



IN THE COUNTY COURT AT CENTRAL LONDON

Case No: K01CL811

Date: 12/09/2025

Before :

HHJ BLOOM

Between :

**UBS AG
- and -**

Claimant

**(1) KIN HUNG KEI
(2) SPARKLE ROLL CAPITAL LIMITED
(3) ZHU SHUANG
(4) BRUNO ARBOIT as Joint Trustee in
Bankruptcy of Mr Kin Hung Kei
(5) LI KIN LONG KENNY as Joint Trustee in
Bankruptcy of Mr Kin Hung Kei**

Defendants

Ms Hawker (instructed by **Simmons and Simmons for**) for the **Claimant**
First Defendant Litigant in person
Mr Potts (instructed by **Raymond Legal Services Ltd**) for the **2nd and 3rd Defendants**
4th and 5th Defendants not appearing or being represented

Hearing dates: 15th August ; 18th August to 22nd August 2025 and 12th September 2025

Approved Judgment

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HHJ BLOOM

HHJ Bloom :

1. The claimant, UBS AG (“UBS”), is an investment bank and wealth management organisation and it seeks a money judgment and possession of Hugh House, Eaton Square, London and two related car parking bays (“the Properties”). The defendants deny that UBS is entitled to the monies or possession and the third defendant, Ms Zhu, counterclaims for around £5 million. Mr Kei is the first defendant and was a very high wealth individual to whom UBS lent £46,800,000 (“the Facility”). The Facility was secured by a mortgage over the Properties. Sparkle Roll Capital Limited (“SRCL”) is the second defendant and became the freeholder of the Properties in or about March 2018. There are two mortgages dated 27th February 2018 between UBS and SRCL stated to be for 5 years which were entered into to secure the Facility. The third defendant, Ms Zhu, is the wife of Mr Kei. She consented to all her rights present and future being postponed to those of UBS. Their daughter Ms Qi is said to be the 100% shareholder of the 2nd defendant.
2. Counsel for the claimant and for Ms Zhu and Ms Qi have assisted me with excellent oral arguments and written arguments. They have worked very hard at providing joint bundles of authorities, agreed issues and a joint chronology. I am indebted to them for the work put in. I would also thank the interpreter for the defendants who was excellent. Mr Kei had legal representation. He has since being adjudged bankrupt and was representing himself at trial. He was consistently polite and attended court and engaged through an interpreter.
3. There is a list of issues. I have them in mind. Much revolves around the terms of the Facility and whether it was for 5 years or 20 years or some other longer term. The defendants assert that there were a number of representations and that the date for repayment of the Facility was extended. The defences rest on three representations that are said to have been made between August 2021 and April 2022. The defendants said that representations were made that provided the interest was paid, UBS would renew the Facility for 5 years and that the family could continue to live at Hugh House. Ms Zhu says that in reliance on these representations she transferred £5 million to Mr Kei’s account in Switzerland. The defendants argue that if the representations were made to Ms Zhu, then there was a collateral agreement to extend the term of the Facility and not to enforce the Facility and mortgages, alternatively there was a variation of the same or alternatively there was a promissory estoppel. Ms Zhu is the only defendant who makes a counterclaim.

The background

4. Mr Kei was a high net worth individual in 2017. He was based in Hong Kong. His wife in 2017 wanted to buy a property in London for the family. They had two teenage children at that time.
5. UBS Switzerland AG (“UBS Switzerland”) dealt with Mr Kei’s wealth management issues as it managed his investments with UBS Switzerland. When Mr Kei wanted to purchase a property in London, he was introduced by Ms Xie, who was his client advisor in Switzerland, to the London branch of UBS AG (“UBS London”) to arrange the mortgage. This was in or about 2017. Mr Rahul Hegde and Ms Hongsupant were the client advisers at UBS London who were responsible for arranging the Facility and the mortgage.

6. Initially two other companies were involved : Hugh House Eaton Square Limited and Pine Tree Holdings Limited; the agreement for sale and purchase of the Properties was on 24th February 2017. Ms Lei at Discreet Law was the representative of the firm acting for Mr Kei in the arrangements regarding the purchases, Mortgages and Facility.
7. In March 2017, Ms Zhu signed the consent to the mortgage. In April 2017 a Mortgage Facility was offered to Mr Kei. He signed for the Facility on 10th April 2017. The Facility was secured by two legal charges over the Properties. It was an interest only offer. Hugh House Limited and Eaton Square Limited were required to enter into mortgages to secure the mortgage facility. It was a term of the offer that Mr Kei had to hold in his accounts with UBS London and UBS Switzerland, for the duration of the mortgage term, sufficient collateral so that the security value of the collateral was equal to or exceeded the collateral amount. It was agreed that the value of the collateral was to be always greater than £10.8m. Mr Kei signed the same.
8. A mortgage illustration was prepared where it was expressly stated that the loan was for 5 years only and was for £46.8m but the total that was to be repaid was over £50m.
9. The initial Mortgage deeds charging the Properties were with Hugh House Eaton Square Limited and Pine Tree Holdings Limited and UBS. Mr Kei signed all the documents.
10. The second defendant is a company registered in the BVI. It is not clear whether Mr Kei was the 100% shareholder of the same initially; he transferred all shares to his daughter at some point.
11. On 28th February 2018 mortgage deeds were prepared between SRCL and UBS whereby the Properties were charged to secure the Facility with Mr Kei. Mr Kei signed both as borrower and on behalf of the company as chargor.
12. In 2020, Mr Liang took over management of UBS Switzerland's accounts from Ms Xie. In October 2020 Mr Hegde who worked at UBS London emailed Mr Kei to ask him what his repayment strategy was. It was pointed out that in the mortgage offer the intended strategy was to sell liquid financial assets. He wanted to know if that remained his strategy. It was stated that alternatively UBS could look at a potential renewal of the mortgage facility with the bank. I have not seen a reply.
13. In July 2021 the first Freezing Order was made against Mr Kei in *Hua She Asset Management (Shanghai) Company Ltd v Kei* (CL-2021-000399). Neither UBS London nor UBS Switzerland were aware of the same until around June 2022.
14. By August 2021, there were discussions about Mr Kei not having the collateral to support the mortgage loan and, whilst UBS did not know about the Freezing Order, it appears to have been known that Mr Kei had business problems in mainland China. Ms Zhu was involved and had opened her own account with UBS Switzerland on or about 6th September. There is considerable dispute around who said what at this time. There are emails and telephone transcripts referring to discussions between UBS with Mr Kei and emails between UBS Switzerland and Ms Zhu.
15. The first representation is said to occur around this time in September 2021. Mr Liang is said to have represented to Mr Yuan that if the quarterly mortgage interest was paid

under the Facility, UBS would be happy to renew the Facility for a further five years. Further that it would be more conducive to vetting if more funds could be transferred to Mr Kei's account in UBS Switzerland before UBS London made their decision about whether or not to renew the Facility. Mr Lian does not recall such a conversation or indeed knowing Mr Yuan at this time.

16. In September 2021 Ms Zhu appears to have taken a loan of £3.3million from UBS Switzerland and used that money to transfer to Mr Kei in September 2021.
17. On 5th November 2021 there was a telephone call at which Ms Liu and Ms Hongskupant were present. It is disputed who was present for the defendants. At this time Mr Yuan entered into an agreement with Ms Qi and Ms Zhu to provide them with financial advice.
18. In December 2021, Ms Zhu transferred £171,000 from her UBS Switzerland account to that of Mr Kei in Switzerland. Ms Bellamy for the claimant emailed Mr Kei explaining the Facility would expire in 4 months' time and he needed to say what his intentions were regarding the Facility. This email required documentation to be received by 20th January 2022, and a new application was required to be made which would be considered in accordance with current lending policy.
19. There is a UBS transcript of a call on 20th December 2021 which is recorded to be with Ms Liu, Ms Hongskupant and Mr Kei.
20. The defendants say that later in December 2021 Ms Liu represented to Mr Kei and Ms Zhu that so long as the interest payments were made UBS would let the family live at Hugh House.
21. There was a further call in January 2022 between UBS London and Mr Kei. And further calls and emails internally with Mr Liang and UBS London. The tone was about providing documents to support the Mortgage Facility being extended.
22. In February 2022, Mr Yuan completed a financial advice report which was to Ms Zhu and spoke of having negotiated with UBS Bank in Switzerland for a mortgage on Hugh House. The final sentence says that colleagues at UBS have indicated that "we hope you will be able to repay the relevant interest on time and according to the original terms, which will significantly speed up the approval process within UBS."
23. A meeting was arranged at Hugh House for 22nd February 2022 at which it is recorded by UBS London that Mr Kei, Ms Liu and Ms Hongskupant were present. Who else was present is disputed. There are contemporaneous notes of the meeting prepared by the claimant.
24. In March 2022, Ms Zhu paid £210,000 to Mr Kei's account in Switzerland.
25. Mr Yuan says that there was a telephone call in April 2022 when it is alleged the final representation was made by Mr Liang. Mr Yuan said that the representation was to the effect that Ms Zhu had not been granted an extension of the mortgage because the house was at risk of litigation and had failed to satisfy the bank's internal audit. And UBS needed to clear up its internal procedures. Mr Yuan said that Mr Liang told him that

provided the interest was paid, Ms Zhu could live at Hugh House and UBS would sort out its procedures and confirm extension of the loan.

26. On 8th April 2022 another Freezing Order was made against Mr Kei in the High Court in separate proceedings. The Properties were included in the assets that were frozen. This Order was notified to UBS London in April 2022 shortly before 20th April 2022.
27. On 21st April 2022, the day after the original Facility and Mortgage were said to expire, Ms Liu and Ms Hongsupant called Mr Kei and discussed with him that the mortgage had expired. A demand letter was sent on 8th June 2022. The receivers were appointed. There are no written responses to the same.
28. In June 2022 and December 2022, Ms Zhu paid £260,000 and £500,000 to Mr Kei's account in Switzerland. All the sums paid over save for the original £3.3 million were transferred to UBS London towards the interest payments but the £1.7 million was put into a separate account because of the Freezing Orders.
29. Letters before claim were sent in January 2023.
30. In March 2023 Ms Zhu paid £610,000 to Mr Kei's UBS Switzerland account which was transferred to UBS London as above.
31. The proceedings were issued in May 2023 against the first two defendants. Ms Zhu did not seek to join the proceedings until Spring 2024. In 2023 there was a dispute in the Hua She Asset case as to whether Mr Kei had capacity to litigate. He was asserting that he did not. Foxton J concluded he did have capacity in July 2023 and this was upheld by the Court of Appeal in December 2023.
32. The bankruptcy proceedings in Hong Kong were recognised here in November 2024.

Evidence

33. I heard evidence from three witnesses for the claimant and four witnesses for the defendants. It was accepted that the defendants rely on three oral representations to establish their defence and the counterclaim of Ms Zhu. Mr Potts accepted that it is for the defendants to prove that these oral representations occurred and that if those oral representations are not established then the defendants fail both in their defences and the counterclaim.
34. I was taken to Phipson on Evidence; I was referred to paragraph 45-10 and the approach set out in the well-known case of *Gestmin SGPS SA v Credit Suisse (Uk) Ltd [2013] EWHC 3560 (Comm)*

“In the context of complex commercial disputes, Legatt J's approach in *Gestmin* is often cited as to how evidence in such cases should be treated. After noting the fallibility and unreliability of human recollection he concluded:

“In the light of these considerations, the best approach for a judge to adopt in the trial of a commercial case is, in my view, to place little if any reliance at all on witnesses' recollections of what was said in meetings and conversations, and to base factual findings on inferences drawn from the documentary evidence and known or probable facts. This does not mean that oral testimony serves no useful purpose –

though its utility is often disproportionate to its length. But its value lies largely, as I see it, in the opportunity which cross-examination affords to subject the documentary record to critical scrutiny and to gauge the personality, motivations and working practices of a witness, rather than in testimony of what the witness recalls of particular conversations and events. Above all, it is important to avoid the fallacy of supposing that, because a witness has confidence in his or her recollection and is honest, evidence based on that recollection provides any reliable guide to the truth.”

35. Phipson goes on to say that where events go back a number of years and there is significant volume of contemporaneous documents there may be key factual issues to be resolved where there is an absence of documents covering those issues such as what was said at a particular meeting for which there is no record or the documents are equivocal or ambiguous.

36. I was taken to what Rajah J said in *South Tees Development Corp v PD Transport Ltd* [2024] EWHC 214 (Ch) at [23], [30]–[31]

“30. Although Legatt J’s words have been sometimes taken as an encouragement to place no reliance on witness recollection, particularly when there is an abundance of reliable contemporaneous documentation, the Court of Appeal has confirmed that the assessment of the credibility of a witness’ evidence should be a part of a single compendious exercise of finding the facts based on all of the available evidence; see *Kogan v Martin* [2019] EWCA Civ 1645 and *Natwest Markets Plc, Mercuria Energy Europe Trading v Bilta (UK) Ltd (In Liquidation)* [2021] EWCA Civ 680 at paragraphs 50 and 51.

31. Each witness’s evidence has to be weighed in the context of the reliably established facts (including those which can safely be distilled from contemporaneous documentation bearing in mind that the documentation itself may be unreliable or incomplete), the motives and biases in play, the possible unreliability or corruption of human memory and the inherent probabilities. Where there is reliable contemporaneous documentation, it will be natural to place weight on that. Where documents add little to the analysis, other secure footholds in the evidence need, if possible, to be found to decide whether it is more likely than not that the witness’ memory is reliable or mistaken.”

37. I was also taken to Phipson at 45-14 where the point was made that human memory is fallible and even honest witnesses can give evidence that is untrue. And the comments made by Browne LJ that ...

“in civil cases (unlike criminal cases) the witnesses are seldom lying deliberately. But I am very sceptical about the reliability of oral evidence. Observation and memory are fallible, and the human capacity for honestly believing something which bears no relation to what actually happened is unlimited.”

38. In relation to assessing documentary evidence I was asked to consider Phipson at 45-13 where various principles were set out

“(1) Just because something is recorded in a document does not necessarily mean it is true or accurate. Thus, when a note of a meeting has been created, the accuracy will depend on how detailed it is and what facts the maker may have

decided or remembered at the time to note down. At meetings a statement may not seem significant or even been heard or remembered by the time the note was prepared.

- (2) The interests and possible motives of the maker may be relevant. A party writes a letter setting out his position to the other party. That does not mean what is stated in the letter is true. However, if the other party replies and either refutes an assertion of fact or replies and expressly accepts it or simply does not reply at all, that may be highly relevant. Thus, looking at one document in isolation may give a wrong impression. A document should be considered in the context of other documents as well as any witness evidence relating to it.
- (3) Documents get lost, mislaid and destroyed, thus the documents before the court may not show the complete picture.
- (4) Where what is stated or recorded in a document is in dispute, then the court should consider the circumstances of its creation, possible reasons why it may be inaccurate, and the motives and interests of the maker.
- (5) There is no fixed rule or presumption that documentary evidence is always to be preferred to the evidence of the witnesses to which it may conflict. There may be circumstances in which the documents can be shown to be inherently unreliable, or the oral evidence may throw an entirely different light on the apparent meaning of a document.”

39. Mr Potts drew my attention to what Cotter J said in *Aspinalls Club Ltd v Lester Hui Chun Mo* [2023] EWHC 2036 (KB) at [137]:

“137. The events in this case took place over seven years ago. Given the inevitable deterioration in recollections over such a long period, significant assistance is obviously likely to be gained from the contemporaneous documents, together with inferences drawn from those documents. An obvious example of a document establishing a baseline of facts against which recollections can be judged is the automatically produced records of the time and amount of any bet placed on the evening in question (and other earlier occasions). However, not all contemporaneous documentation carries the same weight and it is necessary to treat with caution documentation which may have been self-serving at the time of creation and to consider carefully whether the document can be taken at face value.”

40. Ms Hawker referred me to Phipson at 45-10 above and to 45-24 and a long list of indicators of a witness who is not credible and unreliable

- “ (1) evasive and argumentative answers;
- (2) tangential speeches avoiding the questions;
- (3) blaming legal advisers for documentation (statements of case and witness statements);
- (4) disclosure and evidence shortcomings;

- (5) self-contradiction;
- (6) internal inconsistency;
- (7) inconsistency with contemporaneous documents;
- (8) shifting case;
- (9) new evidence; and
- (10) selective or absence of disclosure.

To this list can be added some more equivocal and subjective indicators:

- (11) getting flustered at difficult questions;
- (12) giving incredible detail and making things up on the spot;
- (13) changes in demeanour and signs of being uncomfortable when giving certain answers;
- (14) answers which are inherently incredible and contrary to sense;
- (15) making uncorroborated allegations of fabrication;
- (16) wild speculation;
- (17) scripted and well-rehearsed witness.

However, the assessment of a witnesses' credibility and reliability does not involve the application of some form of checklist. It involves considering a witness's evidence in a common sense way in the light of all of the evidence and the inherent probabilities."

- 41. I have set the above extracts out in detail as much depends on assessment of the evidence of the parties which has to be considered against the documents and other witnesses' evidence as well as known facts.
- 42. The claimant called three witnesses who are all employees of the claimant or UBS Switzerland. I also read their witness statements. They all gave evidence in English albeit this was not their first language. I also considered contemporaneous documents in the form of emails and transcripts of phone calls that occurred in Mandarin but were translated into English.
- 43. Ms Liu had made two statements. Her involvement started in 2020 when she joined Ms Hongsupant in dealing with Mr Kei's mortgage. She became the primary client advisor from September 2021 but continued to work with Ms Hongsupant. She set out in her statements her involvement with this mortgage account. Her statements refer to contemporaneous emails both from herself and others at UBS and with Mr Liang which she relied on as showing that Mr Kei knew the mortgage facility was coming to an end in April 2022 and that he would need to apply to renew the same. Further there are transcripts of telephone conversations in 2021 and 2022 which she was adamant were with Mr Kei. In the conversation in October 2021 there was discussion about the assets

Mr Kei had and Ms Liu is recorded as saying that she and Ms Hongskupant would need to discuss this with the loan department and this was a preliminary appraisal, and they were getting started as there was 6 months to go. It was made clear that it would be appreciated if Mr Kei would get sorted organising it all sooner rather than later. Mr Kei is recorded as saying that even if the value of the property had increased, he did not want a bigger loan.

44. Ms Liu's evidence was that between October and 5th November 2021, UBS had not received sufficient evidence of his financial position to be satisfied that he passed the mortgage affordability test (see email of 4th November 2021 from Ms Hongskupant to Mr Liang and Mr Leung). There was a call from UBS London to Mr Kei on 5th November 2021 and there is a transcript of this call albeit translated from Mandarin to English. There is a factual dispute as to whether others were on this call in particular Mr Ho who is Mr Kei's PA. Ms Liu was clear she was speaking to Mr Kei and no one else was on the call as far as she knew. The point was made that in the call he referred to "his wife". During the call, reference is clearly made to Mr Kei's assets having gone down since last time and there not been enough compared to then to take the loan. Ms Hongskupant was recorded as asking for, and Mr Kei agreeing, to send all the supporting information the following week.
45. Ms Liu referred to an email sent on 17th December 2021 from Abbie Bellamy to Mr Kei explaining again that his mortgage would expire in April and all documentation was required by 20th January 2021 (in error for 2022) and a new application would have to be completed. There is another phone call recorded on 20th December 2021 where again requests were being made for information regarding assets and the loan department was said to be anxious and they needed proof of the assets within a month. According to the records, Mr Kei was telling them orally about his shares and liquid assets. He was saying he intended to return to being chair of one company and that his wife and child had the shares at that time.
46. It was put to Ms Liu that she had had a conversation that was not recorded with Mr Kei and Ms Zhu in December 2021 where she said that if mortgage instalments were paid, UBS would allow them and their family to remain in Hugh House. Ms Liu denied any such conversation.
47. She did accept that there appeared to be the odd call where there were no records of the call.
48. Ms Liu accepted that Mr Liang had more contact with Mr Kei than she did and that most of his information was sent over by email.
49. Ms Liu gave evidence about, and attached another transcript of, a telephone call on 7th January 2022 with Mr Kei. Ms Hongskupant is recorded as being clear that the relevant documents were needed by 20th January to submit to her department for review and was asking Mr Kei if he could do this. Ms Liu followed the call with an email to Mr Kei setting out the documents required.
50. There was a meeting at Hugh House on 22nd February 2022. Ms Liu was in attendance with Ms Hongskupant and Mr Hegde. Mr Kei was present. There is a report of the meeting prepared by UBS. The report records that the meeting was to discuss about the expiring £46.8 million facility.

51. Further information was not provided, and Ms Liu contacted a Mr Windle who was marketing the other property that Mr Kei held in the UK at One Hyde Park but there was nothing concrete in relation to offers on that property.
52. Ms Liu together with Ms Hongsukpant prepared a Mortgage Extension Proposal. She explained in her statement that this was a document for senior management and the credit department so that they could decide whether to extend the mortgage for a couple of months to enable them to consider documents that Mr Kei was to provide. On 19th April 2022, Ms Liu heard that there was a Freezing order obtained by Hangzhou Jiudang Asset Management Co Ltd and Hangzhou Biaoqba Trading Co Ltd against Mr Kei.
53. On 21st April 2022, Ms Liu called Mr Kei with Ms Hongsukpant. They explained that the loan had not been renewed and that internally they were deciding what to do next. A reservation of rights letter was sent.
54. Ms Liu also made the point that at no time did she doubt the mental capacity of Mr Kei. She did not recall meeting Ms Zhu but accepted that there was an email in October 2020 where she forwarded a message to Ms Zhu but she could not recall that at all.
55. Her evidence was broadly consistent with the documentation and with the evidence of her colleagues who gave evidence. She came across as measured and it was not suggested that she was lying by Mr Potts rather she had forgotten the representation she made, was overworked and did not record every meeting or call. There were some minor inaccuracies such as she believed she had not had contact with Ms Zhu but there was an email in 2020 when she forwarded an email to Mr Kei to Ms Zhu. However, her evidence was internally consistent and consistent with Ms Hongsukpant and with contemporaneous documents.
56. I also heard from Mr Liang. He worked for the UBS wealth management team in Switzerland. He took over running Mr Kei's account when his predecessor Ms Xie moved to New York in 2020. Mr Kei had held around \$10-20 million in assets with UBS Switzerland which was mainly shares in New Sparkle Roll Group Limited.
57. Mr Liang knew Mr Kei had a mortgage in the UK and there was a collateral requirement that he had to maintain at least £10.8million in his Swiss account with UBS. The "Lending Value" or "LV" referred to the value that UBS Switzerland ascribed to the collateral in Mr Kei's Swiss account.
58. He explained that there was a standing order on Mr Kei's account to pay the quarterly interest on the mortgage. Ms Hongsukpant or Ms Liu would notify Mr Liang what was due each quarter and he would arrange the payment from Mr Kei's account to UBS London.
59. Mr Liang was communicating with Mr Kei and UBS London initially and then by August 2021 was in communication with Ms Zhu. The documentation in relation to communications with Mr Liang and the defendants is subject to Swiss law where confidentiality is of high importance. The call log in relation to Ms Zhu was disclosed a few weeks before trial when Ms Zhu herself requested the same. The claimant does not have access to UBS Switzerland's documents.

60. Mr Liang was cross examined about his records and said he believed that calls would be logged. He did not recall meeting Mr Yuan or Mr Ho until 2023. He thought he met Mr Ho when Mr Kei introduced him as CEO of the cigar business. He believed he first met Mr Yuan in April 2023.
61. He said his role was not to advise regarding the mortgage but merely to deal with the mortgage interest and pass information to and from Mr Kei to his colleagues Ms Liu and Ms Hongsukpant. He was clear that he had told Mr Kei that it was not his decision to make. He referred to emails from August 2021 onwards in which he was passing information to and fro. In September 2021 there is an email from him to London explaining that “the wife’s account” is open and wanting to know how to secure the asset as further collateral for the mortgage. Mr Liang was sending what he understood to be Mr Kei’s statements of assets to London and was informed of the need for Mr Kei to have documents to support his position regarding his assets.
62. Whilst Mr Liang was clear in his written evidence that he had not met Mr Yuan before April 2023, in oral evidence he was more diffident as he said he could not remember doing so or remember making any statement to Mr Yuan. It was put to him that he had told Mr Yuan in a telephone call in August 2021 that UBS would be happy to renew the mortgage for five years so long as Mr Kei and Ms Zhu kept up the interest payments quarterly. Mr Liang said he did not recall any such conversation.
63. Mr Liang was asked why he was addressing emails to Mr Kei at Ms Zhu’s email address in early August 2021. He was not able to recall the reason for the same.
64. He said that Ms Zhu took out a £3.3m loan which was transferred to her husband’s account and which she owed to UBS. My understanding was that she repaid the loan.
65. Mr Liang was asked whether Ms Zhu or Mr Kei ever asked him about what was going to happen about the mortgage facility. He said they did not. It was not his job and they knew that.
66. It was put to him that in April 2022 he had a conversation with Mr Yuan when Mr Liang told him that it was a formality and just a matter of time for the five year extension to be confirmed. He responded that he did not recall that conversation. He did not recall any conversations with Mr Yuan at that point in time.
67. Mr Liang was not as confident a witness as Ms Liu and Ms Hongsukpant but I do take account of the fact that he was not giving evidence in his first language. Again, it is not suggested that he was lying merely that he is mistaken in his recall. His evidence was not as clear as those of his colleagues at UBS London. I have carefully weighed his evidence alongside the other oral evidence and the documentary evidence and considered the probabilities of him making the statements ascribed to him as against the known facts.
68. Ms Hongsukpant gave evidence and was a clear and straightforward witness. She spoke the best English of the three witnesses for the claimant. Her evidence repeated and reaffirmed much of what Ms Liu had said regarding the history with reference to emails and call logs. She was asked by Mr Kei whether she recalled Ms Xie telling him in Ms Hongsukpant’s presence that the mortgage was for 20 years. She was clear this did not happen and had Ms Xie said that, she, Ms Hongsukpant, would have made it very clear

that this was not a 20 year loan. She was involved in the initial mortgage being provided to Mr Kei. Her primary point of contact was a Ms Lei of Discreet Law who was representing Mr Kei. The loan to value ratio was 65% which was higher than usual but on terms that Mr Kei would maintain collateral in UBS or UBS Switzerland amounting to at least £10.8 million. She was adamant in writing and orally that there was no suggestion that the term was for other than 5 years.

69. The mortgage loan was to Mr Kei, but the second defendant owned the properties. Ms Hongsukpant said that her understanding was that Mr Kei owed 100% of the shares in the second defendant when the properties were bought. She had said in her statement that she never became aware that the shares had been transferred to anyone else. In cross examination she accepted that this was inaccurate as, after the Facility ended in April 2022 Mr Kei did tell her that he had transferred his shareholding to his daughter. But she made clear he should have told her sooner.
70. Whilst she accepted that Ms Xie and Mr Liang would have had conversations without her present with Mr Kei and Ms Zhu, she did not think that applied to Ms Liu. She believed that she was always present when Ms Liu spoke to Mr Kei. She said she did not know who Mr Yuan or Mr Ho were. She said that it was her practice to keep notes or records of all calls but was cross examined about an email in August 2021 when she referred to speaking to the client earlier that day but there was no record of the same.
71. It was put to her that in the telephone call in November 2021 that was recorded as being with herself, Ms Liu and Mr Kei, she could not be sure who was on the call. She said she could as she recognised Mr Kei's voice and pattern of speech. Pausing there, this was clear straightforward evidence that had the ring of truth.
72. Ms Hongsukpant was an impressive witness with a good recollection of events and who was prepared to make concessions where required. Her evidence married up with contemporaneous documents and with her colleagues albeit not in a rehearsed or detailed manner.
73. Mr Kei gave evidence. He had provided a statement in Mandarin and shortly before the trial handed in another document in English. He gave evidence through an excellent interpreter in Mandarin. I take into account with all the witnesses for the defendants that they gave evidence through an interpreter which has its own difficulties. I have set out below his oral evidence in some detail as there were difficulties with his consistency and the plausibility of his narrative. Mr Kei often asked for the Chinese version of documents that he must have known were not translated. For example, he asked for the Chinese version of his own letter dated 14th August 2025 that he sent in English to the court. He asked for the Chinese version of telephone calls that he was involved in and which he had not sought in disclosure even when represented by his legal team.
74. He was evasive about matters that he had given evidence about. He had said in his letter of 14th August 2025 that he was on the Huron Global Rich List from 2015 to 2019 but then appeared to dispute that statement before eventually accepting it as correct. He had said in his own statement in December 2024 that he resided in Hong Kong since 2009 but then suggested that was not quite accurate even though it was his evidence.
75. He said in oral evidence that he had not understood the terms of the original mortgage or the need for £10.8 million collateral and that Ms Lei who had acted for Discreet Law

was acting fraudulently albeit he accepted he had not pleaded this or raised it in his statement. He was sure that the original term was 20 years. He was shown the mortgage illustration and offer which he signed where it was clear that it was for 5 years. He said he did not speak English and did not ask his Chinese lawyers to interpret the documents as he understood the loan was for 20 years renewal every 5 years. He accepted that the loan was for £46.8 million but he signed the documents without getting anyone to check them for him. He insisted that Ms Xie had told him the mortgage was for 20 years.

76. Mr Kei was taken to his statement and his defence, and it was put to him that he had never questioned the mortgage facility or offer or side letters until his oral evidence. He said his English was not good; however, he had solicitors acting for him when his defence and witness statement were made. Indeed, his defence admitted the mortgage documents and he said in the defence that he would rely on the various documents for their true meaning and effect.
77. He accepted that the representation that he said Ms Xie had made was not in his statement. In oral evidence he said that Mr Liang had represented to him that that if his wife opened a new account and transferred £5 million to Mr Kei the facility would be extended for another 5 years. He then said that £3.3. million was transferred to him by Ms Zhu to pay the mortgage interest. His evidence was challenging as it changed during his time in the witness box as well as not being consistent with his own pleadings or statement.
78. Mr Kei maintained in oral evidence that during the latter part of 2021 he had medical issues, and it was his wife who dealt with everything with Mr Liang. In his statement he said that he had entrusted the negotiations regarding renewing the mortgages and extending the Facility to his wife and Mr Yuan. And in his Defence, he said in addition that Mr Ho had his authority to deal with his affairs and to represent his interests in calls and meetings. He said in oral evidence that he could not read emails in October 2021 when he was asked about the 18th October email. He added that he had no internet access or phones at his residence. He was then asked why an email in October referred to an initial conversation with him and Ms Liu and Ms Hongsukpant and replied that in fact the conversation was with his wife and Mr Liang. His evidence about the call on 20th October 2021 was confused. Firstly, I note that this was two days after the email when he said he had no phone at his residence. In oral evidence about this telephone call, he said that he accepted his finances were worse than they had been when the Facility was granted in 2017. He also said in clear terms that UBS told him that he did not have enough assets to renew the Facility. He said that UBS had intended to renew his Facility before the litigation. Pausing there the litigation in the UK had commenced against him in 2021 in relation to a 2020 arbitration award against him in the sum of \$22 million. He later said he could not recall if he was on the call with Ms Liu and Ms Hongsukpant on 20th October 2021.
79. In respect of the November 2021 call, the defence pleaded that Mr Ho, Mr Yuan, Ms Zhu, Ms Liu and Ms Hongsukpant were on that call. In his statement he did not recall this phone call at all. In oral evidence, Mr Kei said a variety of different things including that he did not recall whether he was on the call, that he was present and/or near the phone. He said that Mr Ho and he never spoke; the people who spoke were Mr Liang, Ms Zhu and Mr Yuan. He was then taken to his wife's statement which did not say she was present; he said that her statement should be taken as true. But he then said his

defence which said she was present was also true. And he then also said that Mr Ho and Mr Yuan took part in the call but not his wife. His evidence was very confused.

80. He was asked about the representation that Ms Zhu said had occurred in December 2021 when Ms Liu is said to have assured them both as agents of SRCL that so long as the interest was paid the claimant would let the family stay at Hugh House. Mr Kei asked for the Chinese version but the pleading was done in English. He accepted he had not pleaded this representation in his Defence or mentioned it in his statement. He had however pleaded a representation in December 2021 in his draft Defence where he had pleaded that Ms Liu had said that UBS was working to resolve the request to renew or extend the Facility but she assured himself and his wife that as long as repayments were kept up, UBS would let Ms Zhu live at Hugh House. In oral evidence he said that the representation was by Ms Liu to Ms Zhu and himself that they could remain living at Hugh House if they kept up the mortgage interest payments. It is notable that this representation was not pleaded in his final defence or mentioned in his statement.
81. Mr Kei was asked about the 17th December 2021 email from Ms Bellamy to him which referred to the fact that current mortgage expired on 20th April 2022 and that UBS wanted to know his plans and needed documentation by 20th January 2022 to enable renewal of the mortgage. It was put to him that this email contradicted the representation he said Ms Liu had made. He said that because of his health Mr Ho was dealing with his emails. There was no written response to this email.
82. Mr Kei accepted that in the 20th December 2021 phone call he did not refer to the alleged representation from Ms Liu when Ms Hongskupant said that UBS were getting anxious because the loan was due in April.
83. When asked about a phone call in January 2022 with Ms Liu and Ms Hongskupant and himself where he can be seen to be engaging in the mortgage renewal, he replied that the renewal was automatic and UBS had made it clear to him that he could reside there for 20 years provided he paid the interest. This answer does not lie well with his earlier assertion that he had been told that he did not have enough assets to renew the Facility. Nor did it lie with his representation that Mr Liang had told him if his wife put £5m into his account the mortgage would be extended for 5 years.
84. There was a follow up email on 10th January 2022 from Ms Liu to Mr Kei's email. He said he did not recall receiving it as it stated "Mr Qin". That response made no sense as Mr Kei is also known as Mr Qi and this is plainly a typographical mistake which did not alter the email address which was correct.
85. Mr Kei denied that the contents of the telephone call on 11th February 2022 were accurate as he asserted that Ms Hongskupant had not said that "we want to discuss with you what to do next as, because, for example if we cant renew the loan agreement then what to do next kind of things" (sic). Rather she and Ms Liu had said that there would not be any problem. I note that this is a translated transcript of a call in Mandarin that is not of the best quality but there is no suggestion in the transcript of a comment to the effect there would be no problem about renewing the Facility.
86. His evidence around the meeting at the house in February 2022 was confused. He said in oral evidence that his wife was present. He said she got people tea and drinks and then attended the meeting. He said in oral evidence that he did not recall what was said

at the meeting save that there was some discussion about watches. He said the meeting was very short and the UBS people took photographs and asked if he wanted to renew and he said yes, and they left. They were leaving when his wife came back with the drinks. As they left, they told his wife that there was no problem, and the Facility could be renewed. The meeting only lasted about six or seven minutes. It was put to Mr Kei that in his statement he had said he could not recall the meeting. He replied that he dropped his cup on the floor in the meeting, and he asked his wife how the meeting went and she said that it had gone well and they had agreed that the Facility had been renewed. In his defence he had said that Mr Ho had dialled into the meeting and that he, Mr Kei, did not recall it. The version put forward in oral evidence by Mr Kei is not in accord with the contemporaneous notes of the meeting which evidenced detailed discussions about his assets and his proposals to improve his position nor is his evidence internally consistent since he now appears to recall the meeting. One of the options discussed according to the notes made at the time was that he was seeking to sell his property Flat C.01.1, One Hyde Park. That is notable as in fact there was a Freezing Order preventing sale of the same in force at that time. UBS London have been clear that they were not aware of the Hangzhou entities' freezing order until around 19th April 2022, and were not aware of Hua She's freezing order until around 18th May 2022.

87. Mr Kei said that he did not recall the reservation of rights letter or telephone call with Ms Hongsukpant or Ms Liu in April 2022.
88. I have also considered the letter Mr Kei sent to this court on 14th August 2025 when he said that the requirement of a formal renewal application, affordability assessments and updated financial documentation were never communicated to him. This statement is difficult to reconcile with the emails, telephone calls and the record of the meeting in February 2022 where UBS were asking for such information and Mr Kei was offering to supply the documentation. Further in that statement as pointed out by Ms Hawker, Mr Kei said that UBS had decided to refuse to renew his mortgage not that his mortgage was continued or was for 20 years.
89. Mr Kei also told the court that he had shares which were held in a friend's name. He had also transferred his shares in the second defendant to his daughter without telling the claimant until after April 2022. It is also clear he did not tell the claimant in the negotiations that were occurring in 2021 and early 2022 that there was a freezing order against him and/or that an arbitration had found he owed another company \$22 million.
90. Mr Kei accepted that he had not applied to set aside the two Freezing Orders made against him in the UK. In closing submissions, Mr Kei provided documents which he relied on to show that Central Wealth Amante International Group Limited had been offered a loan from DBS Bank for £50.7 million and that loan was to be used to purchase Hugh House. There was a letter from DBS offering this sum but it was on the condition that the maximum amount did not exceed 65% of the value of the property. The Facility was offered on the basis of the representation that the property was worth not less than £78 million. The guarantor of the loan was Mr Yuan Lin. The valuation that the defendants rely on shows a maximum price was likely to be around £55 million possibly £60 million but well below £78 million.
91. I have not had any medical evidence about Mr Kei's health provided in the trial but I have read the judgments in the Hua She Asset Management proceedings where Mr Kei asserted that he lacked capacity. I have considered the medical evidence contained

therein and note that Foxton J was satisfied having seen the record of meetings with UBS both by phone and in person and the financial information relayed that Mr Kei had capacity to conduct litigation and retained the same at that time in July 2023. Mr Kei appealed to the Court of Appeal who upheld the first decision that Mr Kei had failed to show he lacked capacity.

92. Mr Kei's evidence was evasive at times; he blamed his legal advisers for the mortgage documents; he was internally inconsistent; his evidence was inconsistent with contemporary documents and was at times improbable and difficult to accept as an accurate narrative against the known facts. It was notable that he was not responding to correspondence setting out what he now claims to be the true position. I have not found his evidence to be reliable, and I have therefore looked to see if it was supported by other credible witness evidence and for documentary evidence that corroborated his account.
93. Ms Qi gave evidence and provided a statement. She used the interpreter as well. She is the daughter of Mr Kei and Ms Zhu. She lives at Hugh House. She is the 100% shareholder of the second defendant according to the defendants. She accepted that she relied on her mother for advice and guidance and decision making regarding SRCL. In her defence, she had pleaded that in October 2021 her father had formally requested an extension or renewal of the Facility. It was put to her that contradicted what her barrister had said in his skeleton argument which was that no formal request was ever made. She responded that this had nothing to do with her so she could not answer. In response to questions, it became clear that whilst she was defensive in her responses, she was repeating what her parents had told her and had no direct knowledge of events. Her evidence was of very limited value.
94. Mr Yuan gave evidence from Hong Kong. He also relied on an interpreter. He is a general manager at Zhongcai Herui (Beijing) Co Ltd ("Zhongcai"); this is his own company that he founded in 2013 and which deals with purchase and sale of non-performing assets and debt restructuring consulting services. He was introduced to Mr Kei and his company Beijing Yao Lai Investment Company Ltd ("Beijing Yao Lai") when he was at the Bank of Communications. In 2018, Zhongcai entered into a financial consultancy agreement with Beijing Yao Lai. In September 2019, he was appointed as a director of the debt restructuring management committee of this company. Zhongcai was authorised in December 2019 to deal with the accounts and books of Beijing Yao Lai and Yaolai Culture and Mr Kei's guarantees for the business. In November 2021, Zhongcai entered into an agreement with Ms Zhu and Ms Qi to provide professional financial services. In oral evidence, Mr Yuan accepted he had not had a contract to provide services for Mr Kei personally or SRCL. He also accepted that his role with Beijing Yao Lai was worth the equivalent of £200,000 per annum to his company.
95. In his written statement, Mr Yuan said that when first approached by Ms Zhu's brother he was being asked to negotiate with UBS Switzerland regarding extension of the mortgage at Hugh House. In oral evidence, he said that before November 2021 he was merely advising Ms Zhu as a friend. He said that after November 2021, Ms Zhu wanted him to take part in negotiations to discuss renewal of the loan. He had never seen the mortgage documents and was not aware that the Facility was provided by UBS London. However, he had said in his statement that he had the impression that UBS Switzerland could influence UBS UK. He said that he became aware that UBS UK were in charge

of the loan through conversations with Mr Liang which he thought occurred in January 2022.

96. In his statement he said that he first spoke to Mr Liang in late August 2021 when he was in the UK visiting a relative. In oral evidence he was sure it was September not August. In his statement he asserted that Mr Liang told him that he hoped more assets or funds of Mr Kei or Ms Zhu could be transferred to UBS Switzerland's account which would be helpful to renew the mortgage. Mr Yuan also understood from Mr Liang that if Mr Kei and Ms Zhu made quarterly interest payments, UBS Switzerland would be more than happy to extend the period to SRCL for five more years. Further it would be conducive to the vetting process if more funds were transferred to UBS Switzerland in advance. Just pausing there he appeared to believe that the mortgage was with UBS Switzerland. Further it is confusing to understand what in fact was being asserted as it was clear that a vetting process was required.
97. In oral evidence Mr Yuan confirmed that he was told by Mr Liang that as long as Ms Zhu transferred her funds to UBS accounts and she could prove she had sufficient repayment ability then her facility would be renewed. He understood that his role was to negotiate for Ms Zhu as to what requirements she needed to meet. He also agreed that there was likely to be a vetting process. Mr Yuan accepted that there was nothing in writing either from him or Mr Liang and he did not communicate in writing to his clients. He further accepted that as at September 2021 the mortgage had not been formally approved which was why he continued to communicate with Mr Liang.
98. His evidence was that the £3.3 million transfer was from Ms Zhu's account to Mr Kei's Switzerland account. Pausing there, although not put, I do not understand that she had a UBS London account only one that was arranged in Switzerland by Mr Liang. Mr Yuan's statement said that this was to assist with the future refinancing review in London. In oral evidence, he said the monies were to increase assets under Mr Liang's management and to assist with the vetting requirement.
99. Mr Yuan in his written evidence said that he was proposing to Mr Liang that an overseas company in Mr Yuan's control could buy the loan or if Mr Kei could show sufficient repayment ability, the bank could optimise the loan terms to meet the risk requirement. He accepted there was no written reference to the same.
100. As regards the 5th November 2021 telephone call, he had said in his statement that a call took place between UBS and Mr Kei; the purpose of the call was to persuade UBS UK to continue to extend the mortgage loan for another five years. He said that he was on the call along with Ms Zhu and Mr Ho and that Mr Ho spoke for Mr Kei who had depression at the time. In oral evidence, he said he did not know if Mr Kei attended this call and could only recall Ms Zhu and Mr Ho being on the call. He then said that he learned from Ms Zhu that Mr Kei was also on the call. His evidence was very muddled. He did however accept that as at this time it had not been decided by UBS whether to extend the mortgage facility or not. He insisted that it was a pre-arranged call which he made notes for. However, the notes were not before the court and the transcript of the call starts with Ms Liu asking Mr Kei if it was convenient to call at that time.
101. As regards the meeting at Hugh House in 2022, he said that this came about because he suggested it to Ms Zhu. He was shown the transcript of the telephone call between UBS London and Mr Kei on 10th February 2022 where Mr Kei suggested meeting and the

date was fixed the next day. In that meeting Ms Hongskupant was saying that the purpose of the meeting was to discuss what to do next if UBS cannot renew the agreement. Mr Yuan accepted that it would appear the meeting was arranged by UBS and Mr Kei. But he then said that Mr Liang initially suggested it. In paragraph 20 of his statement, he had said that the UBS UK staff needed to meet Mr Kei to fulfil the formalities of the internal approval process. He said this was because the original mortgage was granted by UBS Switzerland to Mr Kei's UBS account in Switzerland. In oral evidence he initially said that Mr Liang had told him this was the position regarding the original mortgage. He then corrected his evidence to say that Mr Liang had told him only that the original mortgage was with Mr Kei not Ms Zhu. Again, his account was not consistent internally.

102. Mr Yuan had prepared a financial advice note in February 2022. In this document which was for Ms Zhu and Ms Qi he said he had negotiated with UBS Bank in Switzerland for a mortgage on the house. The note said that UBS wanted Mr Kei to meet UBS colleagues in UK as the house was there. The colleagues needed to inspect the property. The note went on that in order to fulfil "procedural requirements" Mr Yuan noted that Ms Zhu needed to refer to her business interest and that she was actively looking to sell One Hyde Park. The final sentence says that UBS had indicated that they "hoped" that she would be able to repay the relevant interest on time and according to the original terms which would significantly speed up the process. Mr Yuan accepted that this was written at a time when there were concerns that that UBS might not renew. I note that what he recorded was not an assurance of a 20 year mortgage or that there was a guarantee that if the interest was paid, the family could stay. Rather at best he was recording that there was a "hope" that Ms Zhu would pay the interest which would speed up the process. The written account does not marry up with what Mr Yuan was saying he was told in August 2021.
103. In respect of the February meeting at Hugh House, Mr Yuan said he participated by phone speaking to Mr Ho who was present with Ms Zhu at the meeting.
104. Turning to the April 2022 representation, Mr Yuan in his statement at paragraph 25 set out that Mr Liang had told him that Ms Zhu had not been given an extension of the house as the house was at risk of litigation and had failed to satisfy UBS' internal audit and UBS needed to clear up internal procedures. His written evidence was that Mr Liang had agreed that as long as the mortgage interest payments were deposited in UBS Switzerland, Ms Zhu could continue to live at Hugh House and UBS would sort out its internal procedures and confirm extension of the loan. He understood from what Mr Liang said that internal procedures and confirmation were just a formality. In oral evidence, Mr Yuan was not clear if this call was before or after 20th April ie after the Facility had expired. Mr Yuan said he understood that the vetting process was still ongoing, and he understood that UBS had not granted an extension of the mortgage. I understood his evidence as him clearly understanding that there were further steps that were required and that at that time in April 2022, he did not understand the Facility to have been extended.
105. Mr Yuan said he had met Mr Liang in person in April 2023 in Beijing. He asserted that Mr Liang told him that when he returned to Switzerland, he would get the UK to complete the approval and so Mr Yuan understood refinancing was confirmed. Pausing there I did not understand from his evidence how he had reached this conclusion on what he was told. Similarly at the second meeting he understood the matter was

resolved. And that Mr Liang had told him in April that so long as Ms Zhu met the requirements raised by UBS, she could continue to reside in the property. It was put to him that by then his client Ms Zhu had received a letter before claim making it clear that the Facility had expired and receivers had been appointed. Mr Yuan had not been told of that letter. Mr Yuan accepted that in April 2023 he knew the mortgage had not been renewed. When asked why he had not remonstrated with Mr Liang and said the mortgage was renewed last year, he said he believed that Mr Liang and his colleagues were working to make progress.

106. Mr Yuan was not an independent witness. He plainly had “skin in the game”. He was being paid a substantial sum per annum by Ms Zhu and Ms Qi; he was closely involved with Mr Kei’s companies, and he had offered to guarantee the loan from DBS. I did not find his evidence convincing as he contradicted himself and was inconsistent internally and with other witnesses. His evidence regarding Mr Liang was quite confusing and it appears highly improbable that Mr Liang would be representing in April 2023 that he was going to get the mortgage renewed when letters before claim had been issued and it was known that freezing orders were in place. Further his evidence was quite muddled as to what the terms of the mortgage were and whether it was with UBS Switzerland and whether it was with Ms Zhu or Mr Kei. I note that at no time did he suggest that the defendants told him that there was a 20-year mortgage or that they were unaware of the collateral requirement. Aside from the financial advice note there are no contemporaneous notes to support his version of events. There is a degree of improbability as I say in the April 2023 statement that he says Mr Liang made.
107. The final witness was Ms Zhu. She too used an interpreter. Her background is as a successful businesswoman in her own right. She has her home here and another residence in Hong Kong. She accepted that she was not the main contact for the mortgage prior to September 2021. She was adamant that Ms Xie had told her that it was a 20-year term that would be renewed every five years. However, there are no contemporaneous documents or any documents over the years that referred to the same until after proceedings were issued when it was first raised in the final version of her Defence in 2024. She said that she had not raised it two months earlier in her draft Defence as she had “recalled the event gradually”. This was an incongruous piece of evidence.
108. Ms Zhu said that Ms Lei who dealt with the mortgage was not a solicitor, and she was compensated for this by Discreet Law. She told me that she had not read the documents that she signed in relation to the mortgage, and she relied on her solicitors. She accepted that until her oral evidence in court she had never suggested in her written statement or pleadings that Ms Lei was fraudulent in some respect.
109. Ms Zhu accepted that her witness statement did not set out the representation that she said Ms Liu made in December 2021. Pausing there Mr Potts pointed out that there is a single sentence in her statement where she said that she paid the interest on the faith of the promises by Ms Xie, Mr Liang and Ms Liu that there was a long-term mortgage facility and as long as she paid the mortgage interest the bank would let her family remain there. That sentence does not address the detail of the specific representation made in December 2021 by Ms Liu in so far it does not state when in December, where they were or how it arose, precisely what was said and whether it was by phone or zoom or email and who was present. There are no call logs referring to this call.

110. Ms Zhu said she had employed Mr Yuan to assist with the mortgage renewal. She thought it would be very simple given what she had been told. She said that Mr Liang had told Mr Yuan that the mortgage would be renewed every five years as well. She was insistent that Mr Yuan was the main person in charge of the mortgage renewal discussions but then accepted that Mr Kei was the main point of contact regarding the mortgage renewal. She did not know if Mr Kei ever formally applied to renew the mortgage. She was asked about her pleading where she had pleaded that in October 2021, Mr Kei formally requested an extension and/or renewal. She then accepted what was in Mr Potts' skeleton argument namely that Mr Kei had not formally applied to renew the mortgage. Her evidence was confusing on this point. If Mr Yuan was the main point of contact, it is plainly inconsistent with the contemporaneous documents that have UBS London corresponding with and phoning Mr Kei. And Mr Kei giving detailed information about his assets.
111. She further said that as regards the representation made to Mr Yuan by Mr Liang, she had pleaded in her final Defence in May 2024 that this was in August or September 2021, albeit in her first draft defence in March 2024 she had said it was in November 2021. She said she had misremembered in her first draft.
112. As regards the 5th November 2021 telephone call, Ms Zhu had pleaded in her final Defence in May 2024 (but not mentioned this call at all in her Draft Defence in March 2024) that Mr Kei and Mr Ho were on this conversation to discuss an extension of the Facility. She had not referred to the call at all in her witness statement. In oral evidence she said she thought she was on this call. It is contradictory that there was such a call if the defendants thought the mortgage was for 20 years and/or they had already been assured that they could stay provided they paid the interest.
113. Ms Zhu accepted that she received the letter before claim in January 2023 and said she did not reply as she had been told the mortgage would be renewed if she paid the interest. However, she then accepted that was not what the letter said. She said she had not applied to be included in the proceedings until April 2024 as she was not worried about it until she found her money was in a frozen account.
114. Ms Zhu said that when she opened her account with UBS Switzerland it was not to provide collateral for her husband, and she thought it was just to pay the interest. She said she was told to do so by Mr Yuan and that the £3.3million was for interest payments. She was then taken to an email in October 2021 from Mr Liang to herself and Mr Kei in which Mr Liang said clearly that UBS London required Mr Kei "to meet the £10.8m loan to value requirement.". The email referred to fact that the assets were all in Ms Zhu's account and therefore UBS now needed "loan value of Mrs Zhu's account shared with Mr Qi in a third-party guarantee agreement" to meet the credit risk control requirements of the UK. They were asked to sign the documents. Ms Zhu replied the same day to say she had signed the documents. In cross examination, Ms Zhu was evasive in her answers when asked whether she now accepted that she did know that her account was being used to provide collateral. She suggested that the person to ask was Mr Liang and that she only knew her account was being used to transfer monies to Mr Kei to pay the interest. The emails were in Mandarin and Ms Zhu is an experienced businesswoman so there can be no argument that she did not understand what Mr Liang was saying. It is also of note that whilst she says Mr Yuan advised her to open this account, there are no emails or reference to him in August / early September 2021 when the account was created. Mr Yuan was not employed by her at that time.

115. As regards the interest payments made in June 2022, December 2022 and March 2023 she initially accepted that she made these payments to improve the prospects of a mortgage renewal. In her statement she had said these payments were made on the understanding that the bank had agreed to renew the loan for another 5 years and it was a formality that the renewal would go through once the bank had gone through its internal procedures. When asked about this she said “My understanding was that the facility would be renewed for another five years after the bank’s procedure as long as I made the payments.” It is not at all clear how this marries up with her husband’s and her assertion that the loan was for 20 years and no formalities were needed. She appeared to understand that the bank had internal procedures that had to be satisfied.
116. Ms Zhu’s defence referred to the February 2022 meeting at Hugh House but she did not mention she was present. Instead, it averred that Mr Ho had responded on behalf of Mr Kei. Her statement was silent on this issue and she gave no oral evidence about it.
117. The consent form she signed before the mortgage was entered into is witnessed by a solicitor. Ms Zhu did not recall this solicitor being present and appeared to suggest that she had not in fact had independent legal advice and she trusted Ms Lei.
118. In considering Ms Zhu’s evidence I have not found it internally consistent as set out above. Further her answers were evasive at times. Her evidence was also improbable in certain respects such as the payment of £3.3 million being for interest and not understanding documents or emails even when they were in her own language.

Findings of Fact

119. I have set out the evidence above in considerable detail. What is notable is that there are a large volume of emails and call logs between UBS London and Mr Kei but also some emails to Ms Zhu. There are also internal emails with UBS London and UBS Switzerland. All of these documents from around August 2021 onwards show that UBS London were pressing Mr Kei to provide financial information and to demonstrate he could fulfil the collateral requirement of assets of £10.8m at UBS accounts. That information was required so that the Credit and Loan department at UBS London could decide whether to extend the loan further.
120. There are no emails between anyone or documents that refer to the mortgage being for 20 years; there are none that refer to any representations regarding promises to renew the mortgage if interest was paid; there are no documents that suggest the Facility would be extended without a formal application and the necessary collateral in terms of assets. All the documents point the other way. It is notable that Mr Kei was not replying to emails during the term of the mortgage and Facility challenging the requirement of a new application and further information regarding his assets. Nor did he respond to the correspondence after the Facility ended challenging the receivers being appointed or explaining why the letter before claim was wrong.
121. The defendants did not at any time until 2024 suggest that the mortgage had been automatically renewed. Nor did Mr Kei inform UBS London or Switzerland that a Freezing Order was in place from August 2021 in respect of his funds in the UK. This was relevant as one of his proposals (and of Mr Yuan in February 2022) for achieving liquidity was to sell One Hyde Park but that property was subject to the Freezing Order made in August 2021.

122. Of note is that even where there were contemporaneous call logs or documents the defendants sought to say that they were not accurate or someone else was present. I have no reason to conclude that the emails or transcripts of calls or notes of meetings by UBS are false. The transcripts of calls are translated and not the best translations but the tenet and facts in each meeting are clear. UBS had no reasons to fabricate these documents. The emails are on the system and there is no suggestion that they are false. The document trail is reflected in the oral evidence of the claimants. The trail plainly contradicts the oral evidence of the defendants.
123. It is against that background that the court has to consider whether UBS promised / agreed the mortgage could continue for 5 years provided interest was paid and there was no need for formalities or collateral. I would add that the known facts are quite clear that nearly £50m was loaned to Mr Kei and secured on the Properties with a collateral requirement that £10.8m of assets were required to be held. The mortgage was clear that there could not be an oral variation. It is highly improbable that an extension or renewal of a facility and the mortgage to secure such a huge loan would be oral. It is contrary to the express terms of the original mortgage and highly unlikely given the vast sums at play.
124. I will set out below my findings of fact not just in relation to the representations but more widely as the reliability of other evidence given by the defendants is instructive in deciding whether on crucial areas they are telling the truth.
125. Despite comments by Mr Kei and Ms Zhu I am quite satisfied that they knew exactly what the mortgage documents said and what they were signing in 2017 when this mortgage was first entered into. Mr Potts did not seek to argue otherwise. Whilst both witnesses suggested in evidence that somehow Ms Lei misled them and they did not understand the terms of the loan, that has never been pleaded and is not referred to in their statements. It is however relevant that at trial both were seeking to go behind documents that they had signed with the benefit of legal advice both from Ms Lei and, in Ms Zhu's case an independent solicitor. It casts a question mark over their credibility that at this late stage they sought to challenge documents that they had plainly understood and relied on. I say this as Mr Kei plainly knew he had taken out this large loan and that there was a collateral requirement; the whole tenor of the emails, calls and meetings in late 2021 to 2022 was about the need to satisfy UBS London regarding his assets (see email of 8th October 2021 from Mr Liang as an example). At no point did Mr Kei ever respond saying why do I need to do this there is no such requirement?
126. As regards comments by Ms Xie that the loan was for 20 years; it is not at all clear when this was said or to whom. The defendants did not call Ms Xie who no longer works for UBS. Ms Zhu said that Ms Xie told her this. She did not suggest Mr Kei was present. He had not pleaded this representation or referred to it in his statement but in oral evidence said it was made to him too and he averred that it was a 20-year loan. It is very unclear what in fact the defendants are saying was said. Mr Kei's oral evidence was that she told him if his wife transferred £5m and opened a new account, the facility would be extended for 5 years. He also said Ms Xie had said the mortgage was for 20 years. It is possible Ms Xie may have said that Mr Kei could seek to renew after 5 years but that it is not the same as saying it was for 20 years or that there was any guarantee of the same. It is the evidence of UBS, which was not contradicted, that they did not give longer than 5-year loans at that time. I find it highly unlikely that Ms Xie would have made any such promises nor is it clear to whom these assurances were made ie

Ms Zhu only or both of them. I have considered this evidence from Mr Kei and Ms Zhu against the background that neither of them has ever suggested in writing or on calls during 2021, 2022 or 2023 or early 2024 that there was a 20-year facility that was automatically renewable. Aside from anything else it was inherently improbable that such a statement would be made where it was a loan for nearly £50 million and collateral requirements regarding assets were required. I do not find that Ms Xie made any statement about the mortgage being for 20 years.

127. In the period after 2017 it is accepted by Mr Kei that his fortunes slid, and he had less assets available. On his own evidence he was transferring some of his assets to his daughter and to a friend. By October 2020, Hua Sha Asset Management had a \$22million judgment against him. By Spring 2021 there was a Freezing Order which he plainly knew about by October 2021, as solicitors were acting for him albeit he argued he lacked capacity. This argument was ultimately not accepted at first instance or in the Court of Appeal in December 2023. This background information about the Freezing Order was not known to the claimant in respect of this claim until June 2022. In respect of the claim involving Hangzhou Jiudang Asset Management company, that Freezing Order was notified to Ms Liu and Ms Hongsukpant in late April 2022. I would point out that even if anyone had made representations it would have been without knowing the true facts of Mr Kei's finances.
128. Did Mr Liang and Mr Yuan have a relationship before 2023 when they met? Mr Liang did not recall the same and has no emails or call logs that we have seen. These might well be subject to Swiss banking laws and not disclosable in these proceedings unless the defendants or Mr Yuan requested the same. Mr Yuan has not disclosed or suggested that there are any written documents at the relevant time. It is notable that Mr Liang was sending regular emails to Mr Kei and Ms Zhu and to UBS London. In none of them is Mr Yuan mentioned nor is he copied in. Had there been negotiations between Mr Liang and Mr Yuan regarding the mortgage and Mr Yuan was put forward as acting for the parties then I am confident he would have been copied in. In addition, whilst it is said by Ms Zhu that Mr Yuan was the primary party to negotiate the mortgage he was never employed by Mr Kei or SRCL to do so. And his contract with Ms Zhu and Ms Qi only started in November 2021. I found Mr Yuan's evidence about this conversation improbable. He was not formally instructed at all at this time and yet apparently Mr Liang was giving reassurances to him. I find that highly unlikely. Further Mr Yuan had never even seen the mortgage documents and had no idea what the arrangements were. It is quite clear from his statement and oral evidence that he understood that the mortgage was with UBS Switzerland and the assurance apparently made (see para 15 of his statement) was that UBS Switzerland would be more than happy to extend the period of the Facility. And further even on Mr Yuan's own account Mr Liang was said to be saying it would be conducive to vetting to have more funds in UBS Switzerland. I find it highly improbable that Mr Liang would be asserting that UBS Switzerland had authority to renew the mortgage. It was clear from Mr Liang's oral and written evidence that he was making it clear to Mr Kei throughout that UBS in London would decide on the renewal. As at August/September 2021, Mr Yuan had no authority to act for Mr Kei or SRCL and had no authority to negotiate at all. I find it highly improbable that Mr Liang would have discussed the mortgage renewal with a third party with no authority to do so unless there was something in writing. Mr Liang was allegedly saying this whilst at the same time setting up an account with Ms Zhu and in direct communication with her and in direct communication with Mr Kei. He was emailing UBS London about

Ms Zhu's account and asking what he could do to assist UK regarding the collateral for the mortgage. All the contemporaneous documents point away from what Mr Yuan says was being said and no one at the time is referring to it. In no emails are Mr Kei or Ms Zhu saying why do we need to provide these documents when you have said, provided we pay the mortgage interest, we can stay. In the absence of any written documentation or other corroboration I do not find that this conversation took place. As I have already mentioned above Mr Yuan is not independent in this matter, he has a lucrative business relationship with the family and is willing to act as a guarantor for a very large loan that is intended to be used to buy Hugh House.

129. There are inherent contradictions in much of the defendants' evidence. Ms Zhu set up a new account at UBS and I find that the primary reason to do so was to assist her husband to meet the Lending Value requirement. The contemporaneous documents are clear on this topic. Ms Zhu's oral evidence that she did not really understand and did what she was told did not ring true. She is an experienced businesswoman. We are talking about millions of pounds. The conversations and emails with Mr Liang were in her own language. The suggestion that the £3.3million was for interest payments was not credible or probable. She took that loan out and then paid it over to Mr Kei which reduced his liabilities by that sum. I find that she opened her account in Switzerland partly to pay interest but mainly to ensure that the LV in UBS was sufficient to meet the requirements of UBS London. Hence, she got a loan from UBS Switzerland and used that to pay off some of Mr Kei's debts. The contemporaneous documents support this finding and indeed Mr Yuan agreed that was the purpose at least in part of her account with UBS and the payment of £3.3m.
130. The defendants say that from around September 2021 they understood that all they had to do was pay the interest on the mortgage to be able to stay. That does not explain why Ms Zhu opened a new account with UBS as she could transfer monies from any account with any Bank. Further it was being made clear to Mr Kei repeatedly that he needed to apply to renew and that he had to show he had sufficient assets to satisfy UBS London that he met the Loan Value requirement.
131. Regarding the November 2021 call, as was accepted in the defences filed, the November phone call was to discuss mortgage renewal. I reject the oral evidence of Mr Kei and Ms Zhu where it differs from that of the recorded call log and the evidence of the claimant's witnesses. Mr Kei's evidence was hopeless and riddled with inconsistency as set out above at paragraph 79. If Ms Zhu was present on the call, it was not apparent to the claimant and she was observing silently. Similarly, there was nothing to suggest Mr Yuan was present. I prefer the claimant's evidence which is consistent internally and reflected in the transcript of the call which was contemporaneous. I reject any suggestion that Mr Ho was speaking for Mr Kei. I prefer Ms Hongsukpant's evidence that she recognised Mr Kei's voice and pattern of speech. There is no reason for me to depart from the claimants' written and oral record of this call.
132. As regards the December 2021 representation that it is said Ms Liu made, this has to be seen in the context of the written documents at that time. In October 2021 Mr Kei told me he had no access to emails or his phone. However, I find that was not correct. There is an email from Ms Bellamy on 20th October 2021 to Mr Kei raising with him that the mortgage expired on 22nd April 2022 and full repayment is required then. He would need to make a new application and UBS would be happy to discuss with him what

would be required to make that application. Two days later there is a transcript of a phone call with Mr Kei. Mr Kei could not recall if it was him on that call. I am satisfied it was. It was an unplanned call to him. He is recorded as discussing his wife and child. Ms Hongsukpant knew him by this time. She followed up the call with emails to Mr Liang about the call. I have no doubt the call was with Mr Kei and he was fully aware at this time that the mortgage had not been renewed. He was also fully aware that UBS was investigating his assets and required evidence of the same. The position of UBS at November 2021 was that the liquid assets of Mr Kei did not pass the mortgage affordability test (see internal email of 4th November 2021 and telephone call of 5th November). Also, there was an email from Abbie Bellamy to Mr Kei reiterating that if he wanted to renew the Facility, they needed documents by 20th January 2022, and he needed to complete a new application. There was then another call on 20th December 2021 when again it was being made clear to Mr Kei that he needed to show he had assets.

133. It is against this background that at some point in December it is alleged by Ms Zhu and Mr Kei that Ms Liu represented that as long as the mortgage instalments were paid, UBS would let them live in Hugh House. Neither of them set this representation out in their witness statements. There is no evidence that Ms Liu had any relationship with Ms Zhu at this time. It is not said where or how this conversation occurred. I find it highly improbable that Ms Liu would have spoken to them without Ms Hongsukpant. All the calls were made jointly and they copied each other into emails. Such a representation if made would have been contrary to all the other emails and calls that were occurring at this time when it was absolutely clear to Mr Kei that he needed to show that he had sufficient assets in UBS to satisfy the Lending Value criteria of £10.8 million. It is also notable that in January 2022 when Mr Kei spoke to Ms Hongsukpant and Ms Liu there was no mention of this assurance and the parties proceeded as before which was on the basis that UBS London needed documentation regarding his assets by 20th January 2022 to submit to their loan department for a review. The calls and emails in December 2021 and January 2022 are consistent in their approach which is that UBS London required documentation to support the information Mr Kei was providing orally. The assurance that Ms Zhu and Mr Kei say was given would, if made, be utterly contradictory to all the contemporaneous documents. It would make no sense for Ms Liu to be promising that they could stay there if they paid their interest and at same time Mr Kei agreeing and being told he needed to provide documents for a review as to whether the Facility would be extended. I am not satisfied that this conversation ever took place. It is inconsistent with the written contemporaneous evidence, it is improbable that Ms Liu would have spoken to Ms Zhu at all but also improbable she would have spoken without Ms Hongsukpant. Most important of all it is highly improbable she would have verbally assured the family they could stay there if they paid their interest when it was quite clear UBS London were not happy about the Facility being renewed at that time. I would add as a final point that it is quite extraordinary that neither Ms Zhu nor Mr Kei's statements set out this representation in any detail. Mr Kei does not refer to it at all and Ms Zhu refers to it generically with other statements.
134. I find that the translation of the phone call as recorded by UBS on 11th February 2022 is accurate and that Mr Kei is wrong in his evidence when he said that that Ms Liu and Ms Hongsukpant had said there would be no problem. The opposite was recorded as

being said and it was clear that there was concern that they might not be able to renew the mortgage which was expressly stated in that call.

135. In February 2022 there was a meeting at Hugh House at which Ms Liu, Ms Hongsukpant and Mr Hegde attended for UBS. There is a record of this meeting in a UBS Wealth Management Report. Mr Yuan appeared to suggest he set this meeting up but earlier phone calls show that Ms Hongsukpant and Ms Liu were the ones who suggested it and agreed a date in calls with Mr Kei. There was a lot of disagreement as to who was and was not present at this meeting. Mr Kei's evidence was not consistent internally about this meeting (see paragraph 86 above). His wife did not say she was present in her pleadings and the meeting did not figure in her statement. Mr Yuan suggested that Mr Ho was participating in this meeting. I accept the account recorded by Ms Liu and Ms Hongsukpant contemporaneously, and confirmed orally, where it was recorded that it was only Mr Kei who engaged in the meeting. His wife was in the house but not participating. Mr Ho and Mr Yuan were not present physically or on a phone. Mr Yuan's insistence that Mr Ho was involved in this meeting was contradictory to the written records taken at the time. The meeting was not for 5/6 minutes as suggested by Mr Kei. I find that the record taken by the claimant's employees is accurate. There is a great deal of detail in the record about how Mr Kei will improve his liquidity going forward. According to the note Mr Kei was asking for more time regarding the Facility as he would in the next 6 months bring the LTV from 65% to 50%. The outcome of the meeting led to the draft Mortgage Extension Proposal which precisely reflected the notes of the meeting. There are no documents at this time which contradict the documents of UBS, and I accept them as an accurate account of the state of play as at February 2022. The position was that Mr Kei had liquidity problems. He was paying the interest but could not at that time meet the LV requirements and was seeking time to resolve the situation. There was no suggestion at all that the Facility was going to be extended provided the interest was paid. I have no doubt that the fact it was being paid was a significant factor in UBS being even willing to consider an extension of the Facility for a short period, but it was plainly not enough to lead to the Facility being extended for even a few months let alone 5 years. As is patently obvious from this meeting, Mr Kei was fully aware that at that moment in time the mortgage had not been agreed for 20 years or extended. There were ongoing discussions where he was seeking to show he had sufficient assets to satisfy the LV requirements. Indeed, Mr Yuan's own report in February 2022 appears to better reflect what may have been discussed namely that it was at best "hoped" that they would keep up the interest repayments as that might speed up the approval process. That report is odd as according to Mr Yuan he knew by then that UBS Switzerland could not make the decision but still appeared to consider that it was a matter for UBS Switzerland to reach a decision on. I accept that it is possible that Mr Yuan had spoken to someone in UBS Switzerland and it may have been Mr Liang. But the fact that there are no notes from Mr Yuan and he so fundamentally misunderstood the issues, supports that Mr Kei was the main negotiator and Mr Yuan had at best a peripheral role regarding Ms Zhu.
136. The next finding relates to April 2022 and whether there was a representation by Mr Liang to Mr Yuan to the effect that it had not been possible to arrange a formal extension of the Facility prior to 20th April 2022 because of litigation in relation to the house and because of internal procedures. What was pleaded in the Defence of the third defendant was that it was implicit that it was a mere formality before the extension was confirmed. Mr Liang said that he would ensure the interest was paid provided Ms Zhu made the

deposits into Mr Kei's accounts. Provided those deposits were made the family could stay in Hugh House "pending the claimant sorting out its internal procedures and confirming the extension of the term of the Facility". This is quite a difficult representation to rely on as some of it is implied rather than express. Mr Yuan could not recall when this conversation occurred. It could have been before or after the Mortgage came to an end i.e. after 20th April 2022. In oral evidence it was clear from Mr Yuan that when this alleged conversation occurred, he was aware that the mortgage had not been renewed and the vetting process was ongoing as Mr Kei had not satisfied the requirements of UBS London. Given my concerns about Mr Yuan's evidence and that it fails to correspond repeatedly with documentary evidence, I am not able to accept his word against that of Mr Liang. There is no documentary evidence to support his account. It appears highly unlikely that after 20th April 2022 (which is what was pleaded and Mr Yuan's initial reply) Mr Liang would have said that the family could stay at the property provided they paid the interest. The reason I say that is that by this time UBS had been informed of a Freezing Order. Further as the other documents show at the time, the correspondence and, in particular, the telephone call on April 21st with Mr Kei made plain that the Facility had come to an end. UBS were looking to decide what to do next but the loan was now due. It is highly improbable verging on incredible that Mr Liang would have suggested that Mr Kei and his family could remain there long term so long as they paid interest. I find that no such conversation occurred. I take into account that Mr Liang said he could not recall such a conversation, but I also note that when he did recall conversations, he was clear about them. I do not find that Mr Liang made any representations in April 2022. Even if I was wrong about this at most he may have said after the expiry of the Facility that he would do his best to get a new loan and the family should keep paying the interest if they wanted to stay. Mr Yuan made clear he did not consider the Mortgage had been extended at this time.

137. There is also a final representation albeit not relied on by the defendants that Mr Liang told Mr Yuan in April 2023 that he would get UBS UK to complete approval of the refinancing. Mr Yuan said that he therefore considered the matter was resolved. Mr Liang accepted that he did meet Mr Yuan at this time. He was asked in evidence and agreed that he did tell Mr Yuan that when he was back in Switzerland, he could coordinate with UBS to complete the matter. He clarified that was not to complete the mortgage but to feed back the financial information he had been given. He was confident that he would not have made any other promises as he knew receivers had been called in by then. Nor did he represent that everything was resolved and the extension was going to be granted. I do not find he said anything which could possibly have led Mr Yuan to believe that mortgage deal was done. I say this as, by April 2023, UBS knew that there were two different freezing orders against Mr Kei. Further letters before claim had been sent to all three defendants. It is inconceivable Mr Liang did not know about these and therefore it is nonsense to suggest against that background he would have suggested he could sort the mortgage extension out. It was plainly not going to be renewed by this time.

Discussion

138. As set out above I have preferred the claimant's evidence throughout for reasons that are explained. The consequence is that none of the representations have been proved and hence the defences and counterclaim must fall as all depend on the three representations in September 2021, December 2021 and April 2022.

139. As regards the issues, there was no dispute from Mr Potts as to the effect of the consent signed by Ms Zhu. I have rejected any attempt to go behind the same. The consent was binding. As regards issue 2, Mr Kei never applied formally to renew the Facility. Whether or not the employees in Switzerland could bind UBS is irrelevant as I have found no representations were made that UBS had agreed to extend the repayment date of the Facility. I have found that the basis for the payments made were in the case of £3.3 million to increase collateral and the LV by reducing Mr Kei's liabilities. As regards the other interest payments, Ms Zhu paid the same to increase the likelihood of UBS agreeing to the repayment date being extended. The sums were not paid in reliance on any assurances that the repayment date was extended. There was no collateral agreement, there was no estoppel whether promissory or proprietary and no variation of the Facility and Mortgage and no equitable forbearance. All these defences fail as I have not found the representations that they rest on to have occurred. The claimant was entitled to claim the outstanding sums and to appoint receivers in June 2022. It follows that there was no breach of FCA or MCOB.
140. Similarly, the counterclaim falls as Ms Zhu's claim is also based on the same representations. All of them have gone and the court has made findings that do not support the counterclaim.
141. It follows that the claimant has proved their case and is entitled to possession. As pointed out by Ms Hawker, the money claim lies against Mr Kei but as he is bankrupt, I understand the preferred order was a declaration or a judgment which is adjourned generally with liberty to restore. I will leave to the parties to discuss terms of the Order. The counterclaim of the third defendant stands dismissed.

Possession order and Section 36 of Administration of Justice Act 1970

142. Section 36 provides that the court may exercise its discretion to stay or suspend execution and/or postpone possession for such period as the court considers reasonable where the mortgagee seeks possession of mortgaged land which includes a dwelling house if it appears to the court that the mortgagor is likely to be able to pay within a reasonable period any sums due under the mortgage.
143. It is not in dispute that all sums are now due under the mortgage which I am told was £57,012,087.47 as at 22nd August 2025. This is subject to one issue below. Whilst the second defendant owns the property, Mr Potts recognised that there is a dispute as to whether Mr Kei is in fact the beneficial owner notwithstanding the transfer of share capital to his daughter.
144. Mr Potts argued that the court should stay possession for six months to enable the defendants to market the properties and clear the arrears. He relied on the marketing report of Brabazon Morris dated 20th August 2025. In that report Mr Morris believed he could get a purchaser to buy the shares in the second defendant for £55m. And he might be able to increase the price to £60m. Mr Potts said a private sale of the shares would save around £9m in stamp duty as there would be no sale of land merely a transfer of share ownership. He said the receivers could not do this as they could only sell the land. It was in everyone's interest to get the best price possible for the land. He accepted that before any of this could happen, the two Freezing Orders would need to be lifted or varied and that to date no application had been made to do so. The court

would be able to stay the money judgement on the same basis as the possession order (see *Cheltenham & Gloucester v Johnson* (1996)28 HLR 885).

145. Mr Kei in closing produced the documents from DBS and Central Wealth Amante International Group and relied on them to say that the Group would finance the purchase of Hugh House. He further said his wife and children would be homeless if the possession order was made.
146. Ms Hawker countered that there was no discretion under section 36 where, as here, there were two Freezing Orders on the properties (strictly speaking only one is on the car parking bays). She asserted that “dealing with” included marketing the same for sale. It would be surprising, she said, if it did not include the same. Whilst the Freezing Orders remained in place, the court had no discretion under section 36 and, if it did, it should not exercise the same in favour of the defendants. There is no evidence of the monies being paid off save by a sale and this court cannot countenance a sale where the same is currently prohibited. She also said that any equity in the property is rapidly diminishing. Ms Hawker referred to the claimant’s valuation which was a maximum of £57m and that of Mr Morris which was £55m with the possibility to get £60m. She said that even Mr Morris was not suggesting a sale before early 2026.
147. My conclusion is that this is not a case where I consider I should exercise my discretion. Indeed, Ms Hawker is correct in my view in asserting that the discretion only comes into play where it appears likely that the defendants would be able to pay the sums due within a reasonable period of time. Even if Mr Potts is correct and some of the costs sought should be subject to an account there is nearly £57million due. The evidence before me is not that Ms Zhu or the second defendant can pay the sums due. Mr Kei suggested that Central Wealth Amante International Group could borrow the money to purchase Hugh House. Firstly no one can buy Hugh House until the Freezing Orders are varied which no one has applied to do. There is no time scale for the same being lifted. Secondly the loan from DBS is premised on an inflated valuation of Hugh House of £78m which is plainly no longer realisable. Hence the offer of the loan appears of little value.
148. As regards the submissions of Mr Potts, there is no evidence that Ms Zhu can repay the sums due and he relies on the prospect of a sale. He makes the good point that some £9m could be saved in stamp duty if the shares in SRCL were purchased rather than the property. That may be so, but the problem is that not only are there the Freezing Orders but an issue is whether or not Mr Kei retains beneficial ownership of the shares in the second defendant or whether Ms Qi is the genuine beneficial owner of the same. These matters are at large in the related High Court proceedings. There is no realistic prospect of these matters being resolved in the near future. Whether Mr Potts is right that the properties can be marketed is neither here nor there in my view. What matters is that the properties cannot be sold by the defendants at present. In those circumstances I am not able to conclude that there is a realistic likelihood of the mortgage being paid off in a reasonable period. The sums due are enormous. Interest accrues I believe at £7000 per day. The equity in the property is in danger of not being sufficient to meet the sums due albeit I note that there is £1.7m in an account representing sums paid by Ms Zhu towards the interest. It is over three years since the loan repayment date expired.
149. I do not consider the threshold is passed in relation to section 36 but even if I did, I would not exercise my discretion in favour of the defendants. Of course, everyone

wants the maximum price to be reached but the court cannot postpone possession on the off chance that someone will offer to buy the shares in a company whose beneficial ownership is queried and where the property is subject to two Freezing Orders. Further there is simply no evidence that the first or third defendant or Ms Qi will be homeless. There are homes in other countries. There is apparently One Hyde Park and, in any event, there is no suggestion that the third defendant is impecunious. I have no doubt that if this property is repossessed the family will be able secure a roof over their heads. The only possible outcome in this case is to order possession.

150. I note that the case summary sought possession in 28 days and I will order that rather than 14 days as sought by Ms Hawker in closing.
151. As regards the redemption figures, there is an issue about the costs of the solicitors. There is no dispute that Simmons and Simmons are entitled to their costs under the mortgage and that will be in accord with the terms therein. Condition 25 makes it clear that the costs are those which are “reasonably” incurred. Nor is it disputed that the costs can be added to the security. The issue is whether the costs are unreasonable in amount and/or unreasonably incurred. It is not disputed that the defendants can seek an account in respect of the costs (see CPR PD 44 7.3). Mr Potts agreed with Ms Hawker that the court could include some costs within the redemption figure pending an account being taken. Both seemed to suggest I should reduce the redemption figure partially to reflect that an element of the costs was disputed. I do not consider that this is right approach. I consider that I should allow the figures as sought by the claimant in the redemption statement. However, I will direct that the mortgagor may seek an account of the mortgagee’s costs, and the mortgagee shall file an account. The taking of the account will be transferred to SCCO for Costs Master to assess; such costs to be assessed in accordance with the terms of the mortgage. The parties should seek to agree terms.
152. I will list this matter for an hour to hand down judgment and to consider the application to transfer to the High Court for enforcement. In the first instance I will list at 10am with parties to attend personally albeit Mr Kei may attend from Hong Kong if he wishes. If Counsel cannot make the date listed, I will hand down judgment and fix a short hearing within the next 28 days.

HHJ Bloom