good faith

93 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [60]–[61].
94 2020 Rev Ed.
95 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [60]–[62].
96 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [63].
97 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [64].

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holder and indorsee of the said OBLs. The Court of Appeal found that the answer to this was clearly prescribed by statute – as the lawful holder of the OBLs, "all rights of suit under the contract of carriage as if [it] had been a party to that contract"[98] would have been transferred to and vested in UOB. Consequently, it was not open to the appellants to dispute UOB's rights under the OBLs to demand delivery of the cargo, and there was no dispute that UOB did later demand delivery of the cargo, but by then, the cargo was no longer available.[99]

2.79 In light of the foregoing, the Court of Appeal found that whether UOB regarded the OBLs and the cargo as security was irrelevant and "entirely miss[ed] the mark".[100] In the Court of Appeal's view, the purpose for which a party might require a bill of lading to be endorsed to its own order is completely irrelevant to and does not have any bearing on its right to delivery of the cargo. That right is conferred by the valid indorsement of a bill of lading that coheres with the statutory requirements in the UK COGSA or the BLA, as the case may be. In other words, the intention with which UOB acquired the OBLs is completely irrelevant to and cannot change the nature of the rights that it acquired by operation of law.[101]

2.80 The Court of Appeal also stated, as an aside, that the appellants had misunderstood the thrust of UOB's case as being based on UOB's subjective belief that it had rights to the OBLs and the cargo. However, for the foregoing reasons, the Court of Appeal stressed that UOB's subjective intention was simply irrelevant to the present inquiry.[102]

2.81 In any event, however, the Court of Appeal was satisfied that UOB did in fact look to the OBLs and the cargo as a form of security. The crucial fact in this regard was that the terms of the LC expressly required the OBLs to be indorsed to UOB, which, in the Court of Appeal's view, completely undermined any suggestion that UOB never regarded the OBLs as having legal effect. The Court of Appeal also agreed with the General Division that it would be commercially unreal for UOB to have relinquished its entitlement to the OBLs in light of the express contractual requirements set out in the LC.[103]

98 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [65].
99 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [65].
100 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [66].
101 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [66]–[67].
102 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [67].
103 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [68]–[70].

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2.82 Finally, the appellants attempted to rely on the fact that the cargo was blended, the export receivables, the purchase having been on DES terms, the evidence of UOB's review processes and the Lloyd's List Intelligence reports with regard to the movement of the *Maersk Princess* to argue that UOB (a) had known about the delivery of the cargo without presentation of the OBLs prior to issuing the LC; and/or (b) did not regard the OBLs as security.[104]

2.83 The Court of Appeal rejected all these arguments as they were not supported by evidence. There was no reason to disturb the General Division's findings of fact in this regard, as they were not plainly wrong or against the weight of the evidence; most importantly, none of these arguments could outweigh the plain fact that UOB had specifically required the OBLs to be endorsed to itself under the terms of the LC.[105]

2.84 In addition, the appellants also pursued a secondary argument that the terms of the Payment LOI, objectively construed, did not confer any right to the cargo onto UOB as an indorsee because, contrary to UOB's internal guidelines on letters of indemnity for payment, the Payment LOI contained an exclusion of third party rights clause. The appellants relied on the English decision in *Trafigura Beheer BV v Kookmin Bank Co*,[106] but this argument also failed as the facts were starkly different.

2.85 In *Trafigura Beheer BV v Kookmin Bank Co*,[107] the bills of lading were not validly indorsed and delivered to the bank, whereas there was no dispute in this case that the OBLs were validly indorsed and delivered to UOB in circumstances where there was no want of good faith. UOB was therefore the lawful holder of the OBLs and acquired all the concomitant rights by operation of law, including the right to the cargo.[108]

2.86 In any event, the Court of Appeal disagreed that the Payment LOI was intended to solely benefit HLT and found that it was also to benefit UOB, as:

> (a) The Payment LOI was specifically addressed to UOB at its request. It therefore could not be seriously argued that the Payment LOI was not intended to benefit UOB at all.[109]

104 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [71].
105 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [72].
106 [2005] EWHC 2350 (Comm).
107 [2005] EWHC 2350 (Comm).
108 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [74].
109 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [75].

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(b) It was commercially illogical for parties to have intended for the provision in the Payment LOI regarding the surrender of the OBLs to be for the benefit of HLT as HLT had already taken delivery of the cargo without paying for the same and did not take on any risk in receiving the cargo. In fact, it was the delivery of the cargo to HLT without presentation of the OBLs which created the risk to begin with.[110]

(c) Consistent with the above, Winson understood that the Payment LOI obliged it to indorse and deliver the OBLs to UOB, and duly did so on 15 July 2020 because it considered itself bound to do so and not because of any enticements or threats from UOB.[111]

(2) What was correct quantification of the loss suffered by United Overseas Bank Ltd?

2.87 The Court of Appeal also upheld the General Division's quantification of damages at US$39,372,300.[112]

2.88 The Court of Appeal held that in a case where there was a readily available market for the cargo, the question of whether the value of the cargo ought to be assessed from the perspective of a notional seller or a notional buyer should have no bearing on the assessment of the market value because ultimately, the market value of the goods was something that both the buyer and seller had to agree on.[113]

2.89 It was not in dispute that the relevant dates to assess the market value of the cargo would be 28 and 29 February 2020. The crux of the dispute lay in the method that the court should adopt in computing the market value of the cargo on 28/29 February 2020, where 29 February 2020 was a Saturday when markets were not open. There was thus no available Platts benchmark for the price of the cargo on 29 February 2020 that the court might take reference from.[114]

2.90 Six methods were proposed by the parties' experts, but ultimately the General Division elected to use the average of the Platts benchmark prices for 28 February 2020 (US$58.67) and 2 March 2020 (US$60.64),

110 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [75].
111 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [76].
112 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [92] and [94].
113 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [80].
114 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [79] and [81].

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thereby placing the price *per* barrel of the cargo at US$59.655. The 660,000 barrels of gasoil were thus valued at US$39,372,300.[115]

2.91 Whilst the Court of Appeal agreed with the General Division's approach to use the average of the Platts prices on 28 February 2020 and 2 March 2020, it reached its conclusion for different reasons.

2.92 The Court of Appeal first considered whether the market value of a good in a misdelivery case should be assessed (a) using a spot pricing approach; or (b) by reference to a spread of pricing dates. To put this into context:[116]

> (a) The former approach would involve considering the fixed pricing dates of 28 and 29 February 2020 (*ie*, the dates on which the misdelivery occurred) and using the Platts benchmark prices for those dates or their next best alternatives. In some cases, the spot pricing approach may entail the application of an uplift to the Platts benchmark price to reflect the market conditions at the prevailing time.[117]
>
> (b) The latter approach seeks to mimic the manner in which the goods would likely be priced in the market. In the present case, as explained by the parties' experts, parcels of gasoil were commonly priced on a floating basis and with reference to a spread of pricing dates.[118]

2.93 After referring to various cases, the Court of Appeal held that the spot pricing approach was more appropriate for the following reasons:

> (a) First, in assessing the loss from the misdelivery, UOB was not seeking a replacement cargo on the market. It was instead seeking to recover the monetary loss that had arisen from the misdelivery, which was a loss that would have crystallised over 28 and 29 February 2020. The spot Platts benchmark prices for those dates, or their next best alternatives, would therefore form the best available assessment of the value of the cargo. Accordingly, there was no reason why UOB's monetary loss should be assessed based on how a notional trader of gasoil would have conducted a hypothetical purchase or sale of a similar parcel of cargo such as to justify the spread of pricing dates approach.[119]

115 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [83].
116 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [85]–[88].
117 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [85(a)].
118 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [85(b)].
119 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [89].

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(b) Second, the spot pricing approach avoided difficulties that plagued the spread of pricing dates approach, in that there would be no question (i) as to who should bear the risk of price fluctuations beyond the breach date; and (ii) as to the correct spread of dates that should be adopted.[120]

2.94 The market value of the cargo was accordingly assessed by reference to the spot prices of the cargo as at 28/29 February 2020. However, as the markets were not open on 29 February 2020, the Court of Appeal accepted that the Platts benchmark price on 2 March 2020 (*ie*, the next available day where the markets were open) provided the best approximate for the market value of the cargo on 29 February 2020.[121]

2.95 Finally, the Court of Appeal agreed with the General Division that no deductions should be made for the sum recovered by UOB from HLT.

2.96 In this regard, the Court of Appeal highlighted that the bulk of the sum recovered by UOB had nothing to do with the present transaction. The Court of Appeal also noted that UOB had a general right of set-off against any outstanding sums owed by HLT and that UOB had also filed a proof of debt for a sum beyond the amount that was paid out under the LC.[122]

2.97 More importantly, the Court of Appeal also affirmed the holding in *The Jag Shakti*[123]and *Obestain Inc v National Mineral Development Corp Ltd*[124] that any recovery achieved by a pledgee of a bill of lading under separate arrangements with a debtor is *res inter alios acta*.[125] Accordingly, there was no question of UOB refunding any excess recovery sum to HLT.

G. Conclusion

2.98 The Court of Appeal's decision confirms that the transfer of rights of suit to the lawful holder of the bill of lading occurs by operation of law pursuant to the UK COGSA or the BLA (as the case may be), and that the subjective intention(s) of the person becoming the lawful holder of the bill of lading is irrelevant to and does not have any bearing on the

120 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [90].
121 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [91].
122 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [93].
123 [1985-1986] SLR(R) 448.
124 [1987] 1 Lloyd's Rep 465.
125 *Winson Oil Trading Pte Ltd v United Overseas Bank Ltd* [2025] 1 SLR 1371 at [94].

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rights he will receive pursuant to those statutes, including, in particular, the right to delivery of the cargo.

2.99 At a broader level, the decision serves as a timely reminder that a carrier's obligation to deliver only against presentation of original bills of lading is strict and uncompromising regardless of the underlying trade finance structure. A carrier who does otherwise does so at its own peril and may find it difficult to defend against a misdelivery claim subsequently.

II. *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd*

A. Introduction

2.100 This is a review of the decision of the General Division in *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd*[126] which concerns a claim brought by Valency International Pte Ltd ("Valency").[127]

2.101 The dispute in this case arose from a shipment of 55,000mt of steam coal carried on board the *Stella Cherise* from Richards Bay Terminal, South Africa and subsequently discharged at Krishnapatnam Port, India.

B. Material facts

(1) Parties

2.102 The plaintiff, Valency, commenced Suit No 297 of 2020 against three defendants:

(a) JSW International Tradecorp Pte Ltd ("JSW"), the seller of the subject cargo;

126 [2025] 5 SLR 1025.

127 This decision has been appealed against by the plaintiff (Valency International Pte Ltd) and the third defendant (Oldendorff Carriers GmbH & Co KG). The plaintiff's appeal (Civil Appeal No 31 of 2025) was dismissed, and the third defendant's appeal (Civil Appeal No 32 of 2025) was allowed by the Court of Appeal on 12 January 2026: see *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2026] 1 SLR 140. The decision of the Court of Appeal will be reviewed in the next issue of the *Singapore Academy of Law Annual Review of Singapore Cases*.

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(b) Unicorn Maritime (India) Pvt Ltd ("Unicorn"), the discharge port agent;[128] and

(c) Oldendorff Carriers GmbH & Co KG ("Oldendorff"), the subcharterer of the *Stella Cherise*.

2.103 The General Division delivered its judgment on 28 March 2025.

(2) Sale contract and charter

2.104 On 16 May 2018, JSW sold the cargo to KI (International) Ltd ("Kamachi") under a sale and purchase contract (JSW-Kamachi Contract").[129]

2.105 JSW sub-subchartered the *Stella Cherise* from Oldendorff to transport the cargo from South Africa to Krishnapatnam Port, India.[130]

(3) Carriage from South Africa to and discharge in India

2.106 The cargo was shipped on board the *Stella Cherise* from Richards Bay Terminal, South Africa to Krishnapatnam Port, India.[131] The *Stella Cherise* arrived at Krishnapatnam Port on 23 August 2018.[132] Between 27 and 31 August 2018, the cargo was discharged at Krishnapatnam Port.[133]

2.107 On 24 August 2018, Unicorn, the discharge port agent for the *Stella Cherise* at Krishnapatnam Port, filed an import general manifest ("IGM") which showed Kamachi as the "consignee/importer"[134] of the cargo. The IGM is a legal document containing information about the goods imported and the consignee or importer (if they are different entities), which the carrier or the discharge port agent (in this case, Unicorn) is required to file.[135]

128 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [10].
129 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [1].
130 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [8].
131 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [8].
132 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [16].
133 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [22].
134 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [17].
135 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [17].

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(4) Financing of the cargo

2.108 The plaintiff, Valency, financed the purchase of the cargo at Kamachi's request. In connection with the financing, Kamachi and Valency signed a sale and purchase contract ("Valency-Kamachi Contract") and a term sheet which contained the terms and conditions for the financing ("Term Sheet").[136] Pursuant to the Valency-Kamachi Contract and Term Sheet, the financing was initially for 40,000mt of coal, but the Valency-Kamachi Contract and Term Sheet were subsequently amended to increase this to 55,000mt.[137]

2.109 At Kamachi's request, JSW issued various *pro forma* invoices for the cargo. On 29 August 2018, JSW sent Valency, among other "copy documents for [the Vessel]",[138] a commercial invoice dated 20 August 2018 for the cargo.[139]

2.110 On 24 August 2018, Valency proceeded to open a letter of credit ("Valency LC") in favour of JSW through The Hongkong and Shanghai Banking Corp Ltd ("HSBC").[140]

2.111 On 30 August 2018, JSW discounted the Valency LC with Standard Chartered Bank and received payment of US$5,444,092.97.[141]

2.112 On 10 September 2018, HSBC made payment under the Valency LC. After HSBC paid JSW under the Valency LC, Valency obtained an import trust receipt loan from HSBC to repay HSBC for payment made by HSBC under the Valency LC ("HSBC-Valency Loan"). Among other things, Valency pledged the 22 bills of lading for the cargo ("22 BLs") to HSBC as security for the HSBC-Valency Loan.[142]

2.113 On 11 September 2018, Valency obtained physical possession of the 22 BLs from HSBC under a trust receipt arrangement ("Trust

136 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [13].
137 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [14].
138 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [15].
139 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [15].
140 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [19].
141 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [24].
142 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [29].

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Receipt"), pursuant to which Valency agreed to receive the 22 BLs and take delivery of the cargo "exclusively for the purpose of selling the [cargo] unless [HSBC] shall direct otherwise"[143] and to hold the 22 BLs, the cargo and the proceeds of their sale on trust for HSBC and solely to HSBC's order.[144]

2.114 The HSBC-Valency Loan fell due on 24 September 2018. To settle the HSBC-Valency Loan, Valency obtained two loans on 24 and 25 September 2018 respectively from HSBC by discounting the 22 BLs with HSBC. The 22 BLs were discounted with recourse to Valency.[145]

(5) Undertakings

2.115 On 29 June 2018, Unicorn sent to JSW a letter of undertaking dated 29 June 2018, under which Unicorn undertook to release the coal on the *Stella Cherise* to the buyer only upon JSW's written instructions.[146]

2.116 Three letters dated 31 August 2018 were also signed by the parties:

> (a) First, a letter signed by Kamachi addressed to Valency ("Kamachi Letter") in which Kamachi:[147]
>
> > (a) undertook that the delivery order that would be issued to the port would not be considered as an instruction for the release of Valency's financial hold and/or for taking physical delivery of the Cargo from the port designated plot area by Kamachi or its agents;
> >
> > (b) confirmed that it would not physically move the Cargo from the designated plot in port area until it received written instructions from Valency or Valency's agent; and
> >
> > (c) confirmed that it would take actual physical delivery from port only against the issuance of a fresh delivery order from Valency or its agent upon the submission of the original bills of lading.

143 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [29(d)(i)].
144 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [29(d)]–[30].
145 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [37].
146 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [12].
147 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [26].

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The Kamachi letter was, however, only sent to Valency later, on 19 September 2018.[148]

(b) Second, a letter signed by JSW addressed to Unicorn ("JSW Letter") in which JSW instructed Unicorn:[149]

> (a) to take Valency's instructions for issuance of delivery order and physical delivery of the Cargo to Kamachi; and
>
> (b) that the delivery order was to be issued only against the surrender of relevant original bills of lading to the [*Stella Cherise*'s] agents.

JSW did not give a copy of the JSW Letter to Valency, but on 18 September 2018, Kamachi sent the JSW Letter to Valency.[150]

(c) Third, a letter signed by Unicorn addressed to Valency ("Unicorn Letter") confirming that the cargo would be released only upon surrender of the original bills of lading or Valency's written instructions.[151] The Unicorn Letter was not sent to Valency until 18 September 2018, when Kamachi sent it to Valency.

(6) Delivery orders

2.117 On 13 September 2018, Oldendorff instructed Unicorn to issue delivery orders for, among other things, the Krishnapatnam Port ("Oldendorff Release Instruction").[152]

2.118 On 17 September 2018, JSW instructed Unicorn to release the delivery order for the cargo ("JSW Release Instruction").[153]

2.119 Between 17 September 2018 and 15 November 2018, Unicorn issued various delivery orders for the cargo ("Delivery Orders"), and Kamachi obtained delivery of the cargo.[154]

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148 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [26].
149 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [27].
150 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [27].
151 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [28].
152 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [33].
153 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [35].
154 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [36].

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C. Valency International Pte Ltd's claims

2.120 Ultimately, Kamachi only paid for 5,000mt of the cargo, and failed to pay Valency for the remaining 50,000mt of the cargo ("Unpaid Cargo").[155]

2.121 More than a year after the discharge of the cargo from the *Stella Cherise*, Valency discovered that the cargo was no longer at Krishnapatnam Port.[156] Valency then commenced proceedings against JSW, Oldendorff and Unicorn, making the following claims:[157]

(a) First, Valency claimed against JSW, Oldendorff and Unicorn, alleging that they had converted the Unpaid Cargo by issuing the (i) JSW Release Instruction; (ii) Oldendorff Release Instruction; and (iii) Delivery Orders respectively ("Conversion Claim").

(b) Second, Valency claimed against JSW and Unicorn for breaching an alleged implied structured financing agreement ("Implied Agreement") that was concluded among Valency, JSW, Kamachi and Unicorn ("Breach of Implied Agreement Claim").

(c) Third, Valency claimed against JSW and Unicorn for conspiracy to injure by unlawful means, alleging that pursuant to this conspiracy, JSW issued the JSW Release Instruction and Unicorn released and delivered the cargo to Kamachi without Valency's instructions and without the presentation of the relevant bills of lading ("Conspiracy Claim").

(d) Fourth, Valency claimed against JSW for breach of an alleged sale and purchase agreement for cargo between JSW and Valency ("JSW-Valency Contract") ("Breach of JSW-Valency Contract Claim").

(e) Fifth, Valency claimed against JSW for inducing breach of the Implied Agreement and the Valency-Kamachi Contract ("Inducing Breach of Contract Claims").

155 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [3] and [38]–[39].

156 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [44].

157 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at headnotes (facts) and [4].

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D. Decision of General Division of High Court

(1) Conversion Claim

2.122 The issues which the General Division had to decide in connection with the Conversion Claim were as follows:[158]

> (a) whether Valency had the right to sue for conversion ("Right to Sue Issue");
>
> (b) if the answer to (a) above was "yes", whether the JSW Release Instruction, the Oldendorff Release Instruction and the Delivery Orders constituted acts of conversion ("Acts of Conversion Issue"); and
>
> (c) if JSW, Oldendorff and Unicorn were liable for conversion, what damages was Valency entitled to ("Damages Issue").

2.123 On the Right to Sue Issue, the General Division reiterated that an action in conversion requires the claimant to either have actual possession or the immediate right to possession of the goods allegedly converted (*ie*, the "possessory interest")[159] at the time of conversion;[160] being the owner of the goods allegedly converted will not be sufficient.[161]

2.124 Valency did not have actual possession of the Unpaid Cargo when the alleged acts of conversion took place.[162] Accordingly, to succeed in the Right to Sue Issue, Valency had to show that:[163]

> (a) as against JSW, [Valency] had the immediate right to possession on 17 September 2018 when the JSW Release Instruction was issued;
>
> (b) as against Oldendorff, [Valency] had the immediate right to possession on 13 September 2018 when the Oldendorff Release Instruction was issued; and

158 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [53].
159 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [81].
160 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [54], citing *The Cherry* [2003] 1 SLR(R) 471 at [58].
161 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [54] and [58].
162 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [53].
163 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [60].

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> (c) as against Unicorn, [Valency] had the immediate right to possession on each of the dates between 17 September and 15 November 2018 when the Delivery Orders were issued.

2.125 The General Division found that Valency did not have the right to sue JSW and Oldendorff for conversion because it did not have the immediate right to possession of the Unpaid Cargo when the Oldendorff Release Instruction and the JSW Release Instruction were issued on 13 and 17 September 2018 respectively, as the 22 BLs were pledged to HSBC on those dates. The General Division explained that where a bill of lading was pledged, it was the pledgee of the bill of lading who was entitled, on presentation of it to the ship at the port of discharge, to the possession of the goods represented by it. In addition, a pledgee's release of the original bills of lading under a trust receipt did not put an end to the pledge because in such circumstances, the trust receipt maintained the pledgee's security. Accordingly, even though Valency obtained possession of the 22 BLs on 11 September 2018, its possession was obtained under a trust receipt which expressly preserved HSBC's security interests. The release of the 22 BLs under the trust receipt therefore did not put an end to the pledge.[164]

2.126 The General Division found, however, that Valency did have the right to sue Unicorn for conversion for part of the Unpaid Cargo. The General Division found that HSBC's pledge over the 22 BLs ended when the HSBC-Valency loan was repaid on 24 and 25 September 2018. Accordingly, Valency had the immediate right to possession of 38,000mt of Unpaid Cargo that was released pursuant to Delivery Orders issued between 25 September 2018 and 15 November 2018, but not the Unpaid Cargo released pursuant to Delivery Orders issued before 25 September 2018.[165]

2.127 In relation to the Acts of Conversion Issue, the court reiterated that the tort of conversion required two elements: (a) a positive wrongful act of dealing with the goods in a manner inconsistent with the claimant's possessory interest; and (b) an intention to deny the claimant's interest or to assert an interest that is inconsistent with the claimant's interest.[166]

2.128 The JSW Release Instruction did not constitute an act of conversion because the JSW Release Instruction did not release Unicorn

164 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [64]–[68].

165 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [75]–[80].

166 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [81].

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from its undertaking to Valency under the Unicorn Letter. JSW was aware of the Unicorn Letter and could not have intended to interfere with Valency's interest in the cargo in issuing the JSW Release Instruction.[167]

2.129 The General Division found, however, that the Oldendorff Release Instruction constituted an act of conversion as it interfered with Valency's interests in the cargo. However, Valency's claim for conversion against Oldendorff still failed as Valency did not have standing to sue.[168]

2.130 The General Division found that the Delivery Orders also constituted acts of conversion by Unicorn as they requested the cargo to be delivered to Kamachi as the receiver and were issued without Valency's instructions or the surrender of the original bills of lading.[169]

2.131 In light of the General Division's findings on the Right to Sue Issue and the Acts of Conversion Issue, Valency did not succeed in its conversion claims against JSW and Oldendorff, but succeeded against Unicorn in respect of 38,000mt of the Unpaid Cargo. The General Division therefore proceeded to consider the Damages Issue in respect of this portion of the cargo.

2.132 The General Division summarised the applicable principles on the assessment of damages in a conversion claim as follows:[170]

> (a) The measure of damages in conversion is the value of the goods, together with any consequential damage flowing from the conversion which is not too remote to be recoverable in law. The value of the goods is usually taken as at the time of conversion.
>
> (b) Consequential losses include loss of profits and loss incurred through being deprived of the [use] of the goods. The consequential loss must not be too remote a consequence of the act of conversion.

2.133 Valency claimed the invoice value of the Unpaid Cargo, alternatively damages to be assessed. The General Division, however, held that Valency was only entitled to claim the market value of 38,000mt of Unpaid Cargo, less two undisputed sums. The General Division

167 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [82]–[85].

168 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [91], [101] and [103].

169 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [102].

170 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [104], citing *Chartered Electronics Industries Pte Ltd v Comtech IT Pte Ltd* [1998] 2 SLR(R) 1010 at [17] and [19].

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calculated the market value based on Oldendorff's expert's report, which was undisputed by Valency.[171]

2.134 The General Division declined to award any amount for consequential losses as Valency had not proved that it suffered any consequential loss as a result of Unicorn's acts of conversion.[172]

(2) Breach of Implied Agreement Claim

2.135 Under this claim, Valency alleged that:[173]

(a) the Implied Agreement was concluded among Valency, JSW, Kamachi and Unicorn on or about 31 August 2018;

(b) the terms of the Implied Agreement were that Valency, JSW and Kamachi agreed that:

(i) Valency would establish a letter of credit in favour of JSW to pay for the cargo and JSW would transfer title in the cargo to Valency once JSW was paid; and

(ii) thereafter, as and when Kamachi paid Valency for the cargo, Valency would transfer the title to the corresponding quantity of the cargo, and deliver the same, to Kamachi;

(c) Kamachi approached Valency to establish a letter of credit in favour of JSW such that Valency would buy the cargo from JSW and sell the same to Kamachi; and

(d) JSW and Valency entered into the JSW-Valency Contract, the JSW-Kamachi Contract was abandoned, and, pursuant to the JSW-Valency Contract, JSW transferred title to the cargo to Valency upon receipt of payment under the Valency LC.

2.136 In its closing submissions, Valency submitted that the following circumstances made it clear that the Implied Agreement existed:[174]

171 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [106]–[107] and [111].
172 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [109]–[110].
173 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [115]–[116].
174 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [118].

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(a) JSW's [*pro forma*] invoices … were addressed to Valency.

(b) The JSW Letter, the Unicorn Letter and the Kamachi Letter were evidence of the understanding that Kamachi would only take delivery of the Cargo against presentation of the original bills of lading or on Valency's written instructions.

2.137 The General Division summarised the applicable principles on the implication of contracts as follows:[175]

(a) A contract may, in principle, be implied from a course of conduct or dealings between the parties, from their correspondence, or from all the relevant circumstances. However, the court will only imply a contract where all the requirements for the formation of a contract are satisfied.

(b) It is fatal to the implication of a contract if the conduct relied upon is explicable by reference to other facts.

(c) The court will also only find an implied contract in limited circumstances where such implication is necessary and accords with the objective intentions of the parties.

2.138 In applying the above principles, the General Division dismissed the Breach of Implied Agreement Claim because it found that there was no basis or necessity to imply the Implied Agreement and the parties' conduct was explicable by reference to other facts and did not support the implication of such an agreement.[176] In coming to this conclusion, the General Division observed as follows:[177]

(a) JSW's issuance of *pro forma* invoices that were addressed to Valency could be explained by Valency's role as Kamachi's financier.

(b) The JSW Letter, Unicorn Letter and Kamachi Letter could also be explained by Valency's role as Kamachi's financier. The letters protected Valency's interests, as a financier, in ensuring that the cargo would not be released to Kamachi without the presentation of the original bills of lading or Valency's written instructions.

175 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [117].

176 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [119].

177 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [120]–[124].

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(c) In so far as Valency's pleadings implicitly suggested that the existence of the Implied Agreement depended on the existence of the JSW-Valency Contract, the totality of the evidence did not support the existence of the latter.

(d) Valency only pleaded that Valency, JSW and Kamachi agreed to the terms of the Implied Agreement but not Unicorn who was allegedly a party to the Implied Agreement, raising doubts that the Implied Agreement existed.

(3) Conspiracy Claim

2.139 The General Division held that a claimant must establish the following to succeed in a claim for conspiracy by unlawful means:[178]

(a) first, that there was a combination of two or more persons to do certain acts;

(b) second, that the alleged conspirators had the intention to cause damage or injury to the claimant by those acts;

(c) third, that the acts were unlawful; and

(d) fourth, that the claimant suffered loss as a result of the conspiracy.

2.140 In light of the foregoing, the General Division dismissed the Conspiracy Claim because:

(a) although Valency pleaded that JSW and Unicorn conspired to defraud Valency and to conceal such fraud and the proceeds of such fraud from Valency, Valency had not pleaded any particulars as to when or how the agreement between JSW and Unicorn to defraud Valency arose nor provided evidence of such an agreement;[179] and

(b) as the JSW Release Instruction did not release Unicorn from its undertaking to Valency under the Unicorn Letter, there could not have been any agreement between JSW and Unicorn for Unicorn to release the Unpaid Cargo without Valency's instructions and the presentation of the original bills of lading.[180]

178 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [126], citing *EFT Holdings, Inc v Marinteknic Shipbuilders (S) Pte Ltd* [2014] 1 SLR 860 at [112].

179 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [127].

180 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [129].

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(4) Breach of JSW-Valency Contract Claim

2.141 Under this claim, Valency alleged that JSW breached the JSW-Valency Contract by instructing Unicorn (via the JSW Release Instruction) to deliver the cargo to Kamachi without Valency's instructions and the presentation of the relevant bills of lading, thereby interfering with Valency's possession of and entitlement to the cargo.

2.142 This claim was dismissed by the General Division because there was no JSW-Valency Contract.[181]

(5) Inducing Breach of Contract Claims

2.143 Under this claim, Valency alleged that:

(a) JSW induced Unicorn and Kamachi to breach the Implied Agreement by allowing Kamachi to take delivery of the cargo without Valency's instructions or the presentation of the relevant bills of lading;[182] and

(b) JSW induced Kamachi to breach the Valency-Kamachi Contract by allowing Kamachi to take delivery of the cargo without paying Valency for 50,000mt of the cargo and without Valency's approval and knowledge.[183]

2.144 The General Division held that a claimant had to satisfy a twofold requirement to found a sustainable cause of action for inducing a breach of contract: first, he had to show that the procurer acted with the requisite knowledge of the existence of the contract (although knowledge of the precise terms is not necessary); and second, that the procurer intended to interfere with its performance.[184]

2.145 In light of the foregoing, the General Division dismissed this claim as the Implied Agreement did not exist[185] and the evidence

181 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [132].

182 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [49(c)(ii)].

183 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [49(c)(iii)].

184 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [133], citing *Tribune Investment Trust Inc v Soosan Trading Co Ltd* [2000] 2 SLR(R) 407 at [17].

185 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [134].

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established that JSW did not know of the Valency-Kamachi Contract until the commencement of the present action.[186]

E. Conclusion

2.146 This decision underscores the breadth of the tort of conversion, particularly in circumstances where instructions issued by parties in a transactional chain may amount to acts inconsistent with another's possessory rights. It illustrates that liability in conversion is not confined to physical interference with goods, but may also arise from the giving of directions that facilitate such interference.

2.147 The case also reinforces the principle that for a claim in conversion to succeed, the claimant must have actual possession or an immediate right to possession of the goods at the precise time of the alleged conversion. Ownership of the goods alone is not sufficient. Valency, in holding the bills of lading for the goods on behalf of the bank pursuant to a trust receipt arrangement, lacked the standing to sue third parties like JSW and Oldendorff for conversion.

2.148 Valency has appealed against the judge's finding that it had no standing to sue JSW and Oldendorff in conversion (*ie*, the "Standing Issue") and Oldendorff has cross-appealed against the finding that the Oldendorff Release Instruction was an act of conversion (*ie*, the "Act of Conversion Issue").[187]

2.149 In brief, on the "Standing Issue", the Court of Appeal has dismissed Valency's appeal and agreed with the General Division judge that Valency had no standing to sue JSW and Oldendorff in the tort of conversion, as it did not have either actual possession of or the immediate right to possess the relevant goods at the time of the alleged conversion.[188]

2.150 On the "Act of Conversion Issue", the Court of Appeal has allowed Oldendorff's cross-appeal.[189] It held that the Oldendorff Release Instruction could not, without more, have amounted to an act of conversion as the instruction had to be acted upon before any liability for conversion could attach. Valency had failed to prove that either the JSW

186 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2025] 5 SLR 1025 at [136].
187 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2026] 1 SLR 140.
188 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2026] 1 SLR 140 at [72]–[90].
189 *Valency International Pte Ltd v JSW International Tradecorp Pte Ltd* [2026] 1 SLR 140 at [57]–[71].

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Release Instruction or the Oldendorff Release Instruction had caused Unicorn to release the Delivery Orders.

2.151 The decision of the Court of Appeal will be more fully analysed in the next issue of the *Singapore Academy of Law Annual Review of Singapore Cases*.

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