

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

[2026] SGHC 221

Suit No 1158 of 2017 (Summons No 710 of 2026)

Between

- (1) Ayaz Ahmed
- (2) Khalida Bano
- (3) Ishtiaq Ahmad
- (4) Maaz Ahmad Khan
- (5) Wasela Tasneem
- (6) Asia

... Plaintiffs

And

- (1) Mustaq Ahmad @ Mushtaq
Ahmad s/o Mustafa
- (2) Ishret Jahan
- (3) Shama Bano
- (4) Abu Osama
- (5) Iqbal Ahmad
- (6) Mohamed Mustafa &
Samsuddin Co. Pte Ltd

... Defendants

Suit No 780 of 2018 (Summons No 725 of 2026)

Between

- (1) Fayyaz Ahmad
- (2) Ansar Ahmad

... Plaintiffs

And

- (1) Mustaq Ahmad @ Mushtaq
Ahmad s/o Mustafa
- (2) Ishret Jahan
- (3) Shama Bano
- (4) Abu Osama
- (5) Iqbal Ahmad
- (6) Mohamed Mustafa &
Samsuddin Co. Pte Ltd

... Defendants

JUDGMENT

[Professions — Valuer — Judicial review of valuation — Manifest error]

[Professions — Valuer — Judicial review of valuation — Actual bias]

[Professions — Valuer — Judicial review of valuation — Not in accordance
with court order]

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Ayaz Ahmed and others
v
Mustaq Ahmad (alias Mushtaq Ahmad s/o Mustafa) and others
and another matter

[2026] SGHC 221

General Division of the High Court — Suit No 1158 of 2017 (Summons No 710 of 2026) and Suit No 780 of 2018 (Summons No 725 of 2026)
Mavis Chionh Sze Chyi J
18, 19 August 2026

22 October 2026

Judgment reserved.

Mavis Chionh Sze Chyi J:

1 Summons No 710 of 2026 (“SUM 710”) and Summons No 725 of 2026 (“SUM 725”) concern challenges against the valuation by a valuer of shares in a company. The valuation was carried out pursuant to a court-ordered buy-out. The applicants in SUM 710 are the plaintiffs in HC/S 1158/2017 (“Suit 1158”): I will refer to them collectively as the “Suit 1158 Plaintiffs”. The applicants in SUM 725 are the plaintiffs in HC/S 780/2018 (“Suit 780”): I will refer to them collectively as the “Suit 780 Plaintiffs”. Where convenient, I refer to both sets of plaintiffs collectively as “Plaintiffs”.

2 I allowed most of the Plaintiffs’ claims in these two suits after a joint trial; and my judgment is published in *Ayaz Ahmed v Mustaq Ahmad* [2022] SGHC 161 (“*Ayaz Ahmed (HC)*”). Parties appealed against my decision, and the

Appellate Division of the High Court’s (“AD”) decision is published in *Mustaq Ahmad v Ayaz Ahmed* [2024] 1 SLR 1016 (“*Mustaq Ahmad (AD)*”).

3 Having considered the submissions of all parties and the relevant affidavit evidence, I dismiss SUM 710 and SUM 725 for the reasons set out in this judgment.

Background

4 The background to the underlying suits has been set out extensively in *Ayaz Ahmed (HC)* at [1]–[77]. I set out below only the necessary details.

Dramatis personae

5 The six Suit 1158 Plaintiffs are the beneficiaries of the estate of Mustafa s/o Majid Khan (“Mustafa Estate”). The two Suit 780 Plaintiffs are beneficiaries of the estate of Samsuddin s/o Mokhtar Ahmad (“Samsuddin Estate”).

6 Both the Mustafa Estate and the Samsuddin Estate are registered owners of shares in a company known as Mohamed Mustafa & Samsuddin Co Pte Ltd (“MMSCPL”), the sixth defendant in Suit 1158 and Suit 780. The first to the fifth defendants in Suit 1158 and Suit 780 (collectively referred to as “Defendants”) are directors of MMSCPL.

7 To briefly recount the relationship between the parties:

- (a) The Suit 1158 Plaintiffs are Mustafa’s five children from his second marriage – Ayaz Ahmed (“Ayaz”), Khalida Bano (“Khalida”), Ishtiaq Ahmad (“Ishtiaq”), Maaz Ahmad Khan (“Maaz”), and Wasela Tasneem (“Wasela”) – as well as Mustafa’s second wife, Mdm Asia (“Asia”).

(b) The Suit 780 Plaintiffs – Fayyaz Ahmad (“Fayyaz”) and Ansar Ahmad (“Ansar”) – are two of Samsuddin’s five children with his wife, Sitarun Nisha (“Sitarun”).

(c) The Defendants: The first defendant, Mustaq Ahmad @ Mushtaq Ahmad s/o Mustafa (“Mustaq”), is the eldest son of Mustafa: his mother was Mustafa’s first wife, Momina. The second defendant, Ishret Jahan (“Ishret”), is Mustaq’s wife. Mustaq and Ishret are both shareholders and directors of MMSCPL. One of their three daughters, Shama Bano (“Shama”), and their son, Abu Osama (“Osama”) are the third and fourth defendants. Both Shama and Osama are directors of MMSCPL. Iqbal Ahmad (“Iqbal”), the fifth defendant, is Ishret’s brother. Iqbal is a director and company secretary of MMSCPL.

(d) The sixth defendant, MMSCPL, is a nominal defendant.

The underlying suits

8 Suit 1158 and Suit 780 concerned, *inter alia*, the Plaintiffs’ claims of minority oppression against the directors of MMSCPL. In *Ayaz Ahmed (HC)*, I found in favour of the Plaintiffs in respect of a number of (though not all) their allegations of minority oppression. I made the following findings:

(a) The 5 January 1995 Allotment and 11 December 2001 Allotment were void and of no effect, and were cancelled (“Oppressive Share Allotments”). As a result, the Mustafa Estate held 25.4% of the shares of MMSCPL (“Mustafa Estate’s Shareholding”) while the Samsuddin Estate held 25.7% of the shares of MMSCPL (“Samsuddin Estate’s Shareholding”).

(b) The first, second and fifth defendants (*ie*, Mustaq, Ishret and Iqbal) acted in a manner that was oppressive to the Mustafa and Samsuddin Estates' rights as shareholders of MMSCPL in relation to the unsecured and interest-free loans from MMSCPL ("Oppressive Loans").

(c) The first defendant, Mustaq, acted in a manner that was oppressive to the Mustafa and Samsuddin Estates' rights as shareholders of MMSCPL in relation to the falsification of applications to the Ministry of Manpower for work passes for the foreign employees of MMSCPL ("Cashback Scheme").

(d) The first and second defendants (*ie*, Mustaq and Ishret) acted in a manner that was oppressive to the Mustafa and Samsuddin Estates' rights as shareholders of MMSCPL in relation to the non-payment of dividends to MMSCPL's shareholders while paying substantial directors' fees to the first and second defendants from 2001 to 2013 ("Oppressive Directors' Fees").

The Oppressive Share Allotments, Oppressive Loans, Cashback Scheme and Oppressive Directors' Fees are collectively referred to in this judgment as the "Original Oppressive Acts".

9 As remedy, I ordered the first defendant Mustaq and the second defendant Ishret to buy out the Mustafa Estate's Shareholding and the Samsuddin Estate's Shareholding at a price ("Purchase Price") to be determined by an independent valuer ("Buyout Order"). As the present summonses concern only the Buyout Order, Mustaq and Ishret are the only two of the Defendants responding to the present summonses. I will refer to Mustaq and Ishret collectively as the "Respondents".

10 Dissatisfied, the Suit 780 Plaintiffs, the Respondents and Iqbal appealed against my decision. The AD dismissed the Respondents and Iqbal’s appeal, but allowed the Suit 780 Plaintiffs’ appeal in part.

The present summonses

The procedural facts leading to the filing of the summonses

11 Pursuant to the Buyout Order, I ordered that an independent valuer be appointed by agreement between all three sets of parties (*ie*, the Suit 1158 Plaintiffs, the Suit 780 Plaintiffs, and the Respondents); failing which, by the court. As parties were unable to come to an agreement, they sought directions. The Suit 1158 Plaintiffs recommended, in the alternative, Mr James Nicholson (“Mr Nicholson”) from FTI Consulting (Singapore) Pte Ltd (“FTI”) and Mr Andre Toh Sern (“Mr Toh”) from Ernst & Young Corporate Advisors Pte Ltd (“EY”). The Suit 780 Plaintiffs recommended only Mr Toh. The Respondents recommended, in the alternative, Mr Nicholson and Mr Jonathan Ellis from Secretariat Advisors LLC. On 14 January 2022, I appointed Mr Nicholson as the independent valuer (“Valuer”).

12 The material terms of the Buyout Order will be reproduced below where necessary. Here, I set out the procedural timelines of the valuation process as set out in Annex A of the Buyout Order:

- (a) Parties were entitled to make one round of submissions to the Valuer on the matters relevant to the Valuer’s determination of the Purchase Price.
- (b) Thereafter, the Valuer was to provide a draft report to parties. Parties would then be entitled to make one further round of submissions

to the Valuer on the matters set out in the draft report and/or matters that the Valuer ought to have taken into account which he did not.

(c) Then, the Valuer was to finalise and deliver a report to the Court and parties.

13 Following this process, the Valuer’s report was sent to the court and parties on 18 March 2024 (“Valuer’s Report”). The Valuer’s Report set out the following conclusions:

(a) As at 16 August 2021 (“Valuation Date”), before accounting for the effects of the Original Oppressive Acts, the equity value of MMSCPL was \$646.7m (“MMSCPL’s Valuation”). The overall effect of the Original Oppressive Acts was \$62.8m. After adding the overall effect of the Original Oppressive Acts and deducting the total fees and disbursements incurred for the valuation of \$2.3m, MMSCPL was valued at \$707.2m.¹

(b) Accordingly, the Mustafa Estate’s Shareholding was valued at \$179,637,981 and the Samsuddin Estate’s Shareholding was valued at \$181,759,690 (collectively, the “Initial Purchase Price”).²

14 On 15 May 2024, the AD handed down judgment in *Mustaq Ahmad (AD)*. In gist, the AD dismissed the Respondents’ and Iqbal’s appeals but allowed the Suit 780 Plaintiffs’ appeal in part by making the following findings:

¹ Valuer’s report dated 18 March 2024 (“Valuer’s Report”) at para 2.72.

² Valuer’s report dated 5 March 2025 (“Valuer’s Supplementary Report”) at para 1.4.

- (a) The wrongful payments of consultancy fees from MMSCPL to Zero and One (“Z&O”) was oppressive (“Oppressive Consultancy Fees”): *Mustaq Ahmad (AD)* at [435(g)].
- (b) The sales to “Related Parties” (*ie*, including: (i) persons or close family members of persons who had control or joint control of / influence over MMSCPL; and (ii) entities: (A) which were controlled or jointly controlled by such persons; and (B) which provided key services to MMSCPL) on credit for which MMSCPL had not received full payment was oppressive (“Oppressive Related Parties Transaction”): *Mustaq Ahmad (AD)* at [435(h)].
- (c) The 9 April 1996 and 24 February 1997 Allotments were set aside even though they were not themselves oppressive (“Additional Share Allotments”): *Mustaq Ahmad (AD)* at [435(n)(i)].
- (d) The Valuer should take into account a reasonable amount of directors’ fees to be accorded to Mustaq which was commensurate with the efforts he expended in building up MMSCPL: *Mustaq Ahmad (AD)* at [435(n)(iii)].

The Oppressive Consultancy Fees and the Oppressive Related Parties Transaction are collectively referred to as the “Additional Oppressive Acts”.

15 Given the AD’s findings in *Mustaq Ahmad (AD)*, parties instructed the Valuer to update the Initial Purchase Price to take into account the effect of the Additional Oppressive Acts and the Additional Share Allotments.³ On 7 August 2024, pending the issuance of the second report, the Respondents

³ Valuer’s Supplementary Report at para 1.7.

made payments to the Mustafa Estate and the Samsuddin Estate for their respective shareholdings in MMSCPL based on the Initial Purchase Price (see [13(b)] above).⁴

16 On 5 March 2025, the Valuer issued a second report (“Valuer’s Supplementary Report”) which set out the following:

(a) The overall effect of the Original Oppressive Acts, Additional Oppressive Acts and the Additional Share Allotments was \$352.3m, and the Valuer’s total fees and disbursements were increased by \$0.3m to \$2.6m. MMSCPL’s Valuation of \$646.7m remained unchanged. Adding the \$352.3m and subtracting the \$2.6m, the final assessment of MMSCPL’s equity value was approximately \$996.3m.⁵

(b) Accordingly, the Mustafa Estate’s Shareholding was valued at \$253,070,093 and the Samsuddin Estate’s Shareholding was valued at \$256,059,110 (collectively, “Updated Purchase Price”).⁶

17 On 26 June 2025, pursuant to the Valuer’s Supplementary Report, the Respondents paid a further \$73,432,112 to the Mustafa Estate and a further \$74,299,420 to the Samsuddin Estate for their respective shareholdings.⁷ In total, the Respondents have paid more than half a billion dollars for the two estates’ shareholdings.

⁴ Respondents’ Written Submissions dated 7 August 2026 (“RWS”) at para 44.

⁵ Valuer’s Supplementary Report at para 2.6.

⁶ Valuer’s Supplementary Report at para 2.8.

⁷ RWS at para 45.

18 On 5 March 2026, the Suit 1158 Plaintiffs filed SUM 710 and the Suit 780 Plaintiffs filed SUM 725. In gist, the Plaintiffs challenge only the Valuer’s Report and not the Valuer’s Supplementary Report. This is because the Valuer’s Supplementary Report adopts the MMSCPL’s Valuation (of \$646.7m) set out in the Valuer’s Report: the difference between the two reports is the overall effect of the oppressive acts taken into consideration. The Plaintiffs do not dispute the Valuer’s determination of the overall effect of the Original Oppressive Acts, Additional Oppressive Acts and Additional Share Allotments in the Valuer’s Supplementary Report. As such, the present dispute is limited to the MMSCPL’s Valuation as determined in the Valuer’s Report.

19 The grounds for challenging the Valuer’s Report were set out in my orders in *Ayaz Ahmed (HC)*. For ease of reference, copies of the orders extracted by the parties in Suit 1158 and Suit 780 are attached as Annex 1 and Annex 2 respectively to this judgment. It will be seen that the grounds for challenging the valuation were expressly limited to the following:⁸

- (a) if the Valuer’s Report was not in accordance with the terms of the Buyout Order (“Excess of Mandate Ground”);
- (b) if the valuation was patently or manifestly in error (“Manifest Error Ground”); or
- (c) if there was fraud, corruption, collusion, dishonesty, bad faith, or bias (“Bias Ground”).

⁸ See paragraph 8 of Annex A of HC/JUD 590/2021 (“JUD 590”) issued in Suit 1158, and paragraph 8 of Annex A of HC/JUD 595/2021 (“JUD 595”) issued in Suit 780. As the Annex A to both judgments are *in pari materia*, I will henceforth only refer to JUD 590.

20 The three grounds are collectively referred to in this judgment as the “Grounds of Challenge”.

21 For the purposes of these present summonses, the Plaintiffs engaged as their expert EY’s Mr Toh, who authored two reports (*viz*, the “EY 1st Report” and the “EY 2nd Report”, collectively referred to as the “EY Reports”). As for the Respondents, they engaged Mr Timothy James Reid (“Mr Reid”) from Baker Tilly Advisory Pte Ltd (“BT”), who provided an expert report (“BT Report”) in response to the EY Reports.

The Plaintiffs’ case

22 In SUM 710 and SUM 725, the Plaintiffs rely on all three of the Grounds of Challenge. While there are some differences between the Suit 1158 Plaintiffs’ submissions and the Suit 780 Plaintiffs’ submissions, both sets of Plaintiffs rely on the same facts and the same expert witness (Mr Toh). Both sets of Plaintiffs also seek the same relief – *ie*, an upward variation of MMSCPL’s Valuation, to be determined by a different valuer.⁹ I summarise below the Plaintiffs’ respective cases.

23 In gist, the Suit 1158 Plaintiffs submit in SUM 710:¹⁰

- (a) In relation to the Manifest Error Ground, that the following seven of the Valuer’s findings or decisions were manifest errors:

⁹ Suit 1158 Plaintiffs’ Written Submissions for SUM 710 dated 7 August 2026 (“Suit 1158 WS”) at paras 462–469; Suit 780 Plaintiffs’ Written Submissions for SUM 725 dated 7 August 2026 (“Suit 780 WS”) at paras 277–281.

¹⁰ Suit 1158 WS at para 3.

- (i) the projection of an annual decline of 3.3% in MMSCPL’s revenue for the next ten years (the “10-year Declining Revenue Forecast”);¹¹
 - (ii) that MMSCPL had no intention to diversify into online retail;¹²
 - (iii) that the closure of Serangoon Plaza had no discernible impact;¹³
 - (iv) that MMSCPL had no plans for overseas expansion;¹⁴
 - (v) the valuation of MMSCPL’s real properties which was done by relying solely on the views of OrangeTee Advisory Pte Ltd (“OrangeTee”);¹⁵
 - (vi) the failure to consider the use of MMSCPL’s assets by Related Parties;¹⁶ and
 - (vii) the failure to consider MMSCPL’s Valuation using a sale-and-relocation scenario.¹⁷
- (b) In relation to the Bias Ground, that there was bias – specifically, apparent bias – on the part of the Valuer. The Suit 1158 Plaintiffs’ overarching case is that the Valuer exhibited a pattern of conduct which

¹¹ Suit 1158 WS at paras 24–100.

¹² Suit 1158 WS at paras 105–122.

¹³ Suit 1158 WS at paras 132–158.

¹⁴ Suit 1158 WS at paras 165–177.

¹⁵ Suit 1158 WS at paras 187–217.

¹⁶ Suit 1158 WS at paras 222–261.

¹⁷ Suit 1158 WS at paras 271–297.

gives rise to a reasonable suspicion or apprehension that he was predisposed to a particular view before being made aware of all the evidence or arguments that the Suit 1158 Plaintiffs wished to present. The Valuer had the powers to investigate but chose not to do so before deciding against the Suit 1158 Plaintiffs.¹⁸ Broadly speaking, therefore, their case on bias is rooted in the Suit 1158 Plaintiffs' allegations of manifest error (above).

(c) In relation to the Excess of Mandate Ground, that the Valuer's Report was not in accordance with the terms of the Buyout Order, in that the Valuer failed to act as an expert and/or failed to exercise his own professional judgment in relation to the valuation of MMSCPL's real properties.¹⁹

24 The Suit 780 Plaintiffs argue in SUM 725 that:

(a) In relation to the Manifest Error Ground, that –

(i) The Valuer's 10-year Declining Revenue Forecast was manifestly in error due to his incorrect conclusion that the closure of Serangoon Plaza had no discernible effect, his failure to segment sales arising from MMSCPL's department store and sales arising from its supermarket ("Segmental Analysis"), and his misplaced assumption that the shift to online retailing would cause MMSCPL's revenue to decline further.²⁰

¹⁸ Suit 1158 WS at para 362.

¹⁹ Suit 1158 WS at paras 333–339.

²⁰ Suit 780 WS at paras 132(a), 159–203 and 229–240.

(ii) The Valuer failed to consider fair compensation to MMSCPL for Mustafa’s Foreign Exchange Pte Ltd (“MFE”) and Mustafa’s Pte Ltd (“MPL”)’s use of its trademarks.²¹

(b) In relation to the Bias Ground, that –

(i) The Valuer never intended to consider the Suit 780 Plaintiffs’ submissions on the valuation of MMSCPL’s real properties; and that a fair-minded observer, considering the Valuer’s failure to engage with their submissions, would reasonably suspect that the Valuer had approached this matter with a closed mind.²²

(ii) The Valuer decided multiple matters without any basis, thereby showing that he had already decided on the 10-year Declining Revenue Forecast regardless of what was presented to him.²³

(iii) The Valuer departed from the International Valuation Standards (“IVS”) in multiple instances; and the only explanation why he failed to comply with internationally recognised standards must be that he had already decided to undervalue MMSCPL.²⁴

(iv) The Valuer had accepted the Respondents’ versions of events unquestioningly even where there was no basis to do so

²¹ Suit 780 WS at paras 132(b) and 204–228.

²² Suit 780 WS at para 253.

²³ Suit 780 WS at para 255.

²⁴ Suit 780 WS at para 258.

and even where their versions were contradicted by documentary evidence.²⁵

(v) The Valuer refused or failed to investigate critical matters.²⁶

(c) In relation to the Excess of Mandate Ground, that –

(i) The Valuer was obliged to consider the documents provided to him by the parties. However, he failed to consider, and indeed never intended to consider, the Suit 780 Plaintiffs’ position on the valuation of MMSCPL’s real properties.²⁷ (It should be noted that this allegation is also relied on by the Suit 780 Plaintiffs to advance their arguments on manifest error and apparent bias.)²⁸

(ii) The Valuer made a finding of fact that directly contradicted this court’s findings in relation to the “Multi-Role Employees” (*ie*, employees employed by MMSCPL who worked for MMSCPL but who also did work for Related Parties, as well as employees who were employed by Related Parties but who also did work for MMSCPL).²⁹ (It should be noted that this allegation is also relied on by the Suit 780 Plaintiffs to advance their arguments on manifest error.)

²⁵ Suit 780 WS at para 259.

²⁶ Suit 780 WS at paras 260–275.

²⁷ Suit 780 WS at paras 31 and 44–70.

²⁸ Suit 780 WS at paras 43 and 71.

²⁹ Suit 780 WS at paras 125 and 131.

(iii) The Valuer made multiple errors which led to his failing to arrive at a “fair value” for the Purchase Price, contrary to the duty imposed on him by the Buyout Order.³⁰ (It should be noted that the Suit 780 Plaintiffs rely on the same alleged errors similar to the manifest errors alleged by the Suit 1158 Plaintiffs.)

The Respondents’ case

25 The Respondents take the position that none of the three Grounds of Challenge has been satisfied by the Plaintiffs. In gist, the Respondents’ case is as follows:

(a) In relation to the Manifest Error Ground, the Respondents submit that the Plaintiffs have failed to show any manifest error by the Valuer: instead, the matters complained of by the Plaintiffs amount only to “disagreements with the manner in which the Valuer had exercised his discretion and professional judgment”.³¹

(b) In relation to the Bias Ground, the Respondents contend that the applicable threshold is actual bias, which the Plaintiffs have not alleged and cannot satisfy. In the alternative, the Respondents submit that even if the applicable threshold is apparent bias, this too is not satisfied: the Plaintiffs are simply dissatisfied with the merits of the Valuer’s decision. On the evidence, it is clear that the Valuer’s conduct does not reveal any “predisposition” in favour of the Respondents or that he “closed his mind” to the Plaintiffs’ case.³² In fact, the Valuer agreed with the

³⁰ Suit 780 WS at paras 75–115.

³¹ RWS at para 12.

³² RWS at para 280.

Plaintiffs (and disagreed with the Respondents) on various matters which – collectively – added more than \$100m to the Purchase Price.³³

(c) In relation to Excess of Mandate Ground, the Respondents take the position that the Valuer acted in strict accordance with the Buyout Order which granted him wide discretion to conduct the valuation.

26 The Respondents also submit that even if the Plaintiffs can make out any of the three Grounds of Challenge, the valuation should be remitted back to the same valuer, *ie*, Mr Nicholson.³⁴

Issues to be determined

27 As I alluded to earlier, the Plaintiffs rely on substantially *the same complaints* to invoke multiple Grounds of Challenge. To avoid being repetitive, I first set out the applicable legal framework, and where relevant, my findings on the parties’ submissions thereon.

28 The complaints which form the basis of the Plaintiffs’ Grounds of Challenge relate to the following broad areas:

- (a) The Valuer’s failure to conduct Segmental Analysis (“Issue 1”);
- (b) The Valuer’s use of a five-year period of historical revenues (“Issue 2”);
- (c) The Valuer’s erroneous use of the market approach as a cross-check (“Issue 3”);

³³ RWS at para 281.

³⁴ RWS at paras 316–324.

- (d) The Valuer’s finding that the closure of Serangoon Plaza had no discernible effect (“Issue 4”);
- (e) The Valuer’s finding on the general effect of the shift to online retail and MMSCPL’s lack of intention to diversify into online retail (“Issue 5”);
- (f) The Valuer’s finding that MMSCPL had no plans for overseas expansion (“Issue 6”);
- (g) The Valuer’s reliance on OrangeTee’s report in valuing MMSCPL’s real properties (“Issue 7”);
- (h) The Valuer’s finding that no additional compensation was warranted from the Related Parties for their use of MMSCPL’s assets (“Issue 8”); and
- (i) The Valuer’s failure to consider the sale-and-relocation scenario (“Issue 9”).

The legal framework

29 I first set out below the applicable legal principles for each of the three Grounds of Challenge and where relevant, my findings, before considering whether any of the above complaints can be said to establish any of the Grounds of Challenge.

The Manifest Error Ground

30 In respect of the Manifest Error Ground, parties do not dispute that generally, in the context of court-ordered expert valuations, the court should be slow to find that the valuation is in error. This is because (a) by delegating the

task of valuation to an expert, the court has taken the position that the matter is best left to the expert and (b) a reluctance to readily overturn court-ordered valuations serves the public interest in promoting the finality of litigation: *Feen, Bjornar v Viking Engineering Pte Ltd* [2021] 1 SLR 497 (“*Viking Engineering (SGCA)*”) at [23]–[24].

31 In *Viking Engineering Pte Ltd v Feen, Bjornar* [2020] SGHC 78 (“*Viking Engineering (SGHC)*”), Valerie Thean J summarised at [69] the key principles applied by the courts in determining whether the threshold of “manifest error” had been crossed. These principles are as follows:

- (a) a manifest error is an error that is obvious;
- (b) a manifest error is an error that is “obviously capable of affecting the determination”;
- (c) a manifest error is an error that admits “of no difference of opinion”; and
- (d) arithmetic miscalculations, mistakes as to the identity of parties or a reference to a building that does not exist are all examples of manifest errors.

32 Thean J explained that “[i]n contrast, a failure to take into account relevant considerations or a decision to take into account irrelevant considerations ..., errors in judgment (*eg* treating as good debts that turn out to be bad, or omitting losses that were not known at the time ...), mistakes in the expert’s reasoning process ... and even negligent valuations ... are *not* regarded as manifest errors” (*Viking Engineering (SGHC)* at [70]).

33 Thean J noted that there were conflicting High Court authorities on assessing whether the threshold of manifest error was met. Without having to determine this legal issue, she opined that while the court *may* examine the underlying sources to *comprehend* the expert's determination, the court certainly would not go so far as to decide whether the valuer was correct in his approach or reasoning: *Viking Engineering (SGHC)* at [67]–[68]. In this regard, Thean J clearly adopted the principle established in *Geowin Construction Pte Ltd (in liquidation) v Management Corporation Strata Title Plan No 1256* [2007] 1 SLR(R) 1004 (“*Geowin*”), where the court held (at [66]) that “if an expert answers the right question in the wrong way his decision will nevertheless be binding”.

34 Applying the principles set out in *Viking Engineering (SGHC)* and *Geowin*, it is clearly not enough for the Plaintiffs to point out that their present expert Mr Toh would have conducted the valuation differently: the Plaintiffs must show that the errors they rely on are errors which “admit of no difference in opinion”. In other words, the error must be so obvious and indisputable that no reasonable valuer could honestly reach a different view about whether it is an error.

35 I note, in addition, that the Suit 780 Plaintiffs are correct in principle to say that if the surrounding facts prove that the Valuer's assumption (on which the valuation was premised) was indisputably wrong such that there was “no basis at all” for the assumption, then that may amount to a manifest error: *Nishiki Holdings Pte Ltd v Sankaty European Investments Sarl* [2021] SGHC 286 (“*Nishiki*”) at [112]. At the same time, however, the judgment in *Nishiki* must be read in its context. In that case, the expert had assumed that the company would not be able to afford the rent for certain properties and thus conducted a valuation on the basis that the properties would be demolished for

residential use: at [109]. Kwek Mean Luck JC (as he then was) held that this assumption (*ie*, that the company would not be able to afford the rent for these properties) was a manifest error because the company had consistently paid rent despite the history of deficits and poor cashflow in these properties; the company did not contemplate entering the residential market; and the lease agreements showed that the rent for these properties were paid in a lump sum together with the rent for *other* properties: at [109]–[114]. Put simply, *Nishiki* was a case where the expert’s assumption was proven, *by objective evidence*, to be indisputably erroneous.

36 In *Teo Lay Gek v Hoang Trong Binh* [2019] SGHC 84 (“*Teo Lay Gek*”) at [41], Tan Siong Thye J held that the alleged errors identified by the defendants were not “obvious” because they required the court to “extensively investigate” whether or not the expert had made any error. In that case, the defendants had also commissioned their own expert to produce a report challenging the appointed expert’s valuation. Tan J held that the alleged errors identified by the defendants were “merely differences of opinion between the defendants [relying on their own experts] and the plaintiffs [relying on their own expert and the appointed expert’s report]” and that “it was not proper for the court to adjudicate between the *merits* of the contrasting opinions in deciding whether or not to set aside an expert’s determination” (at [41]).

37 For reasons which I explain at [56] to [185] below, I find that the present case is analogous to *Teo Lay Gek*, in that the alleged errors identified by the Plaintiffs ultimately amount to differences in professional opinion between the Valuer and the Plaintiffs’ expert (Mr Toh) – as opposed to manifest errors.

The Bias Ground

38 In respect of the Bias Ground, parties disagree on the applicable threshold: the Plaintiffs submit that apparent bias is sufficient,³⁵ while the Respondents submit that actual bias must be shown.³⁶

39 Parties do agree that the position in Singapore is not settled as yet. In *HSBC Institutional Trust Services (Singapore) Ltd v Toshin Development Singapore Pte Ltd* [2012] 4 SLR 738, for example, where one of the issues in contention was whether the valuers had been able to act independently, the Court of Appeal noted (at [25]) that parties “tussled over whether actual bias or apparent bias was the appropriate test to apply in order to impugn the independence of the [valuers]”, but found that on the evidence before the court, “the issue of bias (whether actual or apparent) [did] not even arise” (at [58]).

40 In the present case, the Suit 1158 Plaintiffs urged me to find that the Valuer was exercising a quasi-judicial function, and that accordingly, extrapolating from *Macro v Thompson (No 3)* [1997] 2 BCLC 36 (“*Macro (No 3)*”), it would suffice for them to show apparent bias. According to them, the Valuer was exercising a quasi-judicial function because his findings were arrived at after considering successive rounds of submissions from the parties, but as a court-appointed expert (as opposed to an expert appointed by parties), his findings were not subject to cross-examination and challenge save for very limited circumstances, and those findings “supplie[d] the content of the Court’s remedy”.³⁷ The Suit 1158 Plaintiffs argued that a distinction ought to be drawn

³⁵ Suit 1158 WS at paras 342–358; Suit 780 WS at paras 244–252.

³⁶ RWS at paras 15 and 267–277.

³⁷ Suit 1158 WS at paras 356–358; Transcript of hearing (18 Aug 2026), p 4 (line 17) to p 12 (line 21).

between a court-appointed expert and an expert appointed by parties, because according to them, the actual-bias test would protect professionals who had an existing relationship with a party from being unduly inhibited. On the other hand, a neutral court-appointed expert would not have such prior relationship with the parties and should be subject to the apparent-bias test.³⁸ In this connection, it is not disputed that the applicable test for apparent bias is whether a fair-minded and informed observer would have a reasonable suspicion or apprehension of bias; in other words, “whether the observer would conclude that there was a ‘real possibility’ of bias, bearing in mind that the word ‘real’ here refers to the degree of likelihood of bias (which must be substantial and not imagined), and not whether the bias is actual”: *BOI v BOJ* [2018] 2 SLR 1156 (“*BOI v BOJ*”) at [103(a)]. It is important to emphasise that the observer is “fair-minded”, *ie*, “he or she would be neither complacent nor unduly sensitive or suspicious”: *BOI v BOJ* at [103(d)].

41 The Suit 780 Plaintiffs’ position on the applicable threshold for bias is generally aligned with that of Suit 1158 Plaintiffs, although they have not made any substantive legal arguments on this issue.

42 For their part, the Respondents maintain that the threshold is actual bias. They go on to submit that in any event, the above arguments do not assist the Plaintiffs because *Macro (No 3)* actually makes it clear that if an expert valuer is *not* exercising a quasi-judicial function, actual partiality has to be shown in order for his decision to be impugned; and in the present case, the Valuer was *not* performing a quasi-judicial function. In support of their submission, the Respondents have referred me to the case of *Evergreat Construction Co Pte Ltd v Presscrete Engineer Pte Ltd* [2006] 1 SLR(R) 634 (“*Evergreat*”). It should be

³⁸ Transcript of hearing (19 Aug 2026), p 7 (lines 5–31).

noted that although the Respondents' position is that actual bias must be shown, they have nevertheless engaged with the Plaintiffs' complaints of bias on the *assumed, alternative basis* that the threshold of apparent bias applies.

43 I note that the Suit 1158 Plaintiffs acknowledge that they have not found any local authorities for their proposition that the threshold should be apparent bias. I also note that their arguments in favour of the apparent bias threshold rest on the proposition that the Valuer in this case was exercising a quasi-judicial function. I should therefore first make it clear that I find that the Valuer in this case did *not* perform a quasi-judicial function. In so finding, I derive guidance from the judgment of V K Rajah J (as he then was) in *Evergreat* (notwithstanding that *Evergreat* was primarily concerned with the issue of whether the expert was required to provide reasons for his determination). In my view, regardless of whether the expert was appointed by the court or by the parties, the critical inquiry when determining whether the expert played a quasi-judicial role is in respect of the said expert's duties and functions. As Rajah J observed in *Evergreat* (at [35]–[36]):

35 At the end of the day, the modern distinction between an expert and arbitrator does not lie purely in whether the office holder is performing a judicial, quasi-judicial or purely discretionary function. The essential difference is in the duties and/or functions the terms of appointment impose on an appointee. ***The labelling of an appointment as “arbitrator” or “expert” is not in itself always conclusive.*** It is the precise contractual arrangement and the ensuing obligations of the office holder that is, in the final analysis, paramount. *Is he obliged to act solely on the evidence before him and the submissions made to him or does he have a discretion to adopt an inquisitorial function? Does he have complete discretion over the applicable rules of procedure?* If he has the sole discretion to arrive at his determination without being hamstrung by procedural and evidential intricacies or niceties, it is most unlikely that the court will view the proceedings to be arbitration proceedings. *An expert is permitted to inject into the process his personal expertise and to make his own inquiries without any obligation to seek the parties' views or consult them. An expert is also not obliged to make a decision on the basis of*

the evidence presented to him. He can act on his subjective opinion; that is the acid test.

36 There are two fundamental aspects or facets of natural justice that generally apply to dispute resolution. The first is that a decision maker should be disinterested in the outcome. The second is due process; both parties have the right to be heard on all the issues that are to be determined. *This second facet of natural justice does not apply to an expert's determination. This is the single most significant distinction between expert determination and litigation/arbitration.*

[emphasis added in italics and bold italics]

44 I also derive guidance from the case of *Jayanti Nadarajoo v Bronwyn Helen Matthews* [2015] SGHC 222 (“*Jayanti Nadarajoo*”), where Vinodh Coomaraswamy J applied the principles set out in *Evergreat* in finding that the valuer appointed by parties in that case did not act in a quasi-arbitral capacity (at [35]). In *Jayanti Nadarajoo*, the plaintiff had argued that clause 5 of the valuer’s letter of engagement “set out procedural duties which [the valuer] was obliged to follow in the valuation process”, such that it could not be said to have “complete discretion over the rules of procedure as an expert ordinarily would” (at [32]). Noting that clause 5 provided for parties to make written representations and comments to the valuer, Coomaraswamy J held that nevertheless, this clause did not establish that the valuer was performing a quasi-arbitral function (at [33]). First, the agreement between all three parties and the valuer had incorporated certain terms known as “Parameters for Independent Valuer”, such that the characterisation of the valuer as an expert was “not merely one between the parties but one between [the valuer] and the parties” (at [34]). Second, construing the terms of the valuer’s terms of engagement in this context, the purpose of clause 5 was not to stipulate rules of procedure which the valuer was bound to follow; instead, its purpose was to set out a tentative timetable reflecting the steps the valuer would take in order to receive information and representations from both parties and produce its report within the agreed timeline (at [35]). As Coomaraswamy J pointed out, therefore,

clause 5 did not deprive the valuer of discretion over its procedure, nor did it render the valuer's role a quasi-arbitral one.

45 In the present case, the Valuer was expressly given the power to adopt an inquisitorial function; he was permitted – indeed, expected – to inject his personal expertise and to act on his subjective opinion; and while parties were entitled to make submissions to the Valuer, he was not bound by those submissions: *inter alia*, he was not obliged to accept parties' submissions on what issues specifically he needed to examine and to determine. In so far as the Buyout Order set out a timetable for the Valuer to receive information and representations from parties, this did not deprive the Valuer of discretion over the procedure, nor did it render his role a quasi-judicial one. This much is clear from the terms of appointment stated in Annex A of the orders issued in Suit 1158 (which is *in pari materia* with that issued in Suit 780) (the orders in both suits are attached as Annex 1 and Annex 2 of this judgment):

Paragraph 2 of Annex A

In determining the Purchase Price, the Valuer shall act as expert and not otherwise ...

...

Paragraph 4 of Annex A

The Valuer shall have the discretion to determine the appropriate method of valuation. The Valuer shall carry out the Valuation based on all the information and documents provided and made available to him, and ***also based on his professional judgment***, including the drawing of appropriate inferences where the circumstances warrant it.

...

Paragraph 6 of Annex A

...

If the Valuer forms the view that the Admitted Documents are inadequate for carrying out the Valuation, *the Valuer is at liberty to request from the parties any additional documents or information* (the "Requested Documents or Information"). Such

Requested Documents or Information must be provided by the parties to the Valuer as soon as possible.

If the Valuer forms the view that any of the Requested Documents or Information produced to him contradicts or casts doubt on the accuracy, correctness, or completeness of the information presented in the Admitted Documents, *the Valuer is at liberty to write to the parties to raise queries about the contradictions or doubts identified, and to seek answers and explanations.*

The Valuer, in the exercise of his professional judgment, can draw such inferences as he deems fit from the answers and explanations given by the parties. However, the basis of such inferences must be explained in the Valuer's Report that the Valuer issues.

[emphasis added in italics and bold italics]

46 I add that having regard to the hearing in which the Valuer and counsel for parties in both suits appeared before me on 7 August 2023, I do not think parties could have been in any doubt that the Valuer in this case had the “sole discretion to arrive at his determination without being hamstrung by procedural and evidential intricacies or niceties” (*Evergreat* at [35]). The hearing on 7 August 2023 was convened pursuant to the Valuer’s request for clarification as to whether, as the valuer, he had the discretion to determine the scope and the process of his own work and the work performed by any consultants or lawyers he might engage, without requiring the parties’ input or consent – including (for example) matters relating to the selection of consultants, the definition of the scope of the work to be done by such consultants, the timelines set for their work, the scope of the Valuer’s own work, and the issues he expected to address. As seen from the transcript of this hearing, I made it clear that indeed the Valuer had the discretion to determine these matters without requiring parties’ input or consent:³⁹

³⁹ Transcript for 7 August 2023, p 4 (lines 11–30) (Defendant’s Bundle of Documents (Volume 11) at p 157).

... [the Valuer] has the discretion to determine the scope and the process of his own work and the work performed by any consultants or lawyers he may engage, without requiring the parties' input or consent. The orders made in Annex A to the judgment make it clear that it is the valuer who has the discretion to determine the appropriate method of valuation; and in the course of preparing his report, he is also entitled to engage such consultants and professionals as he considers necessary to advise him as well as to speak to such persons as he considers necessary to assist him in discharging his duties. The orders made in Annex A do not lay down any specific rules as to how Mr Nicholson must approach matters such as the selection of consultants, the definition of their scope of work, the setting of timelines for their work, the evaluation of statements given by parties, the depth of analysis required for particular issues, and so on: it is for Mr Nicholson to exercise his professional judgment in approaching these matters. In this connection, *if Mr Nicholson should form the view that it will be useful for him to gather input from the parties on a particular issue (eg, the selection of consultants), he is free to consult parties if he wishes – **but there is nothing in my orders which obliges him to do so.** It has to be so, or the valuer will be hamstrung in his preparation of the report.*

[emphasis added in italics and bold italics]

47 For the reasons explained, I am satisfied that the Valuer was clearly acting as an expert and not in a quasi-judicial capacity. As such, the Plaintiffs cannot substantiate their arguments for the application of the apparent bias threshold – since, as I have noted, those arguments are premised on the Valuer having exercised a quasi-judicial function in this case. Further, since the Plaintiffs have conspicuously avoided alleging actual bias by the Valuer, they are patently unable to establish actual bias for the purpose of satisfying the Bias Ground.

48 As I noted earlier, while the Respondents maintain that the threshold is one of actual bias and that the Valuer was not performing a quasi-judicial function, they have – in the alternative – also dealt with the Plaintiffs' arguments of apparent bias on the *assumption* that the threshold is one of apparent bias. In

the interests of completeness, therefore, I have – in the detailed analysis set out at [56] to [185] below – also gone on to deal with the Plaintiffs’ complaints of apparent bias on the *assumed, alternative basis* that the apparent bias threshold is applicable. I should make it clear that in doing so, I am not making any finding that the Suit 1158 Plaintiffs’ arguments on *Macro (No 3)* and the applicability of the apparent bias threshold are correct in law; nor does this alter my finding that the Valuer in this case did not in fact perform a quasi-judicial function: I proceed on this *assumed, alternative basis* only in order to address comprehensively the extensive submissions made by all three parties on apparent bias.

The Excess of Mandate Ground

49 In respect of the Excess of Mandate Ground, parties are agreed that to determine whether the Valuer had departed from his instructions, the court must first determine what was remitted to the valuer to decide and then consider whether the valuer departed from that mandate in a material respect: *Viking Engineering (SGHC)* at [16]. Once it is established that there was a departure from instructions, it will be considered material “unless it can truly be characterised as trivial or de minimis in the sense of it being obvious that it could make no possible difference to either party”: *Veba Oil Supply & Trading GmbH v Petrotrade Inc* [2002] 1 All ER 703 at [26], cited in *Viking Engineering (SGHC)* at [17].

50 As with the Manifest Error Ground and the Bias Ground, I find that the Excess of Mandate Ground too is not established in this case. My detailed reasoning is set out at [56] to [185] below. At this juncture, though, I should make it clear that I reject the Suit 780 Plaintiffs’ overarching argument that the Valuer acted outside the scope of the Buyout Order, which required him to

determine a “fair value” for the Purchase Price, because he made errors in his Report, and these errors resulted in his failing to arrive at a “fair value”. An alleged error in respect of the *merits* of the valuation does not become an excess of mandate merely because it is relabelled as a “failure to arrive at a fair value”. The Suit 780 Plaintiffs’ approach – if permitted – will lead to backdoor appeals against the substantive merits of the Valuer’s Report: such an approach flies in the face of the express stipulation in the Buyout Order that only errors which amount to manifest errors may constitute a ground of challenge to the valuation. That cannot be right.

Preliminary issues

51 Before I deal with each of the nine complaints which the Plaintiffs rely on for their Grounds of Challenge, I address two preliminary issues.

52 The first concerns the weight to be given to the expert reports submitted by the parties for the purposes of the present summonses. As I alluded to earlier, the Plaintiffs procured a report by EY’s Mr Toh while the Respondents produced a report by BT’s Mr Reid. As a preliminary point, the Suit 780 Plaintiffs and the Respondents contend that their respective experts’ opinions support their position, while arguing that their opponent’s expert report is inherently unreliable. The Suit 780 Plaintiffs submit that since Mr Reid stated in his own *curriculum vitae* that his views had previously been “relied on extensively” by the Respondents in developing their case in the trial before me, this meant that he was “far from independent”; and his present report should be given little or no weight.⁴⁰ On the other hand, the Respondents submit that little weight should be given to the EY Reports because Mr Toh failed to consider

⁴⁰ Suit 780 WS at paras 7–8.

the applicable threshold for establishing a manifest error and simply expressed his own views as to how the valuation ought to have been conducted – unlike Mr Reid, who explicitly stated his understanding of the threshold of manifest error.⁴¹

53 In my view, it would be premature to *entirely* discredit either the EY Reports or the BT Report on the basis of the arguments advanced by the parties. In respect of the BT Report, Mr Reid’s prior engagement by the Respondents does not *automatically* lead to his credibility as an expert witness in these summonses being undermined. As for the EY Reports, the failure to expressly articulate the threshold for manifest error does not *necessarily* mean that Mr Toh failed to identify errors amounting to manifest errors in law. Instead of making sweeping pronouncements at this stage on the reliability of either expert report, I find it far more useful to consider the appropriate weight to be given to each report on each of the issues examined below.

54 The second preliminary issue relates to a purported arithmetical error on the face of the Valuer’s Report. The Plaintiffs claim that in the body of the Valuer’s Report, the Valuer had stated that MMSCPL’s revenue over the next ten years was on a decline of 3% annually (*ie*, the 10-year Declining Revenue Forecast); and that despite this statement, he had erroneously applied a real revenue growth rate of -3.3% in his calculations at Appendix 8, which error caused MMSCPL’s equity value to be undervalued by approximately \$12.5m.⁴²

⁴¹ RWS at paras 67–76.

⁴² Suit 1158 WS at paras 24–30.

55 Contrary to the Plaintiff's claims, there is no arithmetical error. In rejecting these claims, I need only point to the following clear explanation in the Valuer's Report:⁴³

In the body of my report, I have in many instances rounded numbers for ease of presentation. However, my calculations are based on numbers that have not been rounded and the precise numbers and conclusions are set out in the spreadsheet appendices to this report.

Issue 1: Segmental Analysis

56 I next address the first of the nine complaints relied on by the Plaintiffs for their Grounds of Challenge. At the outset, I note that one of the Plaintiffs' main grievances with the Valuer's Report concerns the 10-year Declining Revenue Forecast. The Plaintiffs claim that there were multiple manifest errors in the reasons given by the Valuer for adopting the 10-year Declining Revenue Forecast. These alleged errors form the subject of the first six of the Plaintiffs' complaints (*ie*, Issues 1 to 6). In other words, if the Plaintiffs fail to persuade me that the matters they complain about in Issues 1 to 6 represent *manifest errors*, their objection to the 10-year Declining Revenue Forecast must fail.

57 The first of the Plaintiffs' complaints (Issue 1) relates to the Valuer's decision not to conduct a Segmental Analysis of MMSCPL's revenue. Instead of adopting the Plaintiffs' proposed approach of splitting MMSCPL's sales into department store sales and supermarket sales, the Valuer treated the two businesses as one and projected that both would decline in tandem for ten consecutive years.

⁴³ Valuer's Report at para 1.27; Valuer's Supplementary Report at para 1.17.

Parties' case

58 The Suit 1158 Plaintiffs submit that the Valuer ought to have segmented MMSCPL's sales into department store sales and supermarket sales because according to them, these two segments of MMSCPL's business behaved differently. In support of this submission, they rely on Exhibit JN-132 to the Valuer's Report. Exhibit JN-132 was a spreadsheet prepared by MMSCPL's management reporting department store sales and supermarket sales separately: the Suit 1158 Plaintiffs argue that this document shows that Segmental Analysis was possible.⁴⁴

59 The Suit 780 Plaintiffs likewise submit that the Valuer committed a manifest error in failing to conduct the Segmental Analysis. The Suit 780 Plaintiffs claim that the Valuer himself considered a Segmental Analysis to be necessary, but did not perform one only because he lacked the necessary breakdown of MMSCPL's revenue. According to the Suit 780 Plaintiffs, the Valuer should have recognised that there *was* a breakdown of sales available, as evidenced by Exhibit JN-132, and he should have exercised his powers under paragraph 6 of Annex A of the Buyout Order to compel Mustaq to produce a breakdown of MMSCPL's sales by department.⁴⁵

60 The Plaintiffs also cite the Valuer's decision not to investigate Exhibit JN-132, and his acceptance of Mustaq's explanation for Exhibit JN-132, as grounds for apparent bias. In this connection, they make the following arguments:

⁴⁴ Suit 1158 WS at paras 31–44.

⁴⁵ Suit 780 WS at paras 185–200.

(a) First, the Plaintiffs argue that although Exhibit JN-132 demonstrates the possibility that MMSCPL has documents evidencing the segmentation of its sales by department, the Valuer refused to investigate this possibility and simply accepted Mustaq's assertion that such documents did not exist.⁴⁶ The Plaintiffs contend that the Valuer's refusal to interview Mustaq or to apply to Court for documents to be disclosed, as well as his acceptance of the Respondents' bare denials, constitute conduct which would lead a fair-minded and informed observer reasonably to suspect that he had prematurely closed his mind to the matter.⁴⁷

(b) Second, the Plaintiffs claim that although there was a discrepancy of about \$388.6m between the aggregate sales figures recorded in Exhibit JN-132 and the figures in MMSCPL's audited financial statements, the Valuer declined to investigate the source of this discrepancy and again chose to accept the Respondents' bare assertions. According to the Plaintiffs, this refusal to investigate a circumstance which so plainly called for investigation would also lead a fair-minded and informed observer reasonably to suspect that he had closed his mind to the possibility of further wrongdoing affecting the valuation.⁴⁸

61 For their part, the Respondents highlight that the Valuer relied on MMSCPL's audited financial statements for his valuation; and in doing so, he had explained his reasons for refusing to rely on Exhibit JN-132, and had also responded directly to the Plaintiffs' submissions on this issue in his

⁴⁶ Suit 1158 WS at paras 368–374; Suit 780 WS at paras 259 and 259(c).

⁴⁷ Suit 1158 WS at para 378.

⁴⁸ Suit 1158 WS at paras 379–388; Suit 780 WS at paras 261–268

Supplementary Report. The Respondents submit that it was within the Valuer’s professional judgment and discretion not to rely on the Exhibit JN-132 spreadsheet;⁴⁹ that his decision not to rely on Exhibit JN-132 was sound because Exhibit JN-132 was not a reliable source of information on MMSCPL’s revenue; and that in any event, a Segmental Analysis would be required only for a “multibusiness company”, which MMSCPL is *not*.⁵⁰

62 As for the Plaintiffs’ argument that the Valuer’s failure to investigate a breakdown of sales by department demonstrated apparent bias, the Respondents point out that even assuming apparent bias is the test, it is insufficient for the Plaintiffs simply to show that the Valuer made a decision adverse to them; it is the reasons behind the Valuer’s decision that are critical in an inquiry into apparent bias.⁵¹ If multiple adverse rulings which are “clearly and inescapably wrong” are made against a party, it *may* give rise to a finding of apparent bias – but this threshold was not met in the present case.⁵² In any event, the Valuer did consider the issue of whether a Segmental Analysis should be conducted and came to his conclusion based on the evidence before him – not because of any alleged bias;⁵³ to ask the Valuer to investigate further would be to require him to act in the interests of the Plaintiffs by conducting investigations on their behalf.⁵⁴

⁴⁹ RWS at paras 82–88.

⁵⁰ RWS at paras 89–90.

⁵¹ RWS at paras 284–287.

⁵² RWS at paras 288–290.

⁵³ RWS at paras 291–293.

⁵⁴ RWS at para 294.

My findings

63 Having considered parties’ submissions and the evidence available, I find that the Valuer’s decision not to conduct a Segmental Analysis did not amount to a manifest error. The Plaintiffs do not – indeed, cannot – dispute that the Valuer *did* consider the possibility of conducting a Segmental Analysis. Ultimately, he chose not to because of a “lack of reliable information”.⁵⁵ I agree with the Respondents that this was a decision as to the appropriate valuation methodology to be adopted, which fell squarely within his professional judgment and discretion. Even assuming *arguendo* that the Plaintiffs are correct in postulating that a Segmental Analysis was relevant, case law has clearly established that a failure to take into account relevant considerations *does not* amount to a manifest error (see [32] above).

64 In the EY 1st Report, Mr Toh states that “a segmented approach to analysis and valuation yields a *more precise* assessment of overall value”.⁵⁶ Mr Toh states that the Valuer erred in finding that both MMSCPL’s departmental store sales and the supermarket sales would have declined, because in fact, MMSCPL’s supermarket store sales showed an increase. However, Mr Toh’s assertion *presumes* that one accepts Exhibit JN-132. In this connection, Mr Toh asserts that Exhibit JN-132 “provided a reasonable basis for estimating the split between the Department Store Sales and Supermarket Sales” and that “[a]ssumptions *can* be made to address [the difference between the data in Exhibit JN-132 and the audited financial statements]”.⁵⁷

⁵⁵ Valuer’s Report at para 5.8.

⁵⁶ EY 1st Report at para 4.2.4.

⁵⁷ EY 1st Report at paras 4.2.15–4.2.16.

65 What the EY 1st Report shows, therefore, is that there is a difference of professional opinion between Mr Toh and the Valuer on the use to be made of Exhibit JN-132: it shows that Mr Toh would have treated the data in Exhibit JN-132 differently. However, this is not enough to show a manifest error by the Valuer. Mr Toh claims that he would have adopted a different approach and made certain assumptions to reconcile the discrepancy between Exhibit JN-132 and the audited financial statements. He also claims that his approach would have led to a “*more precise*” valuation of MMSCPL. All that may well be true – but the crux of the matter is that nothing Mr Toh has said establishes that the Valuer’s approach was one which no reasonable valuer could honestly arrive at.

66 In fact, as the Respondents have pointed out, far from ignoring the alleged discrepancy between Exhibit JN-132 and the audited financial statements, the Valuer expressly applied his mind to it; and his conclusion was that he had “not been able to reconcile [the data in Exhibit JN-132] to MMSCPL’s audited financial statements”.⁵⁸ The upshot was that he preferred to rely on the audited financial statements. He also accepted Mustaq’s explanation that Exhibit JN-132 was prepared for the purpose of determining sales incentives to be paid to employees rather than to track MMSCPL’s actual sales.⁵⁹ The assessment of the reliability of documents presented to him – and consequently, his decision to prefer the audited financial statements over an internal company document – were decisions falling within his professional judgment. In other words, these were decisions which could not be said to “admit of no difference in opinion”. In this connection, I note that the Valuer

⁵⁸ Valuer’s Report at footnote 45 to para 3.15.

⁵⁹ *Ibid.*

himself expressly explained his approach towards the documents and representations received from parties:⁶⁰

2.18 Where the Parties have provided me with documents and explanations relevant to my assessment, I have generally accepted these to be reliable unless there is a clear reason not to. Where the Parties have provided conflicting explanations, *I have exercised my judgment in deciding which explanation to accept*, and indicated this clearly in the relevant passage.

2.19 The Plaintiffs have urged me on several occasions to disregard explanations of the Defendants. ... However, I consider that *the explanations offered to me by the Defendants have been consistent with the documents and other evidence I have seen*, and have therefore given weight to explanations offered by the Defendants as well as those offered by the Plaintiffs.

[emphasis added in italics]

67 To be clear, I do not accept the Plaintiffs’ attempt to discredit the audited financial statements in entirety simply on the basis that the AD had found the audited financial statements to be incomplete and inaccurate *in relation to the “Credit Sales Register”* (ie, a handwritten ledger kept by MMSCPL containing records of sales made on credit terms to long-time customers of MMSCPL) (see *Mustaq Ahmad (AD)* at [283]). The AD’s observations were clearly confined to a specific portion of the audited financial statements; and their observations in this regard cannot be read so broadly as to impugn the reliability of the audited financial statements in entirety. Furthermore, the Buyout Order only required the Valuer to take into account the effects of the oppressive acts that were found by the court to have been committed.⁶¹

68 For the reasons explained, therefore, I find that the Valuer’s decision not to conduct a Segmental Analysis, and his refusal to rely on Exhibit JN-132, were

⁶⁰ Valuer’s Report at paras 2.18–2.19.

⁶¹ Paragraphs 2–3 of Annex A to JUD 590.

grounded in his assessment of the reliability of the available data. Mr Toh's preference for a different analytical approach, which the Plaintiffs rely on, discloses no more than a difference in professional opinion: it does not demonstrate a manifest error.

69 For the same reasons, the Valuer's reasoned approach does not support an inference of apparent bias. The Buyout Order expressly conferred discretion on the Valuer to determine the appropriate valuation methodology⁶² and to draw appropriate inferences from the sources of information before him.⁶³ In considering Exhibit JN-132 and in declining to rely on it or to conduct further investigations, the Valuer was expressly acting within his mandate: no fair-minded and well-informed observer would have a reasonable suspicion or apprehension of bias.

Issue 2: Reliance on a five-year period of historical revenues

70 The second of the Plaintiffs' complaints concerns the fact that the Valuer based his 10-year Declining Revenue Forecast on MMSCPL's revenue trend in the five-year period from Financial Year ("FY") 2015–2019.

Parties' case

71 The Suit 1158 Plaintiffs submit that based on valuation literature, this five-year period is too short and not truly representative of MMSCPL's revenue growth. At the very least, according to them, a ten-year period ought to have

⁶² Paragraph 4 of Annex A of JUD 590.

⁶³ Paragraph 5 of Annex A of JUD 590.

been considered.⁶⁴ In similar vein, the Suit 780 Plaintiffs submit that “[i]f the timeframe was widened to 10 years, this would give a more accurate picture”.⁶⁵

72 The Suit 780 Plaintiffs also contend that the Valuer “gives no reason for analysing the historical trend from FY2012 which recorded the highest revenue over the past 20 years”, which would invariably lead to a downward trajectory.⁶⁶ According to them, this shows that the Valuer had already decided on the 10-year Declining Revenue Forecast regardless of what was presented to him, and that a fair-minded observer would reasonably suspect that his decision was influenced by “anchoring bias”.⁶⁷

73 In response, the Respondents point out that the decision on the period of historical revenue to be considered is a decision falling within the Valuer’s professional judgment.⁶⁸ Further, Mr Reid notes in the BT report that contrary to Mr Toh’s suggestion that FY2012 was an “arbitrary” starting point, the Valuer was clearly accounting for MMSCPL’s performance over a ten-year period prior to the Valuation Date of 16 August 2021.⁶⁹ The Valuer also explained his basis for selecting the five-year period of FY2015 to FY2019.⁷⁰ Contrary to the Plaintiffs’ submissions, the Valuer’s approach was consistent with valuation literature: Mr Reid highlighted, for example, that in the text cited by Mr Toh, the passage preceding the extract relied on by Mr Toh actually stated that the most commonly used period was five years (although this should not be

⁶⁴ Suit 1158 WS at paras 45–55.

⁶⁵ Suit 780 WS at para 78.

⁶⁶ Suit 780 WS at para 256.

⁶⁷ Suit 780 WS at para 255.

⁶⁸ RWS at para 111.

⁶⁹ RWS at para 114.

⁷⁰ RWS at para 115

used as a rote number of years), and that conceptually, the relevant period covers the most recent period of time immediately prior to the valuation date during which the statements represented the company's general state of operations.⁷¹

My findings

74 Having considered parties' submissions and the evidence available, I find that the Valuer's decision to use the FY2015–2019 period as the basis for the 10-year Declining Revenue Forecast does not amount to a manifest error. First, as Mr Reid pointed out, the decision to begin the analysis of historical revenues from FY2012 was clearly *not* an arbitrary one: the Valuer chose a starting point of ten years prior to the Valuation Date – which Mr Toh himself recognises as a standard period used within the industry for analysis.⁷²

75 The Valuer has further explained how he segmented MMSCPL's historical revenue (starting from ten years ago, *ie*, FY2012) into three periods:⁷³

- (a) A period of initial decline of 11% from FY2012 to FY2015;
- (b) A period of more gradual decline of 3% from FY2015 to FY2019;
- (c) A significant decline of 36% from FY2019 to FY2021.

76 In his analysis, the Valuer proceeded to exclude (c), *ie* FY2019–2021, because this period coincided with the COVID-19 pandemic and would not be

⁷¹ RWS at paras 117–118.

⁷² EY 1st Report at para 4.3.8.

⁷³ Valuer's Report at para 5.10.

an accurate representation of MMSCPL’s forecasted revenue growth.⁷⁴ As between (a) and (b), the Valuer eventually adopted the more gradual decline of the period immediately preceding the COVID-19 pandemic. It should be noted that his adoption of the more gradual decline of 3% was more favourable to the Plaintiffs than the adoption of the 11% decline would have been. As he explained:⁷⁵

This is mainly because I have not seen any evidence that MMSCPL expected, as at August 2021, to implement changes to its business that would have stopped or reversed the pre-pandemic trend of declining revenues, and am not aware of steps that MMSCPL could, in the [status-quo scenario], have taken that would on a risk-adjusted basis, have been likely to improve its position. ...

77 The Valuer also explained that MMSCPL’s decline corresponded with the “emergence of online retail and decentralisation of retail stores”.⁷⁶ While Mr Toh has suggested in the EY 1st Report that the Valuer ought to have taken a longer historical period,⁷⁷ the Valuer’s decision not to do so does not amount to a manifest error. It is clear that there is reasonable basis for a difference in opinion here, since going *too far* back in time for the analysis would equally result in an inaccurate representation of MMSCPL’s growth as at the Valuation Date. For example, taking MMSCPL’s historical revenues in the period of FY2007–2017 would not have sufficiently accounted for the Valuer’s explanation that the decline in MMSCPL’s revenue corresponded with the emergence of online retail. In this connection, I agree with Mr Reid that Mr Toh’s analysis of MMSCPL’s performance from FY2000 to FY2021 (*ie*, a 21-year period) “would introduce various internal and external factors, and

⁷⁴ Valuer’s Report at para 5.19(1).

⁷⁵ Valuer’s Report at para 5.19(1).

⁷⁶ Valuer’s Report at para 5.19(1)(a).

⁷⁷ EY 1st Report at paras 4.3.6–4.3.13.

market condition influences which may have no relevance to the performance and prospects of MMSCPL as at Valuation Date”.⁷⁸ In short, the Valuer’s selection of FY2015–2019 was a reasoned methodological choice; and Mr Toh’s preference for a longer period again discloses at most a difference in professional opinion.

78 Having regard to the reasons set out above, I also do not find that a fair-minded observer would conclude that the Valuer had already predetermined the 10-year Declining Revenue Forecast regardless of what was presented to him.

Issue 3: The market approach as a cross-check

79 The third of the Plaintiffs’ complaints relates to the Valuer’s use of the “market approach” as a cross-check (“Market Approach Cross-Check”) against his adopted “Discounted Cash Flow” method in valuing MMSCPL. As the Valuer has explained, the Market Approach Cross-Check “relies heavily on the identification of companies that share similar economically-relevant characteristics to the company being valued”.⁷⁹

Parties’ case

80 The Suit 1158 Plaintiffs contend that the cross-check was performed erroneously by the Valuer such that it did not allow for a meaningful and independent test of the primary valuation.⁸⁰ In particular, the Suit 1158 Plaintiffs contend that the Valuer erred in selecting only “V-Mart Retail Limited” (“V-Mart”) – a company trading in India – as the sole comparable.

⁷⁸ BT Report at para 89.

⁷⁹ Valuer’s Report at para 2.34.

⁸⁰ Suit 1158 WS at paras 77–100.

81 As for the Suit 780 Plaintiffs, they too claim that the selection of V-Mart was “baseless”,⁸¹ and moreover, that the Valuer was internally inconsistent in doing so because for the analysis on directors’ fees, he had chosen three other entities – Isetan, Metro and Sheng Siong – as comparables.⁸² According to the Suit 780 Plaintiffs, this was a manifest error. As for the argument of apparent bias, according to the Suit 780 Plaintiffs, the Valuer’s reliance on a single comparable competitor in the Market Approach Cross-Check constituted non-compliance with the IVS,⁸³ and “[t]he *only explanation* for such non-compliance must be because the Valuer wanted “to support his conclusion to undervalue MMSCPL”.⁸⁴ Further, the selection of V-Mart as the sole comparator led to a significant discrepancy in the “Discounted Cash Flow” valuation, which should have prompted the Valuer to re-examine his decision – but he chose to dismiss it, thereby failing to act in accordance with the Buyout Order to determine a “fair value”.⁸⁵

82 The Respondents, on the other hand, submit that the adoption of the “Pandemic-Harmed Criterion” was a reasonable and justified one.⁸⁶ As for the argument of apparent bias, the Respondents point out that the Plaintiffs’ allegation of a “downward bias” is inaccurate, since the sole comparable chosen – V-Mart – had the highest multiple as compared to Metro and Sheng Siong (which were not used as comparables).⁸⁷ More fundamentally, the Valuer

⁸¹ Suit 780 WS at paras 103–111.

⁸² Suit 780 WS at paras 97–102.

⁸³ Suit 780 WS at para 257(a).

⁸⁴ Suit 780 WS at para 258.

⁸⁵ Suit 780 WS at paras 107 and 111.

⁸⁶ RWS at paras 151–152.

⁸⁷ RWS at para 156.

explained in detail his reasons for the process adopted.⁸⁸ The Plaintiffs’ true complaint is that the Valuer ought to have widened his screening criteria, but that is a matter falling within his professional judgment and the discretion given to him to determine the scope of his work.⁸⁹

My findings

83 Having considered parties’ submissions and the evidence available, I find no manifest error in the Valuer’s approach. I agree with the Respondents that the Plaintiffs are simply dissatisfied with the manner in which the Valuer conducted the Market Approach Cross-Check. In my view, the Valuer has adequately explained his approach in Appendix 5 and Appendix 6 of the Valuer’s Report:⁹⁰ in gist, he explained that the Market Approach Cross-Check was meant to be *only* a “high-level” cross-check as he took the view that this approach was less reliable; and he also explained his basis for identifying V-Mart as a comparable. To illustrate, I reproduce below one of the relevant portions of the Valuer’s Report:⁹¹

2.35 In applying the market approach to value MMSCPL, I considered whether potentially comparable companies which operate department store and hypermarket businesses have the same economic characteristics as MMSCPL which, in summary:

- (1) retailed merchandise from a single location;
- (2) sold merchandise catered towards budget conscious customers;
- (3) was based in Singapore (or a country that had a similar response to the Covid-19 pandemic); and

⁸⁸ RWS at para 157.

⁸⁹ RWS at paras 158–161.

⁹⁰ Valuer’s Report at pp 255–269.

⁹¹ Valuer’s Report at p 27.

(4) had no online retail business and did not operate an online shopping platform.

2.36 I am not able to identify any companies that share all four of MMSCPL’s key economic characteristics. *On this basis, I consider the market approach to be less reliable. I therefore rely on it only as a high-level (directional) cross check to other valuation approaches.*

2.37 Notwithstanding this, I have identified four companies which meet two of the four economic characteristics and which, like MMSCPL, experienced a material decline in their earnings before interest, taxes, depreciation and amortisation expenses (“EBITDA”) after the onset of the Covid-19 pandemic. *However, I only have sufficient information to assess how the multiples of one company (V-Mart Retail Limited, or “V-Mart”) can be used as a directional cross check to the multiples implied by my valuation of MMSCPL. I also consider V-mart to be sufficiently comparable to MMSCPL, on the basis that both V-Mart and MMSCPL:*

- (1) were negatively affected by the Covid-19 pandemic;
- (2) operate a hypermarket business; and
- (3) target similar clientele with their value proposition.

[emphasis added in italics]

84 Looking at the Valuer’s explanation, it is clear to me that his choice of V-Mart as a comparable was a reasoned one; and I reject the suggestion that he made this choice only to “support his conclusion to undervalue MMSCPL”. The Valuer was clear that there was a set of key economic characteristics that formed the basis of his comparison; and while he acknowledged that there were other *possible* comparables and even reviewed 23 potentially comparable companies,⁹² he only had sufficient information about V-Mart. In short, the decision not to use those other possible comparables was an exercise of his professional judgment. The Plaintiffs’ attempt to label it as a “manifest error” is no more than a guise for their disagreement with the *manner* in which he exercised his professional judgement.

⁹² Valuer’s Report at para A6.9.

85 As for the Suit 780 Plaintiffs’ argument of apparent bias, this too is devoid of merit. To begin with, there is no evidence that the Valuer’s use of a sole comparable amounted to non-compliance with the IVS. Despite Mr Toh’s various assertions that this was “not in line” with the IVS, he failed to explain precisely how it constituted a breach of, or non-compliance with, the IVS. On the contrary, as Mr Reid pointed out (citing *verbatim* the relevant portions of the IVS), the IVS only stated that the use of multiple comparables was the “preferred” approach (or the approach “often” used).⁹³ In this connection, given that the market approach was used by the Valuer only as a high-level cross-check and that he explained in detail the reasons for his selection of V-Mart as the sole comparable, I am satisfied that there was no apparent bias in his approach. As for his decision not to investigate the alleged discrepancy in the “Discounted Cash Flow” valuation, I similarly do not find any apparent bias or excess of mandate, given that the Valuer had already expressly explained his reservations about the reliability of the Market Approach Cross-Check (see [83] above).

Issue 4: Closure of Serangoon Plaza

86 The fourth of the Plaintiff’s complaints relates to the closure of Serangoon Plaza. Prior to February 2017, MMSCPL had operated at two premises; one at 151 Syed Alwi Road (“Mustafa Centre”) and one within Serangoon Plaza. Serangoon Plaza was acquired through a collective sale, and MMSCPL accordingly ceased operations at Serangoon Plaza in early February 2017. The closure of Serangoon Plaza in 2017 fell within the period of FY2015–2019 which the Valuer used as the basis for the 10-year Declining Revenue Forecast (see Issue 2 above). The Valuer accepted that in principle, the

⁹³ BT Report at paras 167–172.

effects of non-recurring or extraordinary events should be excluded in projecting MMSCPL's revenue growth. However, he found that there was "no discernible impact of non-recurring or extraordinary events (including the closure of Serangoon Plaza) on MMSCPL's revenues in FY2015–2019 (on which [he relied on] to inform [his] revenue projections)".⁹⁴

Parties' case

87 The Plaintiffs take the position that the closure of Serangoon Plaza had a discernible effect on MMSCPL's revenue. On their case, the Valuer's use of FY2015–2019 – which includes the closure of Serangoon Plaza – as the basis for the 10-year Declining Revenue Forecast was a manifest error.⁹⁵ They also rely on the failure to account for the closure of Serangoon Plaza as a manifest error in itself. In this respect, they make the following arguments:

- (a) The Valuer did not appear to be aware of the closure of Serangoon Plaza until the Suit 1158 Plaintiffs raised it;⁹⁶
- (b) The Valuer assumed, without any investigation, that the goods from Serangoon Plaza were moved to Mustafa Centre;⁹⁷
- (c) In concluding that the goods from Serangoon Plaza were moved to Mustafa Centre, the Valuer relied on a newspaper article. That same article had mentioned "downsizing" and a hiring freeze, but these matters were not considered by the Valuer;⁹⁸

⁹⁴ Valuer's Report at paras 5.32–5.37.

⁹⁵ Suit 1158 WS at paras 56–57; Suit 780 WS at paras 79 and 159–184.

⁹⁶ Suit 1158 WS at paras 132–134.

⁹⁷ Suit 1158 WS at paras 135–138.

⁹⁸ Suit 1158 WS at paras 139–140.

(d) In any event, the movement of goods does not explain whether the revenue generated from those goods survived the transfer. If MMSCPL was able to generate the same revenue from one store as it had from two, it would mean that the operation of the store at Serangoon Plaza had been redundant, and that could not be the case;⁹⁹

(e) The Valuer could have, but failed to, obtain evidence of the actual sales at Serangoon Plaza. He then compounded his error by relying on a trend that incorporated this one-off, non-recurring event to determine the 10-year Declining Revenue Forecast;¹⁰⁰

(f) The Valuer relied on MMSCPL’s average monthly revenue per square foot as a metric, but that metric does not account for a drop in total revenue generated and/or fluctuations in revenue across months;¹⁰¹ and

(g) MMSCPL’s “Third Party Sales” (*ie*, total sales less sales to Related Parties) reflect revenue generated by external customers walking into the retail space. MMSCPL recorded two consecutive years of Third Party Sales growth in the years immediately before the closure of Serangoon Plaza. Following the closure, Third Party Sales declined by 5.9%. A negative impact on sales was clearly evident from this analysis. Moreover, between FY2000 and FY2019, the longest run of consecutive decline in Third Party Sales was three years, from FY2017–

⁹⁹ Suit 1158 WS at paras 141–146.

¹⁰⁰ Suit 1158 WS at paras 147–149.

¹⁰¹ Suit 1158 WS at paras 150–152.

FY2019. Despite all this evidence, the Valuer had projected ten years of continuous decline in revenue.¹⁰²

88 In addition to arguing that the above matters pointed to manifest error, the Plaintiffs contend that there was apparent bias in the Valuer's finding that goods from Serangoon Plaza were transferred to Mustafa Centre following the closure of the former. According to the Suit 1158 Plaintiffs, the Valuer failed to conduct investigations before making this finding: he merely relied on a news article, which he had found, to make assumptions favouring the Respondents.¹⁰³ The Suit 780 Plaintiffs too claim that the Valuer's finding was made "without any real evidential basis"¹⁰⁴ and that he had already decided on the 10-year Declining Revenue Forecast regardless of what was presented to him.¹⁰⁵ The Suit 780 Plaintiffs further contend that assuming the closure of Serangoon Plaza had a discernible effect, the Valuer's failure to exclude it was contrary to the IVS.¹⁰⁶ This is one of the Suit 780 Plaintiffs' main arguments in relation to the Bias Ground: namely, that the only explanation as to why the Valuer failed to comply with "recognised standards" was because he had already decided to make a finding favourable to the Respondents.

89 For their part, the Respondents highlight that the Valuer did not reach the conclusion that the closure of Serangoon Plaza had no discernible effect solely on the basis that goods from Serangoon Plaza were moved to Mustafa Centre: in fact, he arrived at this conclusion after an analysis of MMSCPL's

¹⁰² Suit 1158 WS at paras 153–158.

¹⁰³ Suit 1158 WS at paras 404–411.

¹⁰⁴ Suit 780 WS at para 254(a).

¹⁰⁵ Suit 780 WS at para 255.

¹⁰⁶ Suit 780 WS at para 254(a).

revenue trends before and after the closure of Serangoon Plaza.¹⁰⁷ In any event, the Valuer's finding that MMSCPL had moved the goods from Serangoon Plaza to Mustafa Centre was backed by contemporaneous press articles.¹⁰⁸ There was no obligation on the Valuer to interview Ayaz or Fayyaz. Indeed, there was no need to do so, as he had already conducted a detailed and technical analysis of MMSCPL's revenue before and after the closure of Serangoon Plaza; and this would be preferred over any anecdotal evidence that Ayaz or Fayyaz might give.¹⁰⁹

90 For the same reasons, the Respondents also submit that there is no apparent bias in the Valuer's decision not to conduct investigations into whether goods were actually relocated from Serangoon Plaza to Mustafa Centre. The evidence shows that the Valuer *did* consider parties' submissions before coming to a decision; and the Plaintiffs are merely dissatisfied that his decision was unfavourable to them.¹¹⁰

91 As for the Plaintiffs' submission that the Valuer erred in using revenue per square foot as a metric, the Respondents highlight that the Valuer did not only rely on this metric. In any event, failure to consider other factors and/or other evidence (such as other metrics) does not amount to a manifest error.¹¹¹

¹⁰⁷ RWS at para 95.

¹⁰⁸ RWS at para 96.

¹⁰⁹ RWS at paras 97–98.

¹¹⁰ RWS at paras 307–308.

¹¹¹ RWS at paras 100–102.

My findings

92 Having considered parties' submissions and the evidence available, I am satisfied that in concluding that the closure of Serangoon Plaza had no discernible impact on MMSCPL's revenue, the Valuer did not commit a manifest error.

93 First, as the Respondents have pointed out, the Valuer *did* consider in detail the issue of whether the closure of Serangoon Plaza had a discernible impact on MMSCPL's revenue; and he explained his reasons for disagreeing with the Plaintiffs' contention that there must have been such an impact.¹¹² In gist, the Valuer examined MMSCPL's average monthly revenue per square foot, which showed that both *before* the closure and *after* the closure of Serangoon Plaza, MMSCPL's average monthly revenue per square foot was on a downward trend similar to its overall downward trend in revenue. There was a spike in monthly revenue per square foot when Serangoon Plaza was closed which was "largely attributable to the reduction in MMSCPL's physical retail space and diversion of sales that were previously taking place at Serangoon Plaza to the remaining MMSCPL retail space"¹¹³ – but discounting this spike, the overall trend continued to show a downward trend. The point, therefore, is that the closure of Serangoon Plaza had no discernible effect and this was why he did not have to account for it in determining the 10-year Declining Revenue Forecast.¹¹⁴

94 In this connection, I note that the Suit 1158 Plaintiffs have argued that the Valuer's reasoning is circular, because (according to them) he assumed that

¹¹² Valuer's Report at paras 5.33–5.39.

¹¹³ Valuer's Report at para 5.35.

¹¹⁴ Valuer's Report at para 5.36.

the decline in revenue *after* the closure of Serangoon Plaza was not attributable to the closure.¹¹⁵ I find this argument to be without merit. The entire point of the Valuer's analysis was to determine whether the decline in revenue was attributable to the closure of Serangoon Plaza. He was able to point to MMSCPL's average monthly revenue per square foot for the periods *before* and *after* the closure of Serangoon Plaza for evidence in support of his conclusion that the closure had no discernible impact on MMSCPL's revenue. I see no basis for saying that he committed an error in reaching this conclusion – much less an error that “admits of no difference in opinion”.

95 As for the Plaintiffs' argument that the Valuer failed to consider other matters such as the records of Third Party Sales, even taking their case at its highest and even assuming that these other matters were relevant, it is clear from the authorities that the failure to take into account relevant considerations is not a manifest error (see [32] above). Similarly, even if the Valuer was wrong to use monthly revenue per square foot as the metric, taking into account an irrelevant consideration is not a manifest error (see [32] above).

96 I add that the Valuer's decision to use the revenue per square foot metric appears to have been motivated by what he perceived to be the Plaintiffs' assumption that “as a result of the closure of Serangoon Plaza, MMSCPL lost revenues in proportion to the retail area of Serangoon Plaza compared to MMSCPL's total retail area.”¹¹⁶ In other words, the Valuer was using a metric which directly addressed the Plaintiffs' submissions. In any event, the Valuer did not rely *only* on the revenue per square foot; he also relied on the evidence of the *consistent* decline in MMSCPL's revenue to conclude that there was no

¹¹⁵ Transcript of hearing (19 Aug 2026), p 9 (lines 3–24).

¹¹⁶ Valuer's Report at para 5.33

extraordinary event – besides COVID-19 – which had resulted in a sharp decline in revenue:¹¹⁷

The discussion above [*ie*, in relation to MMSCPL's monthly revenue per square foot before and after the closure of Serangoon Plaza] and at paragraph 5.10 (*ie*, the analysis of historical revenues from FY2012–2021) also suggests that there was no discernible impact of *other* extraordinary events on MMSCPL's revenue. In particular, *MMSCPL's revenue declined consistently from FY2012 and there was no particular year in which MMSCPL generated materially lower or higher revenue*. I also have not seen information, such as discussions in MMSCPL's financial statements, suggesting that there were extraordinary events that affected MMSCPL's revenue.

[emphasis added in italics]

97 As for the Valuer's finding that goods were moved from Serangoon Plaza to Mustafa Centre, I agree with the Respondents that the Valuer was entitled to make such a finding based on the contemporaneous press articles. To reiterate, the Buyout Order gave the Valuer wide discretion to draw reasonable inferences and to determine whether further investigation was required in any instance.¹¹⁸ As I observed earlier, the Plaintiffs cannot be in any doubt on this point, since the issue of the Valuer's discretion was expressly clarified by me at the hearing on 7 August 2023 (see [46] above).

98 In light of the above findings, I am also satisfied that the Valuer's decision not to obtain evidence on actual sales at Serangoon Plaza or to conduct further investigations was neither a manifest error nor a manifestation of apparent bias. Indeed, in his Report, the Valuer made it clear that he had considered the Suit 780 Plaintiffs' request for him to apply to court for

¹¹⁷ Valuer's Report at para 5.38.

¹¹⁸ Paragraph 6 of Annex A to JUD 590.

directions to compel the disclosure of various documents by the Respondents; and he explained his reasons for not doing so:¹¹⁹

The Suit 780 Plaintiffs have asked that I apply to court for directions to compel the Defendants to disclose documents showing the sales of MMSCPL by department, including in respect of Serangoon Plaza. I explain in my letter to Parties dated 5 February 2024 that I have not done so because I do not consider that documents relevant to my valuation have been withheld from me. In particular: (1) the Defendants' position is that there are no documents showing the breakdown of MMSCPL's sales by department, including of Serangoon Plaza; (2) although the Plaintiffs have provided documents which they consider show that a breakdown of MMSCPL's sales is available, the Defendants have explained that that is not the case. The Defendants' explanations are also consistent with the available documents; and (3) I have not seen information or documents suggesting that sales records of MMSCPL by department are available.

99 As the Valuer's conclusion that the closure of Serangoon Plaza had no discernible impact on MMSCPL's revenue was clearly based on a reasoned examination of available financial data and metrics, it follows that there is also no basis for the Suit 780 Plaintiffs' argument that his failure to exclude the closure was contrary to the IVS.

Issue 5: Online retail

100 The fifth of the Plaintiffs' complaints concerns three inter-related findings by the Valuer, namely, that: (a) the industry-wide shift towards online retail was a cause of MMSCPL's declining revenue; (b) MMSCPL had no intention to diversify into online retail; and (c) even if MMSCPL did have an online platform, it might not necessarily reflect the highest and best use of its assets.

¹¹⁹ Valuer's Report at footnote 143 to para 5.33.

Issue 5(a): Effects on MMSCPL’s revenue of the industry-wide shift towards online retail

101 First, given the industry-wide shift to online retail, the Valuer opined that MMSCPL’s lack of an online retail platform would mean that “a higher rate of revenue decline than 3% per annum may be more reasonable and that [his] forecast of revenues is overly optimistic”.¹²⁰

Parties’ case

102 The Suit 1158 Plaintiffs submit that the Valuer was wrong to assume that the benefits of MMSCPL’s unique positioning would be offset by the shift towards online retailing. According to them, there is no evidence to suggest that the shift in consumer behaviour to online retailing would negatively affect MMSCPL’s sales. Further and in any event, the lack of an online platform is not so detrimental for MMSCPL’s business model;¹²¹ even without an online retail platform, it does not necessarily follow that MMSCPL’s revenues would decline – much less that it would decline for ten years consecutively. In similar vein, the Suit 780 Plaintiffs submit that there is no evidence to show that the absence of an online platform was harming (or would harm) MMSCPL’s business; and that on the contrary, available evidence suggested otherwise.¹²²

103 While both sets of Plaintiffs argue that the above matters show a manifest error in the Valuer’s reasoning, the Suit 780 Plaintiffs go further in arguing that there was also apparent bias in the Valuer’s finding that the decline in revenue was a result of the emergence of online retail and that MMSCPL would not remain competitive without an online sales platform. According to

¹²⁰ Valuer’s Report at para 5.20.

¹²¹ Suit 1158 WS at paras 58–65.

¹²² Suit 780 WS at para 233.

the Suit 780 Plaintiffs, the Valuer made this finding “without any basis”, which “shows [he] had already decided there would be a negative 3.3% real annual decline for 10 years regardless of what was presented to him” and was indicative of “anchoring bias”.¹²³

104 The Respondents, on the other hand, submit that the Valuer dealt with this issue in depth and that he provided explanations for his assumptions. Their point is that the Valuer, working with imperfect information, was acting well within his discretion to make the assumptions he did; and there was no manifest error or apparent bias.¹²⁴

My findings

105 Having considered parties’ submissions and the evidence available, I am satisfied that there was no manifest error in the Valuer’s findings as to the effects which the industry-wide shift towards online retail would have on MMSCPL’s revenue. In his Report, the Valuer expressly considered the Plaintiffs’ submissions and explained his decision for rejecting those submissions. Essentially, the Valuer had to make a judgment call. He explained the general trends in the retail industry in Singapore,¹²⁵ and noted that when this was “[c]onsidered in isolation, this means that retail businesses without an online retail platform (such as MMSCPL) may have poorer growth prospects”.¹²⁶ However, he was prepared to offset this factor against MMSCPL’s “unique positioning ... [which] may mean that the customers patronising the Mustafa

¹²³ Suit 780 WS at para 255.

¹²⁴ RWS at paras 121–129.

¹²⁵ Valuer’s Report at paras 3.19–3.31.

¹²⁶ Valuer’s Report at para 5.21.

Centre are less affected by industry-wide shifts towards online retail”.¹²⁷ The Valuer’s assumption that the two effects would offset each other was expressly stated to be premised on there being insufficient “information to quantify the likelihood of each of the scenarios above, or their impact on MMSCPL’s future revenues, precisely”.¹²⁸ These were matters falling within the Valuer’s professional judgment which could not be said to admit of no difference in opinion.

106 Having regard to the above reasons, I also reject the Suit 780 Plaintiffs’ characterisation of the Valuer’s decision as having “no basis at all”; and I find that their argument of apparent bias is without merit.

Issue 5(b): MMSCPL had no intention to diversify into online retail

107 Next, the Valuer found that as at the Valuation Date, MMSCPL had no intention to diversify into online retail.¹²⁹

Parties’ case

108 The Plaintiffs argue that in coming to the above conclusion, the Valuer committed a manifest error *and* demonstrated apparent bias.

109 The Suit 1158 Plaintiffs submit that MMSCPL had the necessary infrastructure to establish an online platform. They point to a mobile application for online shopping, “Mustafaonline”, which was developed by MMSCPL for online shopping and which was last updated on 7 October 2020 (as at March 2024). According to the Suit 1158 Plaintiffs, this shows that MMSCPL *did*

¹²⁷ Valuer’s Report at para 5.22.

¹²⁸ Valuer’s Report at para 5.23.

¹²⁹ Valuer’s Report at para 5.19(1)(b).

actively explore online retail before the Valuation Date, and that the possibility of online expansion was within MMSCPL's contemplation.¹³⁰ The Suit 1158 Plaintiffs also note that MMSCPL *did* launch an online platform in October 2025;¹³¹ and whilst they acknowledge that it post-dates the Valuer's reports, they argue that this launch, taken together with MMSCPL's earlier attempt in 2020, shows that the possibility of expansion into online retail was reasonably foreseeable prior to the Valuation Date.¹³² As such, according to the Suit 1158 Plaintiffs, the Valuer was in manifest error when he concluded that MMSCPL had no intention to diversify into online retail.

110 Both sets of Plaintiffs also submit that the Valuer was in manifest error in assuming that MMSCPL would take no action whatsoever to counteract the decline in its sales.¹³³ The Suit 780 Plaintiffs claim, for example, that it was “unrealistic” for the Valuer to “presume” that MMSCPL, as a going concern, would not take corrective action – such as diversifying into online retail – to arrest a sustained sales decline over a full decade.¹³⁴

111 In addition to arguing manifest error, both sets of Plaintiffs also claim that Valuer showed apparent bias. The Suit 1158 Plaintiffs claim that in concluding that MMSCPL had no intention to diversify into online retail, the Valuer only engaged with the Plaintiffs' material to the extent that it could be harmonised with the conclusion he had already reached, while accepting the Respondents' position largely at face value. *Per* the Suit 1158 Plaintiffs'

¹³⁰ Suit 1158 WS at paras 66–68 and 105–111.

¹³¹ Suit 1158 WS at paras 112 and 121.

¹³² Suit 1158 WS at para 122.

¹³³ Suit 1158 WS at paras 70–76.

¹³⁴ Suit 780 WS at para 82.

submissions, “an objective observer would reasonably conclude that the Valuer was not approaching the question with an open mind, but was instead seeking confirmation for a settled view.”¹³⁵

112 The Suit 780 Plaintiffs make somewhat similar arguments. For one, they claim that the Valuer’s conclusion that there were no plans for any intervention was influenced by his “anchoring bias”.¹³⁶ They also claim that despite the availability of objective evidence such as the mobile application “Mustafaonline”, the Valuer unquestioningly accepted Mustaq’s “lie” about MMSCPL having no plans to diversify into online retail.¹³⁷

113 For their part, the Respondents retort that the matters referenced by the Plaintiffs were expressly considered by the Valuer, who then had to exercise his professional judgment.¹³⁸ Noting that MMSCPL’s online platform was set up more than four years after the Valuation Date, the Respondents point out that this does not contradict the Valuer’s finding that *as at the Valuation Date*, MMSCPL had no intention to expand into online retail.¹³⁹ In any event, the fact that the online platform has underperformed significantly coheres with the Valuer’s opinion that even if MMSCPL had an online platform, this would not affect his projection of MMSCPL’s revenues.¹⁴⁰

114 As for the Plaintiffs’ claims of apparent bias, the Respondents reiterate that the Valuer’s decision was plainly made after due consideration of parties’

¹³⁵ Suit 1158 WS at paras 389–403.

¹³⁶ Suit 780 WS at para 254(c).

¹³⁷ Suit 780 WS at para 259(b).

¹³⁸ RWS at paras 130 and 132–135.

¹³⁹ RWS at para 136.

¹⁴⁰ RWS at para 137.

submissions, and the reasons for the decision were explained. In truth, the Plaintiffs are again simply dissatisfied that the decision went against them.¹⁴¹

My findings

115 I address first the Plaintiffs’ argument that the existence of the mobile application “Mustafaonline”, as well as the eventual launch of an online platform, show the Valuer to have been in manifest error in concluding that there was no intention to diversify. This is related to their argument that since diversification into online retail was one of the corrective actions that MMSCPL’s management could take to arrest the decline in revenue, the Valuer was also in manifest error in assuming – through the 10-year Declining Revenue Forecast – that MMSCPL would not take any corrective action.

116 Having reviewed parties’ submissions and the evidence before me, I find no merit in the Plaintiffs’ submissions of manifest error. The Valuer’s Report shows that he considered their submissions on the mobile application and the eventual website launch; and that having considered these submissions, he nonetheless concluded that there were no plans to diversify into online retail.¹⁴² The Valuer’s Report also shows that this finding was based on his evaluation of the contemporaneous evidence available to him and the inferences he considered appropriate to draw. The evidence submitted by the Plaintiffs was circumstantial because it related to MMSCPL’s *attempt* to launch a mobile application and MMSCPL’s eventual launch of an online platform some *four* years after the Valuation Date (*ie*, some one-and-a-half years *after* the Valuer’s Report). The Plaintiffs wanted the Valuer to draw certain inferences from the circumstantial evidence of the 2020 mobile application, but he declined; and his

¹⁴¹ RWS at paras 304–306.

¹⁴² Valuer’s Report at para 5.18.

Report expressly sets out his reason for declining. In gist, he noted that the Respondents had explained that although MMSCPL “briefly explored” online retail following the onset of the Covid-19 pandemic, it eventually did not launch an online retail business and did not sell any products through the mobile application because various factors made it “not feasible” (including, for example, the impracticality of listing for sale online the “diverse range and massive quantities of products” sold by MMSCPL).¹⁴³ As the Valuer noted in his Report, therefore, the Respondents’ account was not inconsistent with the evidence of the mobile application.

117 At the end of the day, the Valuer was tasked to value MMSCPL *as at the Valuation Date*. As I have repeatedly pointed out, he was empowered to “carry out the Valuation based on all the information and documents provided and made available to him, and also based on his professional judgment, including the drawing of appropriate inferences where the circumstances warrant it”.¹⁴⁴ The fact that a different inference may be possible on the basis of the circumstantial evidence submitted by the Plaintiffs simply reveals, *at best*, that another professional – in this case, the Plaintiffs’ expert Mr Toh – may arrive at a different assessment of the evidence; it does not reveal an error *per se* by the Valuer, much less a manifest error. In any event, taking the Plaintiffs’ case at its highest, assuming MMSCPL’s intention to diversify into online retail was a relevant consideration and assuming the Valuer failed to take it into account, the failure to take into account relevant considerations does *not* amount to a manifest error: see [32] above.

¹⁴³ Valuer’s Report at para 5.18.

¹⁴⁴ Paragraph 4 of Annex A of JUD 590.

118 Having regard to the reasons explained, I also do not find any apparent bias in the Valuer’s decision to accept the Respondents’ explanations and to reject the inferences which the Plaintiffs sought to draw from the circumstantial evidence.

Issue 5(c): Even if MMSCPL had an online platform, it may not necessarily reflect the best use of its assets

119 Third, the Valuer reasoned that the shift to online retail would create more competition within the retail industry, but that even if MMSCPL took steps to launch an online platform, this would not necessarily reflect the highest and best use of its assets.

Parties’ case

120 The Suit 780 Plaintiffs take issue with the Valuer’s reasoning, claiming that his position is “internally inconsistent” and even “illogical”.¹⁴⁵ I understand this to be an argument about manifest error.

My findings

121 I find no merit in the above argument. Having read the Valuer’s Report, I understand his point to be, simply, that with the rise of online retail, MMSCPL was likely to face stiffer competition and, as a result, to lose market share. While MMSCPL might invest in setting up an online platform, the *profitability* of such an online platform was questionable.¹⁴⁶ As the Valuer observed in his Report:¹⁴⁷

To clarify, I consider that it would be difficult for MMSCPL to remain competitive without an online platform which could

¹⁴⁵ Suit 780 WS at paras 234–235 and 240.

¹⁴⁶ Valuer’s Report at paras 5.40–5.42.

¹⁴⁷ Valuer’s Report at para 5.40.

result in a decline in sales, but that does not mean that MMSCPL's sales would necessarily be higher with an online platform, or that if they were higher that this would be profitable for MMSCPL.

122 There was nothing obviously inconsistent or illogical about the above conclusion: it followed from the Valuer's assessment of MMSCPL's business model and target market that MMSCPL would be adversely affected by the *general* shift to online retailing, and that any remedial step (*eg*, setting up an online platform) was unlikely to prevent the decline. Again, the Valuer plainly exercised his professional judgement in arriving at this analysis; and the Suit 780 Plaintiffs have failed to persuade me that in doing so, he committed an error which "admits of no difference in opinion".

123 Having addressed the various criticisms of the Valuer's three inter-related findings, I should also make it clear that in so far as the Valuer arrived at the 10-year Declining Revenue Forecast without accounting for MMSCPL seeking to correct the decline by diversifying into online retail, this conclusion did not reveal any manifest error.

Issue 6: Overseas expansion

124 The sixth of the Plaintiffs' complaints concerns the Valuer's finding that MMSCPL had no plans for overseas expansion prior to or as at the Valuation Date. Following from this finding, the Valuer declined to consider any scenario involving MMSCPL's international expansion.

Parties' case

125 The Plaintiffs submit that the Valuer was in manifest error because contrary to his findings, MMSCPL did, as at the Valuation Date, have plans for

potential overseas expansion.¹⁴⁸ In particular, the Plaintiffs rely on the following matters:

(a) In November 2013, MMSCPL prepared an information memorandum which stated that under the right conditions, MMSCPL intended to expand its retail footprint to other countries in the region such as Malaysia, Indonesia and Bangladesh (“Nov-13 Info Memo”).¹⁴⁹

(b) In a Straits Times article on 27 January 2023, MMSCPL was reported to have expanded into Malaysia, by purchasing 591 retail units in Capital City Mall in Johor Bahru from Capital World Limited (“Capital World 2023 Press Release”). While the Plaintiffs acknowledge that this occurred after the Valuation Date and that they are not relying on this evidence directly, they claim that it would be “unrealistic to suppose that MMSCPL could have mobilised resources and structured an expansion of that magnitude within so short a span”: according to the Plaintiffs, “concrete plans must therefore have existed as at the Valuation Date”.¹⁵⁰

(c) MMSCPL has, in fact, established retail outlets overseas in Bintan, Penang and Sri Lanka.¹⁵¹ The fact that MMSCPL subsequently expanded into multiple overseas markets serves as evidence that overseas expansion was not speculative at the Valuation Date, but was foreseeable and should have been considered by the Valuer.¹⁵²

¹⁴⁸ Suit 1158 WS at para 177; Suit 780 WS at paras 86–94.

¹⁴⁹ Suit 1158 WS at paras 165–166; Suit 780 WS at para 86.

¹⁵⁰ Suit 1158 WS at paras 167–170; Suit 780 WS at paras 88–89 and 93.

¹⁵¹ Suit 1158 WS at para 171; Suit 780 WS at paras 90–92.

¹⁵² Suit 1158 WS at para 173.

(d) Regardless of the corporate name(s) under which these overseas retail expansions were conducted, they must in reality have been conducted by MMSCPL itself, since MMSCPL was the only entity within the group with experience and expertise in retail and wholesale operations.¹⁵³

126 Further, the Plaintiffs submit that since expanding overseas was one of the corrective actions which MMSCPL’s management was planning to undertake to arrest the decline in revenue, the Valuer was in manifest error in assuming – by way of his 10-year Declining Revenue Forecast – that no corrective action would be taken by MMSCPL to arrest the decline in its revenue.

127 In addition to manifest error, the Suit 1158 Plaintiffs argue that there was apparent bias. According to them, this is seen from the Valuer’s decision to rely on Mustaq’s bare assertion that there were no plans for overseas expansion as at the Valuation Date, and his failure to conduct further investigations, in spite of objective contemporaneous material contrary to Mustaq’s assertion.¹⁵⁴

128 For their part, the Respondents highlight that the Valuer did in fact consider the Nov-13 Info Memo and the Capital World 2023 Press Release – but he found that these were not indicative of any concrete plans for overseas expansion by MMSCPL.¹⁵⁵ The Respondents also submit that the Plaintiffs’ suggestion that MMSCPL must have had plans to expand overseas as at the Valuation Date is really premised on the fact that the company *actually* did so

¹⁵³ Suit 1158 WS at paras 174–176; Suit 780 WS at para 94.

¹⁵⁴ Suit 1158 WS at paras 415–420.

¹⁵⁵ RWS at paras 140–142.

after the Valuation Date. There was thus no manifest error in the Valuer’s refusal to draw such an inference in his Report. In any case, the Valuer did observe that even if there was a plan for overseas expansion, it would be difficult to ascribe a value to such expansion given the “unresolvable uncertainties”.¹⁵⁶ Again, the bottom-line is that the Valuer’s decision in declining to account for MSSCPL’s overseas expansion was an exercise of his professional judgment and the wide discretion bestowed on him by the Buyout Order.

My findings

129 Having considered parties’ submissions and the evidence before me, I agree with the Respondents. As they have pointed out, the Valuer gave cogent reasons for finding that *as at the Valuation Date*, MMSCPL had no plans for overseas expansion. These were as follows:

4.24 The Plaintiffs also submit (based on commentary within the Nov-13 Info Memo and news articles dated 27 January 2023) that as at the Valuation Date, MMSCPL was expected to expand to Johor, Malaysia and other overseas locations. Similar to my assessment of the [sale-and-relocation scenario], I have also not valued the prospect of MMSCPL expanding to Johor, Malaysia, or other overseas locations:

(1) *I have not been provided any evidence that any such expansion plans were in place prior to or as at the Valuation Date.* In particular:

(a) the Nov-13 Info Memo only mentions MMSCPL’s intention to expand to other countries in the region, “under the right conditions”. However, *I have not seen any evidence that these right conditions were, as at the Valuation Date (and amid the Covid-19 pandemic), expected to materialise in the future;*

(b) the news articles referenced by the Plaintiffs discuss MPL’s (not MMSCPL’s) acquisition of a retail store in Johor Bahru.

¹⁵⁶ RWS at paras 143–145.

Further, *they are dated more than a year after the Valuation Date*; and

(2) in a letter dated 23 May 2023, WongPartnership confirmed that MMSCPL had no plans to expand overseas as at the Valuation Date.

4.25 Moreover, if I were to attempt to ascribe value to the possibility of overseas expansion, I would similarly be faced with *unresolvable uncertainties as to the costs and revenues associated with such an expansion*.

[emphasis added in italics]

130 Here, as with the issue of MMSCPL’s diversification into online retail, the Plaintiffs are again asking the Valuer to draw certain inferences as to MMSCPL’s plans *as at the Valuation Date*, based on the overseas expansion subsequent to that date. As I have just noted, the Valuer gave cogent reasons for his refusal to draw such inferences. As I also noted earlier, the Buyout Order empowered the Valuer to conduct the Valuation “based on all the information and documents provided and made available to him, and also based on his professional judgment, including the drawing of appropriate inferences where the circumstances warrant it”.¹⁵⁷ The Valuer was thus acting well within the discretion given to him in declining to draw the inferences argued for by the Plaintiffs. That the Plaintiffs’ expert might find it reasonable to draw those inferences from the circumstantial evidence does not establish that the Valuer’s decision was therefore an “obvious” error admitting of “no difference in opinion”.

131 As there is no manifest error in the Valuer’s conclusion that MMSCPL had no concrete plans for overseas expansion as at the Valuation Date, it follows that there is no manifest error in his decision not to account for such corrective action in the 10-year Declining Revenue Forecast.

¹⁵⁷ Paragraph 4 of Annex A of JUD 590.

132 Further, given that the evidence before the Valuer was far from conclusive, I am satisfied that a fair-minded observer would *not* suspect bias just because the Valuer chose to accept Mustaq’s assertion as to the lack of expansion plans.

Issue 7: OrangeTee’s report

133 The seventh of the Plaintiffs’ complaints concerns the Valuer’s valuation of MMSCPL’s real properties. Real properties formed a substantial part of MMSCPL’s asset base. For present purposes, the material properties are those properties in respect of which the valuations are being challenged by the Plaintiffs; namely: (a) No 141 to 145 Syed Alwi Road; (b) Mustafa Centre; and (c) 8 Kallang Pudding Road (collectively, the “Properties”).

134 In arriving at the valuation of the Properties, the Valuer recognised that he was not a specialist in property valuation; and pursuant to the Buyout Order,¹⁵⁸ he chose to engage OrangeTee to advise him on the valuation of the Properties. The Plaintiffs decided to engage their own property valuation expert, Robert Khan & Co Pte Ltd (“RKCO”). They furnished RKCO’s valuation to the Valuer, and now challenge the Valuer’s decision to prefer OrangeTee’s valuation over RKCO’s valuation.

Parties’ case

135 The Suit 1158 Plaintiffs submit that the Valuer’s reliance on OrangeTee’s valuation gave rise to a manifest error because while he was entitled to receive advice from specialists, he was not permitted to delegate his discretion to determine the Purchase Price and yet, according to the Suit 1158

¹⁵⁸ Paragraph 5 of Annex A of JUD 590.

Plaintiffs, this was what he ended up doing. They cite the following matters as evidence in support of their argument:

(a) The Valuer considered whether OrangeTee’s valuation contained “manifest errors”, but failed to explain how he determined that it did not, despite having admitted his lack of expertise in real estate.¹⁵⁹

(b) When the Plaintiffs challenged OrangeTee’s valuation, the Valuer referred their challenges to OrangeTee itself, and then proceeded to accept OrangeTee’s explanation. There was no independent analysis conducted by the Valuer to explain why nearly all of OrangeTee’s views were preferred over RKCO’s views.¹⁶⁰

(c) The differences between OrangeTee’s and RKCO’s valuation were of a character that would be eye-catching even to a person who is not an expert, like the Valuer.¹⁶¹ *Inter alia* and in particular, according to the Plaintiffs, it should have been apparent to the Valuer that OrangeTee’s use of conservation shophouses as comparables to Mustafa Centre was a fundamental error.¹⁶²

(d) OrangeTee made several errors and were unable to detect basic errors in its own work. The Valuer should have recognised the doubtful reliability of OrangeTee’s valuation.¹⁶³

¹⁵⁹ Suit 1158 WS at paras 187–189.

¹⁶⁰ Suit 1158 WS at paras 194–199.

¹⁶¹ Suit 1158 WS at paras 200–201.

¹⁶² Transcript of hearing (18 Aug 2026), p 29 (line 31) to p 31 (line 29).

¹⁶³ Suit 1158 WS at paras 202–209.

(e) Having obtained OrangeTee’s valuation and having additionally been provided with RKCO’s valuation, the Valuer should have proceeded to obtain another valuation from a “third-party independent expert. He should also have obtained legal advice on whether the legal threshold of “manifest error” was met in relation to OrangeTee’s valuation.¹⁶⁴

(f) Instead of weighing the competing views, the Valuer characterised the differences between OrangeTee’s and RKCO’s valuation as “differences of professional judgment” without explaining how he arrived at that characterisation, and then proceeded to adopt OrangeTee’s valuation in place of his own determination.¹⁶⁵

136 I note that in so far as the Suit 780 Plaintiffs are concerned, they too contend that the Valuer’s reliance on OrangeTee’s valuation gave rise to a manifest error,¹⁶⁶ although their written submissions have focused primarily on the argument that such reliance amounted to an excess of mandate.¹⁶⁷

137 In respect of the Bias Ground, the Suit 1158 Plaintiffs base their arguments on the same points set out above at [135(a)–(f)]. In gist, their position is that the Valuer’s treatment of the competing valuations revealed a lack of independent judgment and a predisposition in favour of OrangeTee.¹⁶⁸

¹⁶⁴ Suit 1158 WS at paras 210–214.

¹⁶⁵ Suit 1158 WS at paras 215–217.

¹⁶⁶ Suit 780 WS at para 71

¹⁶⁷ Suit 780 WS at paras 42–71.

¹⁶⁸ Suit 1158 WS at paras 424–434.

138 The Suit 780 Plaintiffs make similar submissions on apparent bias, but they go further than the Suit 1158 Plaintiffs in that they insist that the Valuer was *obliged*, under the Buyout Order, to consider the documents provided to him by the parties: according to them, the Valuer was only to provide his draft report after reviewing parties' submissions, and parties would then address him on the draft report by way of their Further Submissions.¹⁶⁹ The Suit 780 Plaintiffs go on to cite the following matters which – so they claim – demonstrate that the Valuer never intended to consider their position on the valuation of the Properties:

(a) According to the Suit 780 Plaintiffs, correspondence exchanged between the Plaintiffs and the Valuer shows that from the outset, the Valuer *never intended* to consider their submissions on the valuation of the Properties.¹⁷⁰

(b) It is also submitted that the Valuer failed to exercise his professional judgment and came to his conclusions without any basis.¹⁷¹ The Suit 780 Plaintiffs claim that the Valuer did not review and consider RKCO's valuation, and instead, chose to adopt OrangeTee's valuation on the basis that he had appointed OrangeTee. While he did consider RKCO's report in so far as it pointed out errors in OrangeTee's report, he failed to consider RKCO's valuation of the Properties.¹⁷²

(c) Given that there were admitted errors by OrangeTee in their report (which the Valuer himself failed to catch), it followed that the

¹⁶⁹ Suit 780 WS at para 31.

¹⁷⁰ Suit 780 WS at paras 44–51.

¹⁷¹ Suit 780 WS at paras 65–66.

¹⁷² Suit 780 WS at paras 54–58 and 62.

reliability of OrangeTee's report was in doubt – and yet the Valuer still accepted their valuation.¹⁷³

(d) The Valuer merely asked OrangeTee to verify their independence in the matter, but took no steps to independently verify whether OrangeTee was truly independent.¹⁷⁴

(e) The Valuer did not comply with the IVS; and the “only explanation” why he would not comply with internationally recognised standards must be because he had already decided to undervalue MMSCPL.¹⁷⁵ According to the Suit 780 Plaintiffs, the Valuer breached the IVS *inter alia* in professing that he did not consider himself to be an expert on real estate valuation. The Suit 780 Plaintiffs argue that “[i]t is unclear then why the Valuer believed he was qualified for this engagement as it is inconceivable that any professional valuation expert with 25 years’ of experience would fail to realise that one would have to value the real estate assets of MMSCPL such as its flagship retail mall, Mustafa Centre.”¹⁷⁶ The Suit 780 Plaintiffs also argue that it was a breach of the IVS for the Valuer to refer all points of disagreement between RKCO and OrangeTee back to the latter and thereafter to adopt the latter’s position without question.¹⁷⁷

¹⁷³ Suit 780 WS at paras 67–68.

¹⁷⁴ Suit 780 WS at para 70.

¹⁷⁵ Suit 780 WS at para 258.

¹⁷⁶ Suit 780 WS at para 257(c).

¹⁷⁷ Suit 780 WS at para 257(d).

139 According to the Suit 780 Plaintiffs, a fair-minded observer who had to consider the Valuer’s failure to engage with their submissions would reasonably suspect that the Valuer approached this matter with a closed mind.¹⁷⁸

140 In respect of the Excess of Mandate Ground, the Suit 780 Plaintiffs also appear to rely on substantially the same matters in arguing that this too is made out. As for the Suit 1158 Plaintiffs, they contend that the Valuer abdicated his obligation to value the Properties as he did not consider RKCO’s valuation and chose to adopt OrangeTee’s valuation after checking it only for errors in OrangeTee’s valuation which would be “evident to [him] as a non-specialist”. According to the Suit 1158 Plaintiffs, this represented a material departure from the Buyout Order which allowed the Valuer to receive advice from experts but not to delegate the valuation to those experts.¹⁷⁹

141 In response, the Respondents submit that it is *clearly* within the Valuer’s discretion whom to appoint to assist him.¹⁸⁰ In this case, the Valuer even took the precaution of writing to the court to seek clarification that as the court-appointed independent valuer, he was permitted, to conduct the valuation (including the setting of the scope and process of his work and the work of consultants engaged by him) without requiring parties’ input or consent. At the 7 August 2023 hearing, the court had made it clear that while the Buyout Order empowered the Valuer to engage such consultants and professionals as he considered necessary, the order did not lay down any specific rules as to how he was to approach these matters; and it was for him to exercise his professional judgment in such matters. There was thus no basis for the Plaintiffs’ criticisms

¹⁷⁸ Suit 780 WS at para 253.

¹⁷⁹ Suit 1158 WS at paras 333–339.

¹⁸⁰ RWS at paras 166–170.

of his choice of OrangeTee and their contention that he should have sought legal advice on whether there were manifest errors in OrangeTee’s valuation and/or a “third-party independent valuation” of the Properties.

142 The Respondents point out that moreover, the Valuer did in fact receive parties’ input on OrangeTee’s report, including the RKCO valuation, and gave due consideration to the issues raised by the Plaintiffs.¹⁸¹ In his Report, he also set out detailed explanations for preferring OrangeTee’s valuation.¹⁸² The Plaintiffs’ real complaint is that the Valuer should not have preferred OrangeTee’s report over RKCO’s report – but that preference was an exercise of his professional judgment, which was precisely what the Buyout Order intended.¹⁸³ For the same reasons, there is no basis either for saying that a reasonable observer would have suspected the Valuer of bias in relying on OrangeTee’s views.¹⁸⁴

143 As for the Plaintiffs’ argument that the Valuer appeared to have accepted OrangeTee’s draft report as the final report within an hour of it being sent and that he must not have reviewed OrangeTee’s report,¹⁸⁵ the Respondents submit that this is pure speculation. They point out, moreover, that the draft in question was the *fourth* revised draft of the report and that it had been revised only to take into account parties’ comments on the third revised version.¹⁸⁶

¹⁸¹ RWS at paras 171–173.

¹⁸² RWS at paras 181–183 and 263.

¹⁸³ RWS at paras 265–266.

¹⁸⁴ RWS at paras 311–312.

¹⁸⁵ Suit 780 WS at para 47.

¹⁸⁶ RWS at paras 175(b)–(d).

144 Finally, as for the Plaintiffs' argument that the errors in OrangeTee's report made their valuation unreliable, the Respondents point out that previous errors were corrected by OrangeTee, and that there is thus no basis for the Plaintiffs to say that the entire valuation report should be disregarded.¹⁸⁷

My findings

145 In respect of Issue 7, the Plaintiffs' submissions of manifest error, apparent bias and excess of mandate are all primarily grounded in the allegation that the Valuer failed to consider the RKCO report and the Plaintiffs' representations on the valuation of the Properties.

146 Having reviewed the Valuer's Report, I find this allegation to be completely baseless. In fact, RKCO's report and the Plaintiffs' submissions were carefully considered by the Valuer: see, for example, paras 1.23–1.25, 2.52–2.54 and 7.27–7.39 of the Valuer's Report. In so far as he chose to direct RKCO's criticisms of OrangeTee's report back to the latter for their comments, this was neither surprising nor sinister: it was well within his discretion to do so; and indeed, it was also only fair for OrangeTee to have been given an opportunity to explain their position. From the Valuer's Report, it is clear that having considered both RKCO's and OrangeTee's views, the Valuer found the differences between them to be differences in professional opinion, and not indicative of any manifest errors. The fact that he then preferred OrangeTee's report over RKCO's report cannot conceivably be a manifest error. As I have repeatedly highlighted, the Buyout Order empowered the Valuer to exercise his professional judgment and discretion in determining the appropriate method of

¹⁸⁷ RWS at para 184.

valuation; and this necessarily included evaluating the advice received from specialists and determining the weight (if any) to be given to such advice.

147 In a permutation of their arguments of manifest error, the Plaintiffs have submitted that the Valuer should have rejected OrangeTee’s report because it contained errors which made it unreliable. However, as the Valuer pointed out, the calculation errors admitted by OrangeTee were corrected by them in subsequent drafts of their report.¹⁸⁸ Leaving aside the issue of admitted calculation errors, though, the Plaintiffs have focused particular attention on OrangeTee’s decision to use conservation shophouses as a direct comparable to Mustafa Centre. According to the Suit 1158 Plaintiffs, this was an error so fundamental and obvious that it amounted to a manifest error: in oral submissions, counsel for the Suit 1158 Plaintiffs likened it to “valuing a GCB by using HDB flats as comparables”.¹⁸⁹ I understand the Suit 780 Plaintiffs to align themselves with the submissions made by the Suit 1158 Plaintiffs on this matter.

148 Having read the relevant reports by OrangeTee and RKCO, I find no merit in the Plaintiffs’ position. With respect, I do not think the comparison to “GCBs” and “HDB flats” to be helpful in the present context. It may well be that for the valuation of a GCB (Good Class Bungalow) in a scenario where sufficient data is available on the transacted prices of other similar GCBs, there will be no reason at all to use the transacted prices of HDB (Housing and Development Board) flats as comparables. The possibility of such a scenario does not mean that in the case of Mustafa Centre, it would be unthinkable or unreasonable to use anything other than the transacted prices of shopping

¹⁸⁸ Valuer’s Report at para 1.25.

¹⁸⁹ Transcript of hearing (19 Aug 2026), p 16 (lines 3–8).

centres as comparables. In fact, from the materials before me, it is plain that OrangeTee considered the competing methodology adopted by RKCO (which involved using shopping centres located further away from Mustafa Centre as comparables) and explained why they had elected instead to use the transacted prices of shophouses in Little India. As OrangeTee pointed out, “there were very limited sales comparables for enbloc retail transaction as at the material date of valuation”.¹⁹⁰ In a follow-up letter dated 6 November 2023, OrangeTee elaborated as follows:¹⁹¹

RKCO’s main concern is that Conservation Shophouses are not suitable comparables for the Mustafa Centre and 151 Syed Alwi Road. Their view appears to be that shopping centres are better benchmarks and moreover, while Mustafa Centre has redevelopment potential, the shophouses that were transacted did not.

Our professional opinion is that, like Mustafa Centre, the shophouses which we relied on are used for retail trade. With some adjustments, shophouse sales transactions in the same vicinity as the Mustafa Centre provide a suitable representation of the value of retail trade in Little India. ***We had acknowledged that Mustafa Centre’s building form is superior compared to the smaller shophouses in Little India and had made upward adjustments to account for this issue.***

...

We are of the opinion that we can rely on transacted sales of shophouses in Little India as they are of the same use & zoning and offer a more reliable reflection of retail values with regards to market sentiments at that point in time, after making appropriate adjustments. The retail scene in Little India is modelled by shophouses. In our reports, we have also taken into account that the existing use was the “highest and best use” at the material date of valuation, having addressed the issue on the redevelopment potential of the properties.

With regards to RKCO’s valuation of Mustafa Centre and 151 Syed Alwi Road, the analysis undertaken for the Direct

¹⁹⁰ Defendant’s Bundle of Documents (Volume 5) (“DBD(5)”), at p 636.

¹⁹¹ DBD(5) at pp 646–647.

Comparison Method to derive the figure with respect to Yew Tee Point did not take into account the fact that Yew Tee Point had direct access to the Yew Tee MRT Station. From Business Times (BT) dated 26 August 2021 (please refer to BT's article attached to this letter), the transaction of Le Quest Mall was announced in August instead of 1H21 and it is a single storey commercial property. RKCO had also used the Direct Comparison Method as the primary valuation method although in his past remarks, he had mentioned that other methods such as Income Method, Cost Method and Residual Method should also be considered since there were very limited sale transactions.

RKCO's usage of 2 enbloc sales in the heartlands to ascertain the market value of the subject properties also confirmed that there were very limited sales transactions during the material date of valuation.

[emphasis added]

149 The above letter of 6 November 2023 was but one of many letters exchanged between parties in relation to the valuation of the Properties. In the main, the difference between OrangeTee and RKCO was as to which of the following two approaches to adopt: (a) to take the transacted prices of the nearby conservation shophouses that had the same use and zoning as Mustafa Centre and to make upward adjustments; or (b) to take the transacted prices of shopping centres located further away and to make the appropriate adjustments. Working within the practical constraints imposed by limited data, OrangeTee opted for the former rather than the latter. It is not within the purview of this court to determine whether the merits of one approach should have been preferred over those of the other approach: as the Valuer correctly recognised, such matters involve the exercise of professional judgment; and there was no manifest error committed by the Valuer in ultimately preferring OrangeTee's valuation over RKCO's.

150 I note that another of the Plaintiffs' arguments is that in preferring OrangeTee's report, the Valuer abdicated his responsibility as an expert in relation to the valuation of the Properties – and that this amounted to an excess

of the mandate given to him in the Buyout Order. This argument is again premised on the Plaintiffs' allegation that the Valuer disregarded RKCO's report and the Plaintiffs' representations, choosing instead to adopt OrangeTee's report unquestioningly. As I have explained, this allegation is simply not borne out on a reading of the Valuer's Report: it is plain that the Valuer did in fact give careful consideration to RKCO's valuation and the Plaintiffs' submissions; and having done so, he then decided – in exercise of his professional judgment – to rely on OrangeTee's valuation rather than RKCO's. There was no abdication of responsibility by the Valuer and certainly no excess of mandate.

151 The Plaintiffs' arguments on the Bias Ground are similarly premised on the allegation that the Valuer disregarded their representations and RKCO's report, and that he approached the valuation of the Properties with a closed mind. I have explained why this allegation is completely unfounded. In the circumstances, I find the Plaintiffs' arguments on the Bias Ground to be devoid of merit as well.

152 As I noted earlier, the Suit 780 Plaintiffs' arguments on the Bias Ground included the submission that the Valuer failed to comply with the IVS and that the only reason why he would have departed from the IVS was because he had already decided to undervalue MMSCPL. As far as I can understand from the submissions made by the Suit 780 Plaintiffs (see [138(e)] above), the Valuer breached the IVS, firstly, in accepting the engagement as the court-appointed independent valuer in the present case despite acknowledging that he was not an expert on real estate valuation and despite presumably being aware that the valuation of MMSCPL would include valuation of its real estate assets; and secondly, in referring all disagreements between RKCO and OrangeTee back to

the latter for their comments and then adopting the latter's position "without question".

153 As to the second matter, I have already explained (at [146] above) that it was entirely in order and fair for the Valuer to give OrangeTee the opportunity to respond to RKCO's criticisms and to prefer their views to RKCO's. As to the first matter, the Suit 780 Plaintiffs' submission is also devoid of merit. Regrettably, the attempt to question why the Valuer "believed he was qualified for this engagement" despite his lack of expertise in real estate valuation is no more than an *ad hominem* attack on the Valuer's qualifications for the present appointment. In any event, there is nothing in the IVS which mandates that the appointed valuer be a specialist in every aspect of the valuation. What the IVS expressly envisages is that where the valuer "does not possess all of the necessary technical skills, experience and knowledge to perform all aspects of a valuation, it is acceptable for the valuer to seek assistance from specialists in certain aspects of the overall assignment, providing this is disclosed in the scope of work ... and the report"; and what the IVS actually requires of the valuer is that he possess "the technical skills, experience and knowledge to understand, interpret and utilise the work of any specialists" (see paras 50.2–50.3 of the IVS).¹⁹² Having gone through the Valuer's Report, I do not doubt that the Valuer did indeed possess the skills, experience and knowledge needed to understand, interpret, and use the work products presented to him by specialists such as OrangeTee.

¹⁹² Defendant's Bundle of Documents (Volume 8) at p 266.

Issue 8: Related Parties' use of MMSCPL's assets

154 The eighth of the Plaintiffs' complaints concerns the Valuer's treatment of the Related Parties' use of MMSCPL assets for which MMSCPL received no compensation ("Related Parties Arrangements"). Specifically, this involved three Related Parties and three categories of MMSCPL's assets: (a) MFE's and MPL's use of MMSCPL's trademarks; (b) B.I. Distributors Pte Ltd ("BID")'s alleged use of MMSCPL's customer and supplier bases; and (c) the Multi-Role Employees (including employees who were employed and paid by MMSCPL who worked for MMSCPL but who also did work for Related Parties, as well as employees who were employed and paid by these Related Parties who also did work for MMSCPL). The Valuer's approach was to consider whether these specific Related Parties Arrangements had to be restated to reflect the commercial terms that would have been agreed between MMSCPL and unrelated parties at arm's length,¹⁹³ "to the extent that [he] ... [has] sufficient information to assess (any) restatements that should be made".¹⁹⁴ The Valuer ultimately found that there was no need to restate the transactions with MFE, MPL and BID.¹⁹⁵

155 As a preliminary point, the Suit 1158 Plaintiffs contend that the Respondents made a series of assertions to the Valuer which were proven to be false, and accordingly, the Valuer ought to have treated the Respondents' assertions with circumspection – but instead, he continued to accept their bare assertions on the very matters where no documentary evidence happened to be on hand. *Inter alia*, the Suit 1158 Plaintiffs claim that despite their repeated requests, the Valuer declined to interview Mustaq and to call for the three

¹⁹³ Valuer's Report at para 2.14.

¹⁹⁴ Valuer's Report at para 4.11.

¹⁹⁵ Valuer's Report at paras 2.15 and 5.80–5.85.

Related Parties’ financial statements.¹⁹⁶ According to them, the Valuer’s conduct showed that he was already predisposed to an outcome favourable to the Respondents.¹⁹⁷

156 In response, the Respondents point out¹⁹⁸ that the decision whether to interview parties and/or to compel the production of documents was one which fell squarely within the Valuer’s discretion.¹⁹⁹ It was in exercise of his professional judgment that he declined to do so, and he has provided reasons for his decision.

Issue 8(a): MFE and MPL’s use of MMSCPL’s trademark

157 It is undisputed that MFE and MPL use the “Mustafa” trademark owned by MMSCPL, and that they do not pay MMSCPL for the use of the trademark. The Valuer did not attribute compensation for such use because his view was that the benefit to MFE and MPL of using this trademark lay in “footfall/traffic” and such footfall was already captured in the market rent paid by the two companies.²⁰⁰

Parties’ case

158 The Suit 1158 Plaintiffs contend that the Valuer made a manifest error because (a) the benefit of a trademark is not confined to footfall/ traffic but also includes the trust and reputation that comes with the name “Mustafa”; (b) paying rent does not equate to paying for a trademark unless this is expressly

¹⁹⁶ Suit 1158 WS at paras 228–233.

¹⁹⁷ Suit 1158 WS at paras 435–456.

¹⁹⁸ RWS at paras 232–240.

¹⁹⁹ Paragraph 6 of Annex A of JUD 590.

²⁰⁰ Valuer’s Report at para A12.13.

provided for in the lease agreement, which in any event the Valuer chose not to obtain; and (c) there is no evidence that MMSCPL gained any benefit from association with MFE and MPL such that the royalties due from these two companies for using the trademark should be reduced to nothing. The Valuer made no assessment of the royalties payable, which led to MMSCPL being undervalued.²⁰¹ Similar arguments are made by the Suit 780 Plaintiffs.²⁰²

159 Additionally, the Suit 780 Plaintiffs submit that a number of conclusions were arrived at by the Valuer “without any basis”, which – according to them – proves that he had already decided on the 10-year Declining Revenue Forecast regardless of what was presented to him; in other words, that his decision was influenced by “anchoring bias”.²⁰³ According to them, the conclusions which demonstrate this bias were:²⁰⁴ (a) the Valuer’s finding that rent paid by MPL and MFE to MMSCPL included compensation for the use of the “Mustafa” trademark; and (b) the finding that MMSCPL benefited from association with MPL and MFE, which benefit was set off against the compensation that MPL and MFE ought to have paid for use of MMSCPL’s trademark.

160 The Respondents retort that the Plaintiffs’ own submissions to the Valuer formed the very basis for his finding that the benefit derived by MPL and MFE from the use of MMSCPL’s trademark lay in footfall/traffic;²⁰⁵ and that there was no evidence of MPL and MFE having *further* benefited from the use of MMSCPL’s trademark (*eg* benefiting from the loyalty associated with

²⁰¹ Suit 1158 WS at paras 234–242.

²⁰² Suit 780 WS at paras 132(b) and 204–228.

²⁰³ Suit 780 WS at para 255.

²⁰⁴ Suit 780 WS at para 254.

²⁰⁵ Valuer’s Report at para A12.12, where the Plaintiffs’ submission was also cited verbatim.

the “Mustafa” Trademark).²⁰⁶ In any case, the Valuer expressly considered the issue of whether *further* compensation was warranted before deciding, in exercise of his professional judgment, that it was not.²⁰⁷

My findings

161 The Valuer’s Report is clear in setting out the Valuer’s approach to the issue of MPL’s and MFE’s use of the MMSCPL trademark:

(a) First, the Valuer invited the Plaintiffs to submit on what the trademarks in question were, and on what use was being made of these trademarks by the Related Parties, as at the Valuation Date, in a manner that would have been expected to be ongoing.²⁰⁸

(b) The Valuer then explained that he understood the Plaintiffs’ submission to be that:²⁰⁹

(i) MPL’s and MFE’s businesses benefited from the footfall/traffic brought by the Marks²¹⁰ (in store and online) and they should therefore compensate MMSCPL for this benefit; and

(ii) this benefit (*ie* footfall/traffic) was not reflected in the market rate of rent, and MMSCPL should accordingly receive additional compensation in the form of royalties.

²⁰⁶ RWS at paras 201–202.

²⁰⁷ RWS at para 203.

²⁰⁸ Valuer’s Report at para A12.2.

²⁰⁹ Valuer’s Report at para A12.12.

²¹⁰ In the Valuer’s Report, the Valuer used “Marks” to refer to two trademarks owned by MMSCPL: (a) the “Mustafa” trademark which expires on 8 January 2034; and (b) the “2005 Mark” which expired on 17 November 2015.

(c) The Valuer went on to explain that the market rent payable by MPL and MFE to MMSCPL would already have reflected the benefit of footfall/traffic, and that the market rent payable was already accounted for in his valuation of MMSCPL.²¹¹

(d) The Valuer then went on to *further* consider whether MPL and MFE would benefit from any expected future use of the trademarks *beyond* the benefit reflected in the market rate of rent. According to the Valuer,

(i) MPL's and MFE's businesses were likely to benefit to a small extent from footfall/traffic generated by the use of the trademarks online (on the 'mustafa.com.sg' website), over and above the benefit of their being located in the Mustafa Centre. For instance, it was possible that customers browsing the 'mustafa.com.sg' website would be sufficiently attracted to visit the jewellery and money changer departments of the Mustafa Centre;²¹²

(ii) However, it was also likely that MMSCPL's business benefited from featuring MPL and MFE on its website. For instance, it was possible that customers who were attracted to the Mustafa Centre by virtue of MPL's and MFE's businesses being featured on the 'mustafa.com.sg' website would also patronise MMSCPL's department store and supermarket businesses.²¹³

²¹¹ Valuer's Report at paras A12.13–A12.14.

²¹² Valuer's Report at para A12.15(1).

²¹³ Valuer's Report at para A12.15(2).

(iii) In the circumstances, the Valuer considered that in an arm's length negotiation, any compensation to MMSCPL warranted by MPL's and MFE's use of the trademarks would need to be weighed against the benefits to MMSCPL from its association with MPL and MFE. The Valuer found it possible that these mutual benefits offset one another, and that accordingly, as at the Valuation Date, no further compensation to MMSCPL above the market rate of rent was warranted by any expected future use of the Marks by MPL and MFE.²¹⁴

162 Essentially, the analysis which the Valuer had to undertake involved his determining whether – in the *hypothetical* situation where the transaction was restated as at arm's length – MPL and MFE would pay MMSCPL a higher consideration than the rent already payable by them. Having regard to the Valuer's analysis, his decision not to factor in any *further* compensation from MPL and MFE (on top of the rent payable) was clearly one arrived at in exercise of his professional judgment, aided by advice from Colliers International Consultancy & Valuation (Singapore) Pte Ltd ("Colliers").²¹⁵ Even if a different valuer might have considered that the consideration provided by MPL and MFE was insufficient, this would simply mean *a difference in professional opinion* – as opposed to a manifest error on the Valuer's part. Based on the materials before me, the Valuer's conclusion that the rent payable by MPL and MFE already factored in compensation for the use of MMSCPL's trademark could not be said to be so indisputably wrong as to admit of no difference in opinion.

²¹⁴ Valuer's Report at para A12.16.

²¹⁵ Valuer's Report at para A12.13.

Issue 8(b): BID's use of MMSCPL's customer and supplier bases

Parties' cases

163 In respect of this issue, the Suit 1158 Plaintiffs had sought to make the case to the Valuer that they required BID's financial statements for FY2017–2021 in order to make meaningful submissions on whether MMSCPL should be compensated for BID's use (if any) of its customer and supplier bases. According to the Suit 1158 Plaintiffs, the Valuer declined to obtain these financial statements and then relied on this absence of evidence as the reason for refusing to attribute compensation for this item. According to them, this amounts to a manifest error because the Valuer actually had circumstantial evidence before him which suggested the operational interdependence of BID and MMSCPL. A reasonably diligent independent valuer would have conducted an investigation, but the Valuer was content to rely on an absence of evidence (which was a result of his own failure to investigate) to conclude that no compensation was necessary.²¹⁶

164 The Suit 780 Plaintiffs also attack the Valuer's refusal to investigate BID's alleged use of MMSCPL's customer and supplier base, but their argument is that it demonstrated apparent bias.²¹⁷

My findings

165 With respect, the Plaintiffs' arguments ignore the Valuer's explanation. The Valuer sought evidence from the Plaintiffs of actual use made by BID of MMSCPL's customer and supplier bases. The Plaintiffs submitted to him the audited financial statements from BID from FY2004 to FY2016 which showed

²¹⁶ Suit 1158 WS at paras 245–253.

²¹⁷ Suit 780 WS at paras 269–275.

that the bulk of BID's purchases were from MMSCPL. In response, the Respondents highlighted that in fact, this showed that BID could not have been using MMSCPL's supplier base, since BID was obviously not bypassing MMSCPL and purchasing directly from MMSCPL's suppliers. When asked by the Valuer for further submissions, the Plaintiffs did not provide any further evidence, claiming that it would not be possible for them to make "meaningful submissions" unless the Valuer first obtained BID's financial statements for the period FY2017 to FY2021.²¹⁸ At the end of the day, the Valuer's point was that the audited financial statements of BID would be relevant *only if* it became necessary to assess the appropriate compensation that MMSCPL should receive from BID – and it would only be necessary to assess such compensation if there was evidence that BID had actually used MMSCPL's customer and supplier bases.²¹⁹ The Valuer did not consider BID's audited financial statements to be relevant to establishing the preliminary issue of whether there was actual use by BID of MMSCPL's customer and supplier base;²²⁰ and since the Plaintiffs failed to produce any evidence of actual use, he concluded that there was no such evidence and thus no basis for him to conduct further investigations. The Suit 780 Plaintiffs have argued that based on Mr Toh's report in these proceedings, this was "the wrong approach" because Mr Toh was of the view that there were a few pieces of "circumstantial" evidence which suggested BID's "heavy" dependence on MMSCPL (*eg* alleged overlap between BID's product lines and MMSCPL's; Mustaq's "confirmation" that "there were employees paid by MMSCPL who did work for MMSCPL who also did work for BID"; *etc*).²²¹ I

²¹⁸ Valuer's Report at paras A12.28–A12.30

²¹⁹ Exhibit JN-208 to the Valuer's Report at para 5.15 (Defendant's Bundle of Documents (Volume 12) at p 296).

²²⁰ RWS at paras 205–213; Valuer's Report at paras A12.34–A12.35.

²²¹ EY 1st Report at para 8.1.3.

find the argument unmeritorious. To reiterate, the Valuer was entitled – pursuant to the Buyout Order – to exercise his own professional judgement and discretion in determining (*inter alia*) whether to conduct further investigations into any matter. That Mr Toh would have been prepared to infer “heavy” dependence by BID on MMSCPL – and accordingly to conduct further investigations – simply points to a difference of professional opinion between Mr Toh and the Valuer.²²²

166 For the reasons set out above, I find that neither the Manifest Error Ground nor the Bias Ground is satisfied in respect of this issue.

Issue 8(c): The Multi-Role Employees

167 In respect of this final sub-issue, it is undisputed that the Multi-Role Employees did in fact perform work for Related Parties.²²³ The matters in dispute relate to how much work they performed and what compensation was appropriate.

Parties’ case

168 The Respondents’ position was that the Multi-Role Employees did work *predominantly* for MMSCPL because MMSCPL’s operations were larger and more complex than those of the Related Parties. The Suit 1158 Plaintiffs contend that the Valuer committed a manifest error in accepting the Respondents’ explanation without conducting further investigations (*eg* by looking for documentary evidence such as employment contracts).²²⁴

²²² RWS at paras 214–216.

²²³ Ayaz’s 34th Affidavit at para 108.

²²⁴ Suit 1158 WS at paras 254–261.

169 The Suit 780 Plaintiffs make similar allegations about the Valuer’s “unquestioning” acceptance of Mustaq’s explanation. According to them, the Respondents’ version of events was against the weight of available evidence.²²⁵ As such, quite apart from the Valuer having committed a manifest error, his readiness to accept this version of events also indicated apparent bias.

170 Further, the Suit 780 Plaintiffs contend that the Excess of Mandate Ground is made out in respect of this sub-issue. According to them, the Valuer failed to comply with the Buyout Order when he accepted Mustaq’s explanation about the Multi-Role Employees predominantly working for MMSCPL. This was because the Buyout Order obliged the Valuer to act according to the findings made by this court in *Ayaz Ahmed (HC)*, but his acceptance of Mustaq’s explanation constituted a finding of fact in direct contradiction to the court’s findings in *Ayaz Ahmed (HC)*. I summarise, as far as I can understand, the Suit 780 Plaintiffs’ arguments on this point:²²⁶

- (a) The Multi-Role Employees were paid by MMSCPL, did work for MMSCPL, but also did work for Mustaq’s companies.
- (b) This state of affairs purportedly came about because Mustaq believed that he owned 100% of MMSCPL, and he thus ran MMSCPL and his other companies together.
- (c) In *Ayaz Ahmed (HC)*, however, Mustaq’s belief that he owned 100% of MMSCPL was found to be a lie.
- (d) Accordingly, the Multi-Role Employees must not have actually worked for MMSCPL. If the Multi-Role Employees did perform work

²²⁵ Suit 780 WS at para 259(a).

²²⁶ Suit 780 WS at paras 128–130.

for MMSCPL, they should have been directly employed by MMSCPL. The truth was that Mustaq wanted to “enrich himself” by getting the Multi-Role Employees to work for his companies while having their salaries paid by MMSCPL.

171 In response, the Respondents point out that *whether* and *to what extent* investigations were necessary was a matter falling within the Valuer’s discretion.²²⁷ As such, the evaluation of statements given by parties (including explanations given by Mustaq) was a matter falling within the Valuer’s discretion.²²⁸ In any case, the Valuer did not blindly accept Mustaq’s explanation: instead, the Valuer explained that he had found no evidence to contradict Mustaq’s explanation and that he was of the view that there was no way of obtaining such information that would be robust and proportionate in terms of time and cost. Even then, the Valuer still went on to review the payroll registers for the Multi-Role Employees; and he found that for the period of FY2017–2021, around 51% of the total salary was paid by MMSCPL and 49% by the Related Parties.²²⁹

My findings

172 I address first the Suit 780 Plaintiffs’ submission that the Valuer made a finding which directly contradicted my findings in *Ayaz Ahmed (HC)*. This submission is without merit. It is obvious that there is no logical link between my finding in *Ayaz Ahmed (HC)* that Mustaq lied about believing he owned 100% of MMSCPL and the question of whether the Multi-Role Employees did work predominantly for MMSCPL. When I sought clarification from counsel

²²⁷ RWS at paras 219–221.

²²⁸ RWS at para 218.

²²⁹ RWS at para 222.

for the Suit 780 Plaintiffs at the hearing on 18 August 2026, he acknowledged that I did not make any finding on the latter question in *Ayaz Ahmed (HC)*.²³⁰ In short, the Valuer did not “contradict” my findings in *Ayaz Ahmed (HC)* when he accepted Mustaq’s assertion that the Multi-Role Employees predominantly worked for MMSCPL.

173 As to the Plaintiffs’ argument that the Valuer accepted Mustaq’s account “unquestioningly” and “without basis”, this too is baseless. In fact, the Valuer dedicated the entire Appendix 11 of the Valuer’s Report (six pages) to explaining the reasons why he did not make adjustments to his valuation assumption regarding MMSCPL’s salary expense.²³¹ In gist, his explanation was as follows:²³²

- (a) He did not have information about the extent to which the Multi-Role Employees were doing work for MMSCPL;
- (b) He did not see a way of obtaining such information that would be robust and proportionate in terms of time and cost;²³³
- (c) Any adjustment was not likely to materially affect his forecast of MMSCPL’s operating expenses given that:
 - (i) the salaries paid to the Multi-Role Employees in FY2020 and FY2021 (\$1.2m and \$0.6m respectively) were of relatively small value; and

²³⁰ Transcript of hearing (18 Aug 2026), p 62 (lines 26–29).

²³¹ Valuer’s Report at pp 281–286.

²³² Valuer’s Report at para A11.9.

²³³ See also Valuer’s Report at A11.15.

- (ii) he had placed greater reliance on salaries and employee benefit expenses observed in the period prior to FY2020 (*ie before* the onset of the COVID-19 pandemic) when forecasting these expenses.

174 Further, the Valuer noted in his Report that having received documents from the parties, he found no evidence to contradict the Respondents' explanation that the bulk of the work done by the Multi-Role Employees was for MMSCPL.²³⁴ Indeed, he even expressly informed parties that if evidence contradicting the Respondents' explanation was provided, he would consider any implications such evidence might have on his valuation.²³⁵ The bottom-line is that no such evidence was provided to him. The Valuer thus called on his professional judgement in assessing that the Respondents' account of events had not been contradicted; and he also exercised his discretion not to conduct further investigations in view of the time and cost constraints. Neither determination can sensibly be said to amount to manifest error, apparent bias, or excess of mandate.

175 To sum up on Issue 8: the Valuer's treatment of the alleged use of MMSCPL's assets by Related Parties was clearly grounded in his assessment of the evidence presented to him as well as his assessment of the proportionality and utility of further investigations. The Plaintiffs' repeated criticism that the Valuer should have undertaken additional inquiries, or sought further documents, does not demonstrate an error which admits of no difference in opinion. At most, it reveals a difference in views as to the appropriate scope of investigations, which falls short of a manifest error. The Valuer's reasoned

²³⁴ Valuer's Report at para A11.7.

²³⁵ Valuer's Report at para A11.11.

refusal to conduct further investigations likewise does not support an inference of bias or of excess of mandate.

Issue 9: The sale-and-relocation scenario

176 The last of the Plaintiffs' complaints relates to the scenarios in which the Valuer sought to determine the highest and best use of MMSCPL's assets in his valuation of the company. The scenarios used by the Valuer for this purpose were: the status quo scenario, the sale-and-leaseback scenario, and the sale-and-winding-down scenario.²³⁶ The Valuer did not value MMSCPL in a sale-and-relocation scenario; *ie* a scenario in which MMSCPL's properties would be sold and the retail business at Mustafa Centre relocated to a new location. This was despite the Plaintiffs making multiple submissions to him on the potential viability of the sale-and-relocation scenario.

Parties' case

177 The Suit 1158 Plaintiffs submit that the Valuer's failure to consider a sale-and-relocation scenario constituted a manifest error because (a) the reasons provided by the Valuer for refusing to use the sale-and-relocation scenario did not withstand scrutiny; and (b) moreover, the Valuer himself had – for a year – treated this as an important issue to be determined, but had then changed his mind after a two-hour brainstorming session and a desktop review, without performing any quantitative assessment.

178 On (a), I note that the Suit 1158 Plaintiffs commissioned a report from CBRE Pte Ltd; and relying on that report, they contend that contrary to the Valuer's assessment, the sale-and-relocation scenario was a feasible scenario

²³⁶ Valuer's Report at p 41.

that ought to have been considered by him.²³⁷ In this connection, they also criticise the adequacy of the reasons he gave for not finding the sale-and-relocation scenario feasible.

179 On (b), while the Valuer did initially consider the sale-and-relocation scenario as a possible method of valuation, he subsequently decided – after a two-hour brainstorming session – to adopt Colliers’ recommendation to disregard the sale-and-relocation scenario. This was in spite of Colliers’ assessment having been conducted (in their own words) “using a desktop approach”. The Suit 1158 Plaintiffs contend that the Valuer should have quantified the sale-and-relocation scenario instead of excluding it on the basis of a preliminary assessment. According to them, the Valuer’s approach showed “asymmetry” in his exercise of judgment: he considered and quantified the other scenarios he had identified, including a sale-and-winding-down scenario, but failed to quantify the sale-and-relocation scenario.²³⁸

180 The Suit 780 Plaintiffs also take the position that the Valuer ought not to have disregarded the sale-and-relocation scenario after the brainstorming session, although they have chosen to characterise this as an “abdication by the Valuer of his responsibilities to determine the fair value of MMSCPL”; in other words, conduct going towards the Excess of Mandate Ground.²³⁹

181 Further, the Suit 780 Plaintiffs claim that the Valuer’s conduct was not in compliance with the IVS, and that the “only” reason why he failed to comply

²³⁷ Suit 1158 WS at paras 271–287.

²³⁸ Suit 1158 WS at paras 288–297.

²³⁹ Suit 780 WS at paras 112–115.

with internationally recognised standards must be because he already intended to undervalue MMSCPL.²⁴⁰

182 In response, the Respondents again point out that the Buyout Order conferred on the Valuer the discretion to determine his approach to valuation, the scope of his work, the depth of analysis required, and the assistance that he required from third party specialists. The Valuer was thus exercising his professional judgement when he decided to exclude the sale-and-relocation scenario following discussion with Colliers.²⁴¹ He provided his reasons for doing so,²⁴² and this was in line with the approach under the IVS.²⁴³ The Plaintiffs’ attacks on his decision are really just disagreements with the Valuer’s approach: they do not disclose any manifest error, apparent bias, or excess of mandate.²⁴⁴

My findings

183 Having considered parties’ submissions and the evidence available, I find the Plaintiffs’ submissions on this issue patently unmeritorious. To reiterate, the Buyout Order gave the Valuer the discretion “to determine the appropriate method of valuation”.²⁴⁵ His decision not to consider the sale-and-relocation scenario was clearly a decision made in exercise of that discretion. It

²⁴⁰ Suit 780 WS at paras 257(b) and 258.

²⁴¹ RWS at para 252.

²⁴² RWS at paras 249–251.

²⁴³ RWS at paras 242–245.

²⁴⁴ RWS at paras 246–248.

²⁴⁵ Paragraph 4 of Annex A of JUD 590.

was also clearly a decision for which comprehensive reasons were given.²⁴⁶ As the Valuer himself noted:

I have considered (with Colliers' assistance) but not assessed the equity value of MMSCPL in a scenario in which its properties would have been sold and the retail business at Mustafa Centre relocated to a new location [*ie*, the sale-and-relocation scenario]. I have not quantified this scenario partly because Colliers considers it to be infeasible on several grounds, the most notable being: lack of a suitable alternative site for MMSCPL to purchase or lease; material disruptions caused by relocation; and significant changes that would have been required to MMSCPL's retail business model. Further, MMSCPL had no plans to relocate as at August 2021. For all these reasons I conclude that the SAR Scenario would not, on a risk-adjusted basis, have created value for MMSCPL.

184 In short, the Valuer's decision not to pursue a sale-and-relocation scenario as part of his valuation was a judgment call made after considering specialist input as well as the uncertainties associated with such a scenario. The Plaintiffs' submission that the sale-and-relocation scenario should have been quantified advances a competing view as to valuation methodology – but it does not establish a manifest error. The Plaintiffs may believe that their proposed approach is a *better* approach – but it is not the role of this court to adjudicate the merits of different approaches to valuation. Even taking the Plaintiffs' case at its highest, it may well be that the sale-and-relocation scenario was *one* relevant consideration which the Valuer ought to have considered – but as I have repeatedly noted, case law is clear that a failure to take into account relevant considerations does not amount to a manifest error (see [32] above).

185 Following from the above findings, I am satisfied that the evidence does not point to the Valuer having acted so as to support a decision he had already made to undervalue MMSCPL, nor does it demonstrate any abdication by the

²⁴⁶ Valuer's Report at paras 4.20–4.23.

Valuer of his responsibility to determine the fair value of MMSCPL. The Bias Ground and the Excess of Mandate Ground are therefore also not made out.

Cumulative effect of errors

186 In the interests of completeness, I add that I have also considered the Plaintiffs' complaints *cumulatively*; and I am satisfied that the aggregation of these complaints does not alter their character. In so far as the Manifest Error Ground is concerned, disagreements with the Valuer's reasoned exercise of professional judgment do not transform into a manifest error merely because there are numerous such disagreements.

187 As for the Bias Ground, I first point out that it would be untrue to say that the Valuer consistently or repeatedly made errors which turned out to be in favour of the Respondents. As the Respondents have highlighted, the Valuer did in fact make numerous decisions which were in favour of the Plaintiffs and adverse to the Respondents. Just to give an example: the Valuer disagreed with the Respondents' submission that the valuation of MMSCPL should be on a status-quo basis *only*, and instead decided to consider the sale-and-lease-back scenario and the sale-and-winding-down scenario.²⁴⁷ The effect of this decision is clear: on the sale-and-lease-back scenario, MMSCPL's Valuation was approximately \$90m higher than that in the status-quo scenario.²⁴⁸ This is but one example of the multiple occasions on which the Valuer made a decision or arrived at a finding *in favour* of the Plaintiffs. More fundamentally, the court's analysis should not be reduced to a mechanical calculation of the number of times the Valuer decided in favour of the Plaintiffs versus the number of times he decided against them. What is most important here is not the number of times

²⁴⁷ Valuer's Report at paras 4.14–4.19.

²⁴⁸ Valuer's Report at para 2.48.

when the Valuer decided in favour of the Respondents, but whether he provided reasons for those decisions and what his reasons were. Having regard to the explanations painstakingly provided by the Valuer on the occasions he rejected the Plaintiffs' submissions, there is no basis for saying that a fair-minded observer would harbour a reasonable suspicion that the Valuer was biased.

Conclusion

188 To sum up, therefore: in respect of the Manifest Error Ground, the Plaintiffs accept that they have a high threshold to meet before they can establish a "manifest error"; even a negligent valuation will not amount to a manifest error. Pared down to its essentials, the Plaintiffs' case on manifest error is really that their expert Mr Toh would have conducted the valuation differently (or even qualitatively "better") – yet there is nothing in Mr Toh's report or the Plaintiffs' submissions which persuades me that the alleged errors they point to are "obvious", "indisputable", and/or "incapable of honest difference of opinion".

189 In respect of the Bias Ground, as I have observed, the Plaintiffs have not alleged actual bias in this case. The Plaintiffs also accept that their arguments for the apparent bias threshold are premised on the Valuer in this case having exercised a quasi-judicial function – which premise I have found to be wrong. In any event, even *assuming* I were to adopt the threshold of apparent bias, the various complaints raised by the Plaintiffs do not support a reasonable suspicion of apparent bias. The Plaintiffs' submissions on apparent bias are premised on an alleged pattern of conduct by the Valuer which (according to them) showed a predisposition to accept the Respondents' version of events without carrying

out further investigations to test that version.²⁴⁹ As I have explained at various points in this judgment, this depiction of the Valuer's conduct is wholly unfounded. The Valuer was placed in the unenviable position of having to consider *multiple* rounds of letters, submissions and representations from three sets of parties who often adopted diametrically opposed positions. The Valuer, in the discharge of his duties, inevitably had to make decisions which might result in one party's position being preferred over the others' – but this was precisely within the ambit of his appointment and *would not*, without more, be demonstrative of apparent bias. Reading the Valuer's Report, it is evident that contrary to the Plaintiffs' submissions, the Valuer did in fact consider parties' submissions on the various issues before coming to a reasoned conclusion: a fair-minded and informed observer would not conclude that there was a real possibility of bias.

190 In respect of the Excess of Mandate Ground, the Plaintiffs' submissions are again premised on the overarching complaint that the Valuer abdicated his responsibility to value the Properties, which purported lapse is said to have led him to various erroneous conclusions. These criticisms are again completely unwarranted. As I have pointed out, the Valuer's Report shows that he duly considered parties' submissions before arriving at reasoned conclusions: there was no abdication of responsibility in any sense. Further, in so far as the Suit 780 Plaintiffs have tried to characterise various alleged errors as a breach of the Valuer's obligation to arrive at a "fair value" of MMSCPL, I reject this thinly veiled attempt to mount a backdoor appeal against the substantive merits of the valuation.

²⁴⁹ Suit 1158 WS at paras 362 and 457–461; Suit 780 WS at paras 253–275.

191 For the reasons set out in this judgment, I find that the Plaintiffs have failed to satisfy any of the three Grounds of Challenge. I accordingly dismiss SUM 710 and SUM 725 and will now hear parties on costs.

Mavis Chionh Sze Chyi
Judge of the High Court

Sarbjit Singh Chopra, Roshan Singh Chopra and U Sudharshanraj
Naidu (Selvam LLC) for the plaintiffs in HC/S 780/2018;
Lok Vi Ming SC, Zhuang Wenxiong, Noel Lim Xue Jing and Chow
Jun Feng Matthew (LVM Law Chambers LLC) (instructed), Darshan
Singh Purain, Avtar Raneer Kaur Purain and Avinash Singh Purain
(Darshan & Teo LLP) for the plaintiffs in HC/S 1158/2017;
Tiong Teck Wee, Zerlina Yee Zi Ling, Teo Yu Hui Frederick and
Shawn Ang De Xian (WongPartnership LLP) for the first and second
defendants;
Qabir Singh Sandhu (Mercatoria Law LLC) for Providentia Wealth
Management (watching brief).

Annex 1: Orders issued in Suit 1158

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

Case No.: HC/S 1158/2017

Doc No.: HC/JUD 590/2021

Filed: 20-December-2021 10:09 AM



Between

1. AYAZ AHMED
(FIN No. F1874365P)
2. KHALIDA BANO
(NRIC No. S2731674C)
3. ISHTIAQ AHMAD
(India Passport No. N644234)
4. MAAZ AHMAD KHAN
(FIN No. F1363903P)
5. WASELA TASNEEM
(India Passport No. M1926010)
6. ASIA
(India Passport No. H5294991)

...Plaintiff(s)

And

1. MUSTAQ AHMAD @ MUSHTAQ AHMAD S/O
MUSTAFA
(NRIC No. S2019378F)
2. ISHRET JAHAN
(NRIC No. S2595621D)
3. SHAMA BANO
(NRIC No. S7770799I)
4. ABU OSAMA
(NRIC No. S7170545E)
5. IQBAL AHMAD
(NRIC No. S2586147G)
6. MOHAMED MUSTAFA & SAMSUDDIN CO. PTE
LTD
(Singapore UEN No. 198900680Z)

...Defendant(s)

JUDGMENT

Before: Justice Chionh Sze Chyi Mavis in Open Court
Date of Judgment: 09-December-2021

The action having been tried before the Honourable Justice Chionh Sze Chyi Mavis on 12 to 16 October 2020, 19 to 23 October 2020, 26 to 30 October 2020, 2 to 6 November 2020 and 9 November 2020, **IT IS ADJUDGED THAT:**

Paragraph 1

It is declared that the 5 January 1995 Allotment is void and of no effect;

Paragraph 2

The 5 January 1995 Allotment be cancelled pursuant to section 216(2)(a) of the Companies Act (Cap 50, 2006 Rev Ed) ("Companies Act");

Paragraph 3

It is declared that the 11 December 2001 Allotment is void and of no effect;

Paragraph 4

The 11 December 2001 Allotment be cancelled pursuant to section 216(2)(a) of the Companies Act;

Paragraph 5

The Estate of Mustafa s/o Majid Khan ("Mustafa Estate") is the legal and beneficial owner of 25.4 % of the shares of the 6th Defendant;

Paragraph 6

The 1st and 2nd Defendants shall buy out (the “**Buyout Order**”) the Mustafa Estate's 25.4% shareholding in the 6th Defendant at a price (the “**Purchase Price**”) to be determined by an independent valuer (the “**Valuer**”) who shall be appointed by agreement between the Plaintiffs, the Plaintiffs in HC/Suit 780/2018 and the 1st and 2nd Defendants within 3 weeks from the date of this Judgment, failing which by the Court;

Paragraph 7

The Valuer shall fix the Purchase Price in accordance with the terms set out in Annex A, which shall be incorporated into and shall be a part of the Buyout Order and this Judgment;

Paragraph 8

The timelines set out in this Judgment and/or the Buyout Order may be extended by the Court or by consent of the Plaintiffs and the 1st and 2nd Defendants in writing;

Paragraph 9

For the avoidance of doubt, between the date of this Judgment to the date on which the Mustafa Estate's shares are bought by the 1st and 2nd Defendants in accordance with the Buyout Order, the Mustafa Estate shall continue to be a registered shareholder holding 25.4% of the shares in the 6th Defendant and shall be entitled to exercise all rights and privileges as a shareholder of the 6th Defendant, including but not limited to the pre-emption rights provided by Articles 31 to 36 of the 6th Defendant's Articles of Association;

Paragraph 10

The 1st and 2nd Defendants shall pay the Mustafa Estate interest at the rate of 5.33% per annum on the Purchase Price from the date on which the 1st and 2nd Defendants are to buy out the Mustafa Estate's Shares in the 6th Defendant at the Purchase Price pursuant to paragraph 9 of Annex A herein to the date on which full payment of the Purchase Price is made to the Mustafa Estate;

Paragraph 11

The Plaintiffs have not made out their claim that the 3rd and 4th Defendants acted in a manner that was

oppressive to the Mustafa Estate's rights as a shareholder of the 6th Defendant in relation to the conduct of the 5 January 1995 and 11 December 2001 Allotments;

Paragraph 12

The Plaintiffs have not made out their claim that the 3rd and 4th Defendants acted in a manner that was oppressive to the Mustafa Estate's rights as a shareholder of the 6th Defendant in relation to the unsecured and interest free loans from the 6th Defendant;

Paragraph 13

The Plaintiffs have not made out their claim that the 1st to 5th Defendants acted in a manner that was oppressive to the Mustafa Estate's rights as a shareholder of the 6th Defendant in relation to the creation of sham invoices;

Paragraph 14

The Plaintiffs have not made out their claim that the 2nd to 5th Defendants acted in a manner that was oppressive to the Mustafa Estate's rights as a shareholder of the 6th Defendant in relation to the falsification of the applications to the Ministry of Manpower for work passes for the foreign employees of the 6th Defendant;

Paragraph 15

The Plaintiffs have not made out their claim that the 3rd to 5th Defendants acted in a manner that was oppressive to the Mustafa Estate's rights as a shareholder of the 6th Defendant in relation to the non-payment of dividends while paying substantial directors' fees to the 1st and 2nd Defendants;

Paragraph 16

The relief sought by the Plaintiffs that the 6th Defendant be wound up pursuant to section 216(2)(f) of the Companies Act is not granted;

Paragraph 17

The 1st Defendant's counterclaim is dismissed; and

Paragraph 18

The Court shall hear the parties on the issue of costs. All costs shall be awarded on the standard basis.

Annex A of the draft Judgment

Paragraph 1 of Annex A

All fees and disbursements to be paid to the Valuer for the entirety of his engagement shall be paid by the 1st and 2nd Defendants in the first instance, and are to be factored into the valuation as a liability for the 6th Defendant that is owed to the 1st and 2nd Defendants jointly and severally. Subject to any other order that may be made by the Court, the 1st and 2nd Defendants will be entitled to recover such fees and disbursements from the 6th Defendant after the completion of the purchase of the Mustafa Estate's 25.4% shareholding.

Paragraph 2 of Annex A

In determining the Purchase Price, the Valuer shall act as expert and not otherwise and shall fix the Purchase Price at fair value without any minority discount after taking into account all moneys of the 6th Defendant that have been misappropriated according to the findings made by the Honourable Justice Mavis Chionh in Her Honour's Judgment on 16 August 2021 and as set out in the Notes of Evidence dated 6 September 2021 which are set out below and which maybe elaborated upon by Her Honour in any written grounds that may be delivered by Her Honour.

i. That the 1st, 2nd and 5th Defendants acted in a manner that was oppressive to the Mustafa Estate's rights as a shareholder of the 6th Defendant in relation to the conduct of the 5 January 1995 and 11 December 2001 Allotments;

ii. The 1st, 2nd and 5th Defendants acted in a manner that was oppressive to the Mustafa Estate's rights as a shareholder of the 6th Defendant in relation to the unsecured and interest free loans from the 6th Defendant;

iii. The 1st Defendant acted in a manner that was oppressive to the Mustafa Estate's rights as a shareholder of the 6th Defendant in relation to the falsification of applications to the Ministry of Manpower for work passes for the foreign employees of the 6th Defendant;

iv. The 1st and 2nd Defendants acted in a manner that was oppressive to the Mustafa Estate's rights as a shareholder of the 6th Defendant in relation to the non-payment of dividends while paying substantial directors' fees to the 1st and 2nd Defendants.

Paragraph 3 of Annex A

In carrying out the above, the Valuer shall make the appropriate adjustments to offset the effects of the oppressive and/or unjust conduct of the 1st, 2nd and/or the 5th Defendants, and determine the value of the Mustafa Estate's 25.4% shareholding in the 6th Defendant as at 16 August 2021.

Paragraph 4 of Annex A

The Valuer shall have the discretion to determine the appropriate method of valuation. The Valuer shall carry out the Valuation based on all the information and documents provided and made available to him, and also based on his professional judgment, including the drawing of appropriate inferences where the circumstances warrant it.

Paragraph 5 of Annex A

The Valuer has the right to engage lawyers and/or such other professionals and/or consultants as the Valuer may consider necessary to advise him or her in connection with his or her determination of the Purchase Price.

The costs of such appointment (if any) and the Valuer's costs, including all disbursements that may be incurred by the Valuer, are to be paid by the 1st and 2nd Defendants in the manner stated in paragraph 1 herein.

Paragraph 6 of Annex A

So that he may carry out the Valuation, the following documents and information shall be provided to the Valuer:

- i. The Notes of Evidence dated 16 August 2021 and 6 September 2021, and this Order of Court, including the Annex.
- ii. All affidavits, documents, and exhibits admitted as evidence in the trial of this Suit, HC/S 780/2018 and HCF/S 9/2017 ("the Admitted Documents").
- iii. Any other documents which the Valuer deems necessary for him to carry out the Valuation.

If the Valuer forms the view that the Admitted Documents are inadequate for carrying out the Valuation, the Valuer is at liberty to request from the parties any additional documents or information (the "Requested Documents or Information"). Such Requested Documents or Information must be provided by the parties to the Valuer as soon as possible.

If the Valuer forms the view that any of the Requested Documents or Information produced to him contradicts or casts doubt on the accuracy, correctness, or completeness of the information presented in the Admitted Documents, the Valuer is

at liberty to write to the parties to raise queries about the contradictions or doubts identified, and to seek answers and explanations.

The Valuer, in the exercise of his professional judgment, can draw such inferences as he deems fit from the answers and explanations given by the parties. However, the basis of such inferences must be explained in the Valuer's Report that the Valuer issues.

All written communications from the Valuer to any party must be copied to the other parties. All written communications from a party to the Valuer must be copied to the other parties.

The Valuer shall be entitled to speak to such persons as the Valuer may consider necessary to assist him in discharging his duties including but not limited to the Plaintiffs and/or the 1st and 2nd Defendants and/or their nominated representatives.

If the Valuer forms the view that information and documents required by him to carry out the Valuation are being withheld from him, he shall be at liberty to apply to Court for the necessary directions.

Paragraph 7 of Annex A

The 1st and 2nd Defendants and the 6th Defendant and its directors shall provide their full cooperation to the Valuer as may be necessary for the Valuer to carry out his work and to determine the Purchase Price.

Paragraphs 8 of Annex A

Within 2 months from the date of the Valuer's appointment, the Plaintiffs and the 1st

and 2nd Defendants are entitled to make one round of submissions to the Valuer on the matters that are relevant to the Valuer's determination of the Purchase Price, having regard to the terms of the Buyout Order. Each party's submissions must be copied to the other parties.

Within 4 months from the date of the Valuer's appointment, the Valuer shall provide a draft report to the Plaintiffs and to the 1st and 2nd Defendants who will then be entitled to make one further round of submissions to the Valuer on the matters set out in the draft report and/or matters that the Valuer ought to have taken into account which he did not, which submissions shall be sent to the Valuer within 4 weeks of receiving the draft report from the Valuer. Each party's submissions must be copied to the other parties.

Within 4 weeks from the date on which the Valuer receives the submissions from the Plaintiffs and 1st and 2 Defendants referred to above, the Valuer shall finalise and deliver a report (the "**Valuer's Report**") to the Court, the Plaintiffs and the 1st and 2nd Defendants. The Valuer's Report shall include the Purchase Price as determined by the Valuer in accordance with the terms of the Buyout Order and all decisions, findings and conclusions as determined by the Valuer in determining the Purchase Price, including any inferences drawn and the bases for such inferences.

The Valuer's Report can only be challenged on one or more of the following three grounds: (a) if it is not in accordance with the terms of the Buyout Order or (b) if the valuation was patently or manifestly in error or (c) there was fraud, corruption, collusion, dishonesty, bad faith or bias. In the absence of any of these three grounds, the Valuation shall be conclusive and binding on the Plaintiffs and the 1st and 2nd Defendants for the purpose of ascertaining the Purchase Price at fair value of the Mustafa Estate's 25.4% shareholding in the 6th Defendant.

Paragraph 9 of Annex A

Within 3 weeks from the date on which the Valuer delivers the Valuer's Report to the Court, the Plaintiffs and the 1st and 2nd Defendants, the 1st and 2nd Defendants shall buy out the Mustafa Estate's 25.4% shareholding in the 6th Defendant at the Purchase Price.

Paragraph 10 of Annex A

In the event the 1st and 2nd Defendants fail to buy out the Mustafa Estate's 25.4% shareholding by the time prescribed above, the Plaintiffs shall be at liberty to apply to the Court.

Paragraph 11 of Annex A

If the Valuer's determination of the Purchase Price is subsequently varied and/or set aside by the Court upon any application by the Plaintiffs and/or the 1st and 2nd Defendants, the parties shall be entitled to seek the necessary consequential relief from the Court.

Paragraph 12 of Annex A

The Valuer, the Plaintiffs and the 1st and 2nd Defendants have liberty to apply to Court.

1.



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TEH HWEE HWEE
REGISTRAR
SUPREME COURT
SINGAPORE

Annex 2: Orders issued in Suit 780

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

Case No.: HC/S 780/2018

Doc No.: HC/JUD 595/2021

Filed: 27-December-2021 03:02 PM



Between

1. FAYYAZ AHMAD
(NRIC No. S2723062H)
2. ANSAR AHMAD
(FIN No. G5194085M)

...Plaintiff(s)

And

1. MUSTAQ AHMAD @ MUSHTAQ AHMAD S/O
MUSTAFA
(NRIC No. S2019378F)
2. ISHRET JAHAN
(NRIC No. S2595621D)
3. SHAMA BANO
(NRIC No. S7770799I)
4. ABU OSAMA
(NRIC No. S7170545E)
5. IQBAL AHMAD
(NRIC No. S2586147G)
6. MOHAMED MUSTAFA & SAMSUDDIN CO. PTE
LTD
(Singapore UEN No. 198900680Z)

...Defendant(s)

Counterclaim of 1st Defendant

Between

MUSTAQ AHMAD @ MUSHTAQ AHMAD S/O
MUSTAFA
(NRIC No. S2019378F)

...Plaintiff(s) in Counterclaim

And

1. FAYYAZ AHMAD
(NRIC No. S2723062H)
2. ANSAR AHMAD
(FIN No. G5194085M)

...Defendant(s) in Counterclaim

JUDGMENT

Before: Justice Chionh Sze Chyi Mavis in Open Court
Date of Judgment: 09-December-2021

This action having been tried before the Honourable Justice Chionh Sze Chyi Mavis on 12 October 2020 to 16

October 2020, 19 October 2020 to 23 October 2020, 26 October 2020 to 30 October 2020, 2 to 6 November 2020 and 9 November 2020, **IT IS ADJUDGED THAT:**

Paragraph 1

It is declared that the 5 January 1995 Allotment is void and of no effect;

Paragraph 2

The 5 January 1995 Allotment be cancelled pursuant to section 216(2)(a) of the Companies Act (Cap 50, 2006 Rev Ed);

Paragraph 3

It is declared that the 11 December 2001 Allotment is void and of no effect;

Paragraph 4

The 11 December 2001 Allotment be cancelled pursuant to section 216(2)(a) of the Companies Act (Cap 50, 2006 Rev Ed);

Paragraph 5

The 1991 to 1993 Allotments shall not be set aside;

Paragraph 6

The Estate of Samsuddin s/o Mokhtar Ahmad ("Samsuddin Estate") is the legal and beneficial owner of 25.7 % of the shares of the 6th Defendant;

Paragraph 7

The 1st and 2nd Defendants shall buy out (the "Buyout Order") the Samsuddin Estate's 25.7% shareholding in the 6th Defendant at a price (the "Purchase Price") to be determined by an independent valuer (the "Valuer") who shall be appointed by agreement between the Plaintiffs, the Plaintiffs in HC/S 1158/2017 and the 1st and 2nd Defendants within 3 weeks from the date of this Judgment, failing which by the Court;

Paragraph 8

The Valuer shall fix the Purchase Price in accordance with the terms set out in **Annex A** which shall be incorporated into and shall be part of the Buyout Order and this Judgment;

Paragraph 9

The timelines set out in this Judgment and/or Buyout Order may be extended by the Court or by consent of the Plaintiffs and the 1st and 2nd Defendants in writing;

Paragraph 10

For the avoidance of doubt, between the date of this Judgment to the date on which the Samsuddin Estate's shares are bought by the 1st and 2nd Defendants in accordance with the Buyout Order, the Samsuddin Estate shall continue to be a registered shareholder holding 25.7% of the shares in the 6th Defendant and shall be entitled to exercise all rights and privileges as a shareholder of the 6th Defendant, including but not limited to the pre-emption rights provided by Articles 31 to 36 of the 6th Defendant's Articles of Association;

Paragraph 11

The 1st and 2nd Defendants shall pay the Samsuddin Estate interest at the rate of 5.33% per annum on the Purchase Price from the date on which the 1st and 2nd Defendants are to buy out the Samsuddin Estate's Shares in the 6th Defendant at the Purchase Price pursuant to paragraph 9 of Annex A herein to the date on which full payment of the Purchase Price is made to the Samsuddin Estate

Paragraph 12

The Plaintiffs have not made out their claims of oppression against the 1st to 5th Defendants in respect of the following:

- (a) The 3rd to 5th Defendants in respect of the 1991 to 1993 Allotments;
- (b) The 1st to 5th Defendants in respect of the 9 April 1996 and 24 February 1997 Allotments;
- (c) The 3rd and 4th Defendants in respect of the unsecured and interest free directors' loans;
- (d) The 2nd to 5th Defendants in respect of the falsification of applications to the Ministry of Manpower for work passes for the foreign employees of the 6th Defendant;
- (e) The 3rd to 5th Defendants in respect of the allegation that no dividends were declared or paid while the 1st and 2nd Defendants received substantial directors' fees;
- (f) The 1st to 5th Defendants in respect of the allegation that sham transactions backed by sham invoices were concocted to create the appearance that the 6th Defendant was indebted to B.I. Distributors Pte Ltd ("the BID Claim");
- (g) The 1st to 5th Defendants in respect of the allegations pleaded at paragraphs 80 to 96 and 97A to 97E of the Plaintiffs' Statement of Claim (Amendment No. 1) dated 12 August 2020 ("SOC"); and
- (h) The 1st Defendant acted in a manner pleaded at paragraph 110 SOC.

Paragraph 13

Subject to the findings that the Plaintiffs have not made out their claims that the 1st Defendant fraudulently breached his fiduciary duties and duties as executor and trustee of the Samsuddin Estate by reason of the matters set out in paragraph 12 above, it is declared that the 1st Defendant fraudulently breached his fiduciary duties and duties as an executor and trustee of the Samsuddin Estate, with the loss to the Samsuddin Estate as a result of his conduct to be addressed by the Buyout Order herein.

Paragraph 14

The Plaintiffs' claim that the 1st Defendant holds 1/3 of the Trust Assets on trust as defined at paragraphs 98 and 99 of the SOC (1) for the Samsuddin Estate is dismissed;

Paragraph 15

The Plaintiffs' claims against the 3rd and 4th Defendants are dismissed;

Paragraph 16

The claim that the 2nd Defendant is not the beneficial owner of the shares of the 6th Defendant registered in her name is dismissed;

Paragraph 17

The claim for an investigation by the Ministry of Manpower is dismissed;

Paragraph 18

The relief sought by the Plaintiffs that the 6th Defendant be wound up pursuant to section 216 (2) (f) of the Companies Act is not granted;

Paragraph 18A

The 1st Defendant's counterclaim against the Plaintiffs is dismissed;

Paragraph 19

The 1st Defendant's counterclaim against the 1st Plaintiff is dismissed; and

Paragraph 20

The Court shall hear parties on the issue of costs. All costs shall be awarded on the standard basis.

1. Annex A



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A handwritten signature in black ink, appearing to read 'Te Hw Hw', located above the printed name of the Registrar.

TEH HWEE HWEE
REGISTRAR
SUPREME COURT
SINGAPORE

Annex A of the Judgment

Paragraph 1 of Annex A

All fees and disbursements to be paid to the Valuer for the entirety of his engagement shall be paid by the 1st and 2nd Defendants in the first instance, and are to be factored into the valuation as a liability for the 6th Defendant that is owed to the 1st and 2nd Defendants jointly and severally. Subject to any other order that may be made by the Court, the 1st and 2nd Defendants will be entitled to recover such fees and disbursements from the 6th Defendant after the completion of the purchase of the Samsuddin Estate's 25.7% shareholding in the 6th Defendant.

Paragraph 2 of Annex A

In determining the Purchase Price, the Valuer shall act as expert and not otherwise and shall fix the Purchase Price at fair value without any minority discount after taking into account all moneys of the 6th Defendant that have been misappropriated according to the findings made by the Honourable Justice Mavis Chionh in Her Honour's Judgment on 16 August 2021 and as set out in the Notes of Evidence dated 6 September 2021 which are set out below and which may be elaborated upon by Her Honour in any written grounds that may be delivered by Her Honour:

- i. That the 1st, 2nd and 5th Defendants acted in a manner that was oppressive to the Samsuddin Estate's rights as a shareholder of the 6th Defendant in relation to the conduct of the 5 January 1995 and 11 December 2001 Allotments;
- ii. The 1st, 2nd and 5th Defendants acted in a manner that was oppressive to the Samsuddin Estate's rights as a shareholder of the 6th Defendant in relation to the unsecured and interest free loans from the 6th Defendant;
- iii. The 1st Defendant acted in a manner that was oppressive to the Samsuddin Estate's rights as a shareholder of the 6th Defendant in relation to the falsification of applications to the Ministry of Manpower for work passes for the employees of the 6th Defendant;

- iv. The 1st and 2nd Defendants acted in a manner that was oppressive to the Samsuddin Estate's rights as a shareholder of the 6th Defendant in relation to the non-payment of dividends while paying substantial directors' fees to the 1st and 2nd Defendants;

Paragraph 3 of Annex A

In carrying out the above, the Valuer shall make the appropriate adjustments to offset the effects of the oppressive and/or unjust conduct of the 1st, 2nd and/or the 5th Defendants, and determine the value of the Samsuddin Estate's 25.7% shareholding in the 6th Defendant as at 16 August 2021.

Paragraph 4 of Annex A

The Valuer shall have the discretion to determine the appropriate method of valuation. The Valuer shall carry out the Valuation based on all the information and documents provided and made available to him, and also based on his professional judgment, including the drawing of appropriate inferences where the circumstances warrant it.

Paragraph 5 of Annex A

The Valuer has the right to engage lawyers and/or such other professionals and/or consultants as the Valuer may consider necessary to advise him or her in connection with his or her determination of the Purchase Price. The costs of such appointment (if any) and the Valuer's costs, including all disbursements that may be incurred by the Valuer, are to be paid by the 1st and 2nd Defendants in the manner stated in paragraph 1 herein.

Paragraph 6 of Annex A

So that he may carry out the Valuation, the following documents and information shall be provided to the Valuer:

- i. The Notes of Evidence dated 16 August 2021 and 6 September 2021, and this Order of Court, including the Annex.
- ii. All affidavits, documents, and exhibits admitted as evidence in the trial of this Suit, HC/S 1158/2017 and HCF/S 9/2017 ("**the Admitted Documents**").

- iii. Any other documents which the Valuer deems necessary for him to carry out the Valuation.

If the Valuer forms the view that the Admitted Documents are inadequate for carrying out the Valuation, the Valuer is at liberty to request from the parties any additional documents or information (the "**Requested Documents or Information**"). Such Requested Documents or Information must be provided by the parties to the Valuer as soon as possible.

If the Valuer forms the view that any of the Requested Documents or Information produced to him contradicts or casts doubt on the accuracy, correctness, or completeness of the information presented in the Admitted Documents, the Valuer is at liberty to write to the parties to raise queries about the contradictions or doubts identified, and to seek answers and explanations.

The Valuer, in the exercise of his professional judgment, can draw such inferences as he deems fit from the answers and explanations given by the parties. However, the basis of such inferences must be explained in the Valuer's Report that the Valuer issues.

All written communications from the Valuer to any party must be copied to the other parties. All written communications from a party to the Valuer must be copied to the other parties.

The Valuer shall be entitled to speak to such persons as the Valuer may consider necessary to assist him in discharging his duties, including but not limited to the Plaintiffs and/or the 1st and 2nd Defendants and/or their nominated representatives.

If the Valuer forms the view that information and documents required by him to carry out the Valuation are being withheld from him, he shall be at liberty to apply to Court for the necessary directions.

Paragraph 7 of Annex A

The 1st and 2nd Defendants and the 6th Defendant and its directors shall provide their full cooperation to the Valuer as may be necessary for the Valuer to carry out his work and to determine the Purchase Price.

Paragraph 8 of Annex A

Within 2 months from the date of the Valuer's appointment, the Plaintiffs and the 1st and 2nd Defendants are entitled to make one round of submissions to the Valuer on the matters that are relevant to the Valuer's determination of the Purchase Price, having regard to the terms of the Buyout Order. Each party's submissions must be copied to the other parties.

Within 4 months from the date of the Valuer's appointment, the Valuer shall provide a draft report to the Plaintiffs and to the 1st and 2nd Defendants who will then be entitled to make one further round of submissions to the Valuer on the matters set out in the draft report and/or matters that the Valuer ought to have taken into account which he or she did not, which submissions shall be sent to the Valuer within 4 weeks of receiving the draft report from the Valuer. Each party's submissions must be copied to the other parties.

Within 4 weeks from the date on which the Valuer receives the submissions from the Plaintiffs and 1st and 2 Defendants referred to above, the Valuer shall finalise and deliver a report (the "Valuer's Report") to the Court, the Plaintiffs and the 1st and 2nd Defendants. The Valuer's Report shall include the Purchase Price as determined by the Valuer in accordance with the terms of the Buyout Order and all decisions, findings and conclusions as determined by the Valuer in determining the Purchase Price, including any inferences drawn and the bases for such inferences.

The Valuer's Report can only be challenged on one or more of the following three grounds: (a) if it is not in accordance with the terms of the Buyout Order or (b) if the valuation was patently or manifestly in error or (c) there was fraud, corruption, collusion, dishonesty, bad faith or bias. In the absence of any of these three grounds, the Valuation shall be conclusive and binding on the Plaintiffs and the 1st and 2nd Defendants for the purpose of ascertaining the Purchase Price at fair value of the Samsuddin Estate's 25.7% shareholding in the 6th Defendant.

Paragraph 9 of Annex A

Within 3 weeks from the date on which the Valuer delivers the Valuer's Report to the Court, the Plaintiffs and the 1st and 2nd Defendants, the 1st and 2nd Defendants shall buy out the Samsuddin Estate's 25.7% shareholding in the 6th Defendant at the Purchase Price.

Paragraph 10 of Annex A

In the event the 1st and 2nd Defendants fail to buy out the Samsuddin Estate's 25.7% shareholding by the time prescribed above, the Plaintiffs shall be at liberty to apply to the Court.

Paragraph 11 of Annex A

If the Valuer's determination of the Purchase Price is subsequently varied and/or set aside by the Court upon any application by the Plaintiffs and/or the 1st and 2nd Defendants, the parties shall be entitled to seek the necessary consequential relief from the Court.

Paragraph 12 of Annex A

The Valuer, the Plaintiffs and the 1st and 2nd Defendants have liberty to apply to Court.