

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

[2026] SGHC 104

Suit No 761 of 2019

Between

- (1) Fauziyah binte Mohd Ahbidin
(Executrix of the estate of
Mohamed Ahbideen Bin
Mohamed Kassim @ Ahna
Mohamed Zainal Abidin bin
Kassim, deceased)
- (2) Fauziyah binte Mohd Ahbidin
(Administratrix of the estate of
Ahna Mohamed Kassim bin
Ally Mohamed also known as
Ana Mohamed Kasim bin Ali
Mohamed also known as Ana
Mohamed Kassim Bin Ali
Mohamed, deceased)

... Plaintiffs

And

Majlis Ugama Islam Singapura

... Defendant

JUDGMENT

[Civil Procedure — Limitation — Whether s 22 of the Limitation Act applies to actions concerning wakafs]

[Equity — Defences — Laches]

[Muslim Law — Charitable trusts — Revocability of wakafs — Whether the majority or minority Hanafi position ought to apply]

[Muslim Law — Madhab — Whether testator was Shafie or Hanafi]

[Succession and Wills — Construction]

[Succession and Wills — Formalities of will]

[Succession and Wills — Validity of will — Whether unduly suspicious circumstances were present]

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**Fauziyah bte Mohd Ahbidin (executrix of the estate of
Mohamed Ahbideen bin Mohamed Kassim (alias Ahna
Mohamed Zainal Abidin bin Kassim), deceased) and another
v
Majlis Ugama Islam Singapura**

[2026] SGHC 104

General Division of the High Court — Suit No 761 of 2019
Mohamed Faizal J
15, 20–21 January; 25 March 2026

14 May 2026

Judgment reserved.

Mohamed Faizal J:

Introduction

1 Cases like the one before the court in this instance lie at the intersection of the law and lived experience. They arise from the all-too-understandable enduring hopes of one generation for the welfare of the next, and from the sense of disquiet that may follow when those hopes appear, with the passage of time, to have gone unfulfilled. It is not surprising that such disputes are accompanied by deeply held convictions as to what was intended, and what ought to, in fairness, have transpired.

2 The court admittedly has to approach such matters with due regard and sensitivity to those human dimensions. It is not blind to the reality that behind the legal issues lie difficult, emotionally-charged questions of legacy, obligation

and familial expectation. Nonetheless, the court's function is not to reconstruct outcomes based on perceived equities alone. Instead, its role is to ascertain, with care and discipline, what the law warrants on the materials before it and to recognise that sympathy ultimately cannot displace principle, nor hindsight reshape settled boundaries. The task therefore is to do justice which is, and ought to be, administered in accordance with the prevailing law; to do otherwise risks administering "palm tree justice", which would be arbitrary, subjective and the very antithesis of the enterprise of law itself (see *Hong Guet Eng v Wu Wai Hong* [2006] 2 SLR(R) 458 at [46]–[47]).

3 In the present case, the plaintiff seeks a declaration of her father's, and by extension her, alleged entitlement to a share of income derived from the properties her grandfather had placed in various Muslim charitable trusts, or wakafs, as well as an account of and payment by the defendant of the sums due to her father's estate, and by extension her, arising from this alleged entitlement. Notwithstanding the strong personal element undergirding the claim, it ultimately finds no footing within the rubric of the legal principles that govern the matters at hand. To allow such a claim would require the court to bend settled legal doctrine, at by no means an insignificant cost to legal certainty and principle, to accommodate the (understandable) grievances of a sole litigant. This is a course the law does not permit. It follows that however compelling the plaintiff's sense of grievance may be on a personal level, her claim cannot be sustained in law, and I accordingly dismiss it.

Facts

4 As this case has an unusually long history, spanning more than a century of legal and factual developments, it would be neither necessary nor profitable for me to rehearse every stage in significant detail. Instead, for the purposes of

this judgment, and in the interests of economy of space, I will confine the facts to the key developments that are of salience to the issues that fall for determination.

5 The legal issues in this case find their genesis in a series of *inter vivos* instruments that were executed between 1914 to 1927 by which the plaintiff's grandfather, Mr Ahna Mohamed Kassim bin Ally Mohamed ("Kassim"), created various wakafs for the establishment and maintenance of a mosque (presently still in existence and eponymously known as Masjid Kassim) and a burial ground (also presently still in existence and eponymously known as Kubur Kassim).¹ It may be appropriate for me to highlight two points at this juncture.

(a) First, the land lots on which Kubur Kassim stood were compulsorily acquired by the Government on or about 27 November 1987. While the plaintiff had commenced a separate suit HC/S 152/2019 ("Suit 152") against the Singapore Land Authority, the Collector of Land Revenue, the Attorney-General and the present defendant in respect of these land lots, Suit 152 was discontinued on 27 October 2021 and, consequently, these land lots do not form part of the plaintiff's current claim.² Notably, in Suit 152, the defendants successfully applied before an assistant registrar to strike out the plaintiff's statement of claim, but this was reversed in part on appeal (see *Fauziyah bte Mohd*

¹ Affidavit of Evidence-in-Chief of Fauziyah binte Mohd Ahbidin dated 23 May 2025 ("PA-1") at para 30; Agreed Bundle of Affidavit of Evidence-in-Chief vol 1 ("ABAEIC1") at p 10; Affidavit of Evidence-in-Chief of Nurfarhana binte Supa'at dated 15 May 2025 ("DA-1") at paras 18–30 and 34; Agreed Bundle of Affidavit of Evidence-in-Chief vol 2 ("ABAEIC2") at pp 9–16; Agreed Bundle of Documents vol 1 ("ABOD1") at pp 30–237.

² Statement of Claim (Amendment No. 4) ("SOC") at para 34(c); Bundle of Pleadings ("BP") at pp 56–57; DA-1 at para 42; ABAEIC2 at p 18.

Ahbidin v Singapore Land Authority [2020] SGHC 123 (“*Fauziyah (SLA)*”). The relevance of this earlier decision will be discussed below at [77].

(b) Second, the remaining (unacquired) land lots have also morphed to now consist of not only Masjid Kassim, but also a condominium by the name of East Bay Gardens as well as various shop and office spaces located at Wisma Indah.³ While the defendant initially contested the evolution of these land lots,⁴ it concedes in its closing submissions that it had redeveloped these land lots in the above-mentioned manner.⁵

(c) Accordingly, for the purposes of this judgment, I focus on these latter land lots as redeveloped by the defendant, which I will collectively refer to as “the Wakaf Properties”.

6 On 23 November 1932, Kassim executed a further instrument to appoint new trustees (including himself) for the various wakafs created (“1932 Trust Deed”).⁶

7 Thereafter, on 9 December 1932, some two years prior to his death, Kassim executed his last will in Jawi script (“Will”).⁷ One of the clauses in the Will directs the trustees appointed in the 1932 Trust Deed to divide the net

³ SOC at paras 34(a)–34(b); BP at p 56; PA-1 at para 81; ABAEIC1 at p 28.

⁴ Defence (Amendment No. 4) (“Defence”) at para 45; BP at p 75; DA-1 at para 41; ABAEIC2 at pp 17–18.

⁵ Defendant’s Closing Submissions dated 26 February 2026 (“DCS”) at paras 175–179.

⁶ PA-1 at para 35; ABAEIC1 at pp 14–15; DA-1 at para 32; ABAEIC2 at p 15; ABOD1 at pp 238–269.

⁷ PA-1 at para 39; ABAEIC1 at p 16; DA-1 at para 43; ABAEIC2 at p 19; ABOD1 at pp 270–273.

income of his “endowed properties” into five shares, with two such shares to be given to himself and, upon his death, to “devolve upon [his] son who is poor” (“Relevant Clause”).⁸ It is not in dispute that at the time of Kassim’s death on 31 July 1935,⁹ Kassim had only one child, a son by the name of Mohamed Ahbideen bin Mohamed Kassim @ Ahna Mohamed Zainal Abidin bin Kassim (“Zainal”), *ie*, the plaintiff’s father.¹⁰ Kassim was also survived by his widow, Mymon binte Mohamed Kassim (“Mymon”),¹¹ who remarried after Kassim’s death and had two other children.¹²

8 On 22 February 1936, Mymon and Kassim’s father-in-law filed a petition for letters of administration with will annexed for Kassim’s estate (“Probate No 50”).¹³ Among other things, the Will with an English translation was filed in Probate No 50.¹⁴

9 Close to three decades later, on 14 August 1962, Zainal also filed a petition seeking letters of administration for Kassim’s estate (“Probate No 469”).¹⁵ Crucially, in Probate No 469, Zainal declared on oath in his petition, which was interpreted to him by a sworn Malay interpreter, that Kassim was “a

⁸ ABOD1 at pp 272–273.

⁹ SOC at para 2; BP at p 35; DA-1 at para 7; ABAEIC2 at p 6.

¹⁰ PA-1 at paras 6 and 69(c); ABAEIC1 at pp 6 and 25; DCS at para 43(a); ABOD1 at p 284, para 7.

¹¹ PA-1 at paras 12 and 15; ABAEIC1 at pp 6–7; DA-1 at paras 9 and 75–76; ABAEIC2 at pp 6 and 29; ABOD1 at p 284, para 7.

¹² DA-1 at para 78; ABAEIC2 at p 30.

¹³ PA-1 at para 68; ABAEIC1 at p 24; DA-1 at paras 44 and 74; ABAEIC2 at pp 19 and 28–29.

¹⁴ ABOD1 at pp 283–294.

¹⁵ PA-1 at para 71; ABAEIC1 at p 25; DA-1 at para 82; ABAEIC2 at p 31.

Muslim of Shaffi Sect”.¹⁶ The significance of this will be discussed in due course. He also stated that Kassim had “died intestate”,¹⁷ which is, as should be clear from the preceding paragraphs, not quite accurate given the existence of the Will (though I recognise that its validity is a separate issue, as I will elaborate on below at [17]–[25]).

10 Zainal subsequently passed away on 29 April 2011.¹⁸ In his will dated 27 October 2010,¹⁹ Zainal appointed the plaintiff as his executrix and directed her to fulfil his vow, or nazar, made on 26 October 2010, by which he would give to the plaintiff as sole beneficiary, upon his death, all his real and personal property, including his share to the inheritance of Kassim’s estate.²⁰ In line with this, the plaintiff applied for a certificate of inheritance from the Syariah Court (which set out the shares of Zainal’s estate) and the certificate was issued on the basis that Zainal had passed on as a Shafie.²¹ The plaintiff subsequently obtained probate of Zainal’s estate in DCP 970/2012 on the basis of this certificate of inheritance and the Grant of Probate was extracted on 2 June 2014.²²

11 Some seven years later, on 2 May 2019, the plaintiff reapplied for a new certificate of inheritance on the basis that Zainal had passed on as a Hanafi.²³ Significantly, shortly after this, on 29 July 2019, the plaintiff commenced the present suit claiming that Zainal’s estate, and by extension herself, is entitled to

¹⁶ DA-1 at paras 83–84; ABAEIC2 at pp 31–32; ABOD1 at pp 349–350, para 3.

¹⁷ ABOD1 at p 349, para 3.

¹⁸ PA-1 at para 5; ABAEIC1 at p 5; DA-1 at para 4; ABAEIC2 at p 5.

¹⁹ ABOD1 at p 419.

²⁰ ABOD1 at pp 407–413.

²¹ DA-1 at para 95; ABAEIC2 at p 34; ABOD1 at pp 424–427.

²² DA-1 at paras 96–98; ABAEIC2 at pp 34–35; ABOD1 at pp 431–436.

²³ DA-1 at para 102; ABAEIC2 at pp 35–36; ABOD1 at pp 469–472.

some part of the income from the Wakaf Properties by virtue of the Will. This was predicated on, among other things, the plaintiff's contention that contrary to the position taken by Zainal in Probate No 469, Kassim had passed on as a Hanafi.²⁴ In line with this contention, on 16 September 2021, the plaintiff obtained a certificate of inheritance from the Syariah Court declaring that Kassim was of the Hanafi school.²⁵ The plaintiff then commenced HCF/P 70/2022 ("Probate No 70") and, on 24 April 2024, she was granted letters of administration with will annexed of Kassim's estate as the lawful executor of Zainal and as a derivative beneficiary pursuant to Zainal's will.²⁶ Notably, in the course of Probate No 70, the plaintiff and the defendant entered into a deed of undertaking on 12 May 2022, under which the parties agreed that the defendant shall, in the present suit, have the full and unconditional right to contest, among other things, the issue of the correctness of Kassim's certificate of inheritance filed in Probate No 70.²⁷ I will come back to the significance of these developments in due course.

The parties' cases

12 As alluded to above, the plaintiff's present claim revolves around Zainal's, and by extension her, alleged entitlement to some part of the income from the Wakaf Properties. Her primary case rests on the following planks:

- (a) The Relevant Clause, which reserves a share of income from the Wakaf Properties for Kassim, and thereafter Zainal, is a clear and

²⁴ SOC at para 22: BP at p 47.

²⁵ Agreed Bundle of Documents vol 2 ("ABOD2") at pp 177–178.

²⁶ SOC at para 29D: BP at p 54; DA1 at para 8: ABAEIC2 at p 6; ABOD2 at p 291.

²⁷ DA-1 at para 10: ABAEIC2 at p 7; ABOD2 at pp 275–280, recital V and clause 4.

express term which the court must give effect to in order to fulfil Kassim’s testamentary intentions.²⁸

(b) The court is not precluded from giving effect to the Relevant Clause even though a valid wakaf had been constituted over the Wakaf Properties prior to the execution of the Will because Kassim was a Hanafi,²⁹ and under Hanafi jurisprudence:

- (i) the minority position of Abu Hanifah (the eponym of the Hanafi school of jurisprudence) permits a wakaf to be varied;³⁰ and/or
- (ii) in any case, a wakif may generally lawfully retain a portion of income from wakaf properties while keeping the corpus of the wakaf intact and this does not amount to a revocation or variation of the wakaf.³¹

13 Alternatively, the plaintiff submits that even if the wakafs were irrevocable, the Will constituted a testamentary wakaf.³² Under Muslim law, a testamentary wakaf, to the extent that it encompasses more than one-third of the testator’s estate, is invalid and the excess would devolve under the Muslim law of inheritance to Kassim’s estate.³³

²⁸ SOC at para 18; BP at pp 45–46; Plaintiff’s Closing Submissions dated 27 February 2026 (“PCS”) at paras 39 and 54–63.

²⁹ PCS at paras 9–11 and 65–73; Plaintiff’s Reply Submissions dated 25 March 2026 (“PRS”) at paras 13–15.

³⁰ PA-1 at paras 51, 53, 56 and 64; ABAEIC1 at pp 20–21 and 23; PCS at paras 2, 108–111 and 115–116; PRS at paras 1(a) and 59.

³¹ PCS at paras 85 and 89–103; PRS at paras 51, 53, 60–62 and 64–71.

³² PCS at para 125.

³³ PCS at paras 126–130; PRS at paras 92 and 94.

14 Against these, the defendant makes the following main arguments:

- (a) Kassim was not a Hanafi but a Shafie.³⁴ Under Shafie jurisprudence, a wakaf, once declared, cannot be revoked or altered.³⁵
- (b) Even if Kassim was a Hanafi, Abu Hanifah's minority position permitting variation of a wakaf has been discredited.³⁶ In any case, the plaintiff has not shown that Kassim satisfied the requirements to rely on Abu Hanifah's minority position.³⁷
- (c) Even assuming the plaintiff is able to rely on Abu Hanifah's minority position permitting variation of a wakaf, the present case concerns a wakaf for a mosque which, according to all jurists of the Hanafi school, is irrevocable.³⁸
- (d) Any reservation of income must be expressed in the wakaf instrument at the point of its creation, which Kassim failed to do.³⁹
- (e) In order for the plaintiff to succeed on her alternative claim of a testamentary wakaf, Kassim's Will must have the effect of revoking the earlier wakafs which, in line with the defendant's arguments in (a)–(c) above, Kassim is not permitted to do.⁴⁰

³⁴ DCS at paras 72, 81–85 and 103–104; Defendant's Reply Submissions dated 25 March 2026 ("DRS") at para 9.

³⁵ DCS at para 54.

³⁶ DCS at paras 107–120 and 127; DRS at paras 34–35.

³⁷ DCS at paras 129–134.

³⁸ DCS at paras 137–142.

³⁹ DCS at paras 153–155; DRS at paras 22–35 and 38.

⁴⁰ DRS at paras 43 and 45.

- (f) Finally, the plaintiff's claim is barred by limitation and/or the doctrine of laches.⁴¹

Issues to be determined

15 Having regard to the facts and issues raised by the parties, I propose to deal with the matter in the following schematic fashion:

- (a) Was Kassim's Will valid?
- (b) Is the Relevant Clause one that can be given effect? The answer to this question in turn hinges upon several sub-questions:
 - (i) What is the intended purpose of the Relevant Clause?
 - (ii) What was Kassim's sectarian affiliation, *ie*, was Kassim a follower of the Hanafi or Shafie sect of Islam?
 - (iii) If Kassim was a follower of the Hanafi sect of Islam, what is the preferred view the court should adopt in relation to whether wakafs may be varied once they are created?
- (c) Did Kassim's Will alternatively constitute a testamentary wakaf?
- (d) Is the claim, in any event, barred by limitation and/or the doctrine of laches?

16 I deal with each of these in turn.

⁴¹ Defendant's Opening Statement dated 22 December 2025 ("DOS") at paras 83–86; DCS at paras 156–180.

Was Kassim's Will valid?

17 I begin with the question of whether Kassim's Will was valid. Initially, the defendant raised a multitude of concerns about certain imperfections in the Will and contended that consequently, there may be questions about its legitimacy.⁴² First, it was suggested that there is no evidence that Kassim was conversant in Jawi, thereby calling into question whether he fully understood the contents of the Will. Second, reliance was placed on an alleged missing paragraph, since the Will ostensibly jumps from paragraph three to paragraph five, raising the spectre of a missing paragraph four. Third, emphasis was placed on the fact that one of the witnesses to the Will subscribed on the Will that he had "filled in the above words on the instruction of [Kassim]" and there is no indication as to which specific words or paragraphs this related to.

18 At trial, the defendant's witness accepted that Kassim was conversant in Jawi and understood the contents of the Will.⁴³ This is the same position that the defendant now adopts in its closing submissions,⁴⁴ and the defendant appears to no longer be contesting the validity of Kassim's Will. However, it has not also expressly addressed the second and third concerns it previously raised in relation to the validity of the Will. Given that the validity of Kassim's Will forms the substratum of the plaintiff's claim, without which there would be little point in considering any of the remaining issues, I proceed to consider the validity of the Will for good order.

19 The validity of a will can be conventionally analysed along two axes: formal validity, which concerns the matter of compliance with prescribed

⁴² DOS at paras 34–36.

⁴³ 21 January 2026 Transcript at p 17, lines 8–21.

⁴⁴ DCS at para 43(c).

execution requirements, and substantive validity, which largely turns on capacity, intent and the absence of vitiating factors.

20 Turning first to the matter of formal validity, s 111(2)(a) of the Administration of Muslim Law Act 1966 (2020 Rev Ed) (“AMLA”) makes plain that the Wills Act 1838 (2020 Rev Ed) (“WA”), with the exception of s 3 of the WA, would continue to apply. Consequently, such a will must, among other things, be made in writing and be signed at the foot or end thereof and must be accompanied by the requisite subscription of at least two witnesses (see s 6 of the WA). It seems clear that, on the present facts, these requirements are met.

21 On the matter of substantive validity, the testator must (a) have the mental capacity to make a will, (b) have knowledge and approval of the contents of the will, and (c) be free from undue influence or the effects of fraud (*Chee Mu Lin Muriel v Chee Ka Lin Caroline* [2010] 4 SLR 373 (“*Muriel Chee*”) at [37]).

22 In relation to the question of mental capacity, the defendant has not alleged, and there is no evidence, that Kassim was lacking in testamentary capacity. Indeed, I would add that the presence of mind to understand the implications of constituting his property in wakafs and his attempt (however imperfect it may be) to reserve income for his son in light of the change of circumstances would itself appear to militate against a finding that Kassim lacked mental capacity. There is similarly simply no evidence suggestive of the Will having been procured in circumstances in which one would consider the possibility of there having been undue influence or fraud.

23 Finally, on the matter of Kassim's knowledge and approval of the contents of the Will, once testamentary capacity has been established, a rebuttable presumption in law would arise that the testator knew and approved of the contents of the Will at the time of execution and the evidential burden of proof shifts to the opponent of the Will to rebut this presumption (*Muriel Chee* at [46]). However, this presumption does not arise where there are circumstances surrounding the execution of the will which would raise a well-grounded suspicion that the will did not express the mind of the testator (*Muriel Chee* at [46]). While there are no fixed number of factors or criteria to ascertain whether the circumstances surrounding a will are suspicious (*Muriel Chee* at [47]), these circumstances relate broadly to the preparation and the execution of the will itself (*XBP v XBO* [2025] SGHC(A) 15 at [47]). Some relevant examples are where the will is prepared by a person who takes a substantial benefit under it, or who has procured its execution, such as by suggesting the terms to the testator or instructing a solicitor to draft the will which is then executed by the testator alone (*Muriel Chee* at [48]).

24 On the facts before me, with respect, none of the three concerns raised by the defendant provides any basis for being unduly suspicious of the circumstances surrounding the Will. First, the mere fact that Kassim's Will was executed in Jawi is neither here nor there as there may have been a multitude of reasons why Kassim may have elected to have his Will written in Jawi. Indeed, the defendant itself seems to accept that Jawi was quite conventionally used by certain segments of the Muslim community at the time,⁴⁵ and that it did not have any definitive evidence in relation to whether Kassim was conversant in Jawi,⁴⁶ although to be fair to the defendant, as mentioned above at [18], it did not

⁴⁵ DA-1 at paras 70 and 73; ABAEIC2 at pp 27–28.

⁴⁶ 21 January 2026 Transcript at p 16, lines 8–10.

pertinaciously pursue this argument. Second, on the point pertaining to the alleged missing paragraph, this appears, on an inspection of the Will, to be nothing more than a mere typographical irregularity, arising from the inadvertent skipping of numbers. The content of these paragraphs flow and there is nothing to suggest any substantive irregularity. Finally, regardless of what words were filled in by an ostensible third party in the Will, they were filled in on the instruction of Kassim. Given that a testator's will may be signed by someone other than the testator on the testator's direction (see s 6(2) of the WA), the fact that certain portions of the Will were filled in on Kassim's instructions is not a reason, on these facts at least, to cast suspicion on the execution of the Will. On the contrary, it supports its legitimacy as it hints to the fact that Kassim was made aware of, and assented to, the contents of the Will. Consequently, it would not seem plausible for any of these concerns to individually or collectively amount to a "well-grounded suspicion" warranting the presumption of knowledge and approval of the contents of the Will to be disappplied.

25 In the premises, I am of the view that the Will is legitimate and should be viewed as valid.

Is the Relevant Clause one that can be given effect?

26 Of course, the question of whether the Will is valid is a separate matter from whether its specific clauses are to, or can be, given effect. This itself requires consideration of two subsidiary issues: first, what is the intended purpose of the Relevant Clause, and second, whether such purpose can be given voice to.

What is the intended purpose of the Relevant Clause?

27 Before I delve into the intended purpose of the Relevant Clause, I first make some observations as to the nature of the document that is the Will as this is relevant to the rest of the analysis below. The plaintiff submits that the Will was both an *inter vivos* and testamentary instrument.⁴⁷ While I accept that in principle it is possible for an instrument to be severable and contain testamentary and non-testamentary parts (see Alexander Learmonth *et al*, *Theobald on Wills* (Sweet & Maxwell, 19th Ed, 2021) (“*Theobald on Wills*”) at para 1-007; *Re Anziani* [1930] 1 Ch 407 (“*Re Anziani*”) at 424), I find that this was not the case here. Unlike in *Re Anziani* where the relevant instrument expressly stated that it was intended to operate not only as a deed of assignment or transfer *inter vivos* but also as a last will and testament, there is no such clear statement in the Will nor any evidence of a concerted intention for the Will to take effect as both an *inter vivos* and testamentary instrument. On the whole, it appears to me very likely that the interspersion of testamentary and non-testamentary aspects in the Will was simply a failure on Kassim’s part to fully appreciate the legal intricacies in relation to when a will takes effect. Accordingly, I proceed to consider the Will on the basis that it was a testamentary instrument only.

28 The Relevant Clause reads:⁴⁸

Divide the nett income of the [Wakaf Properties] (after payment of assessment) into 5 shares, two shares of which are to be given to me, [Kassim] and house No. 76 Changi Road, which I and my descendants shall occupy free of rent. In the event of my death my said share shall devolve upon my son who is poor. The other three shares shall go towards the payment of wages of the

⁴⁷ PCS at paras 39 and 46.

⁴⁸ ABOD1 at pp 272–273.

employees of the mosque, Burial-ground, school and towards the costs of repairing the endowed properties.

29 The plaintiff suggests that the Relevant Clause contains unambiguous instructions to allocate two-fifths of the income from the Wakaf Properties to Kassim during his lifetime and thereafter to Zainal.⁴⁹ With respect, I am unable to agree. The Relevant Clause was phrased very inelegantly such that there are inherent challenges in attempting to divine what its real intent was. The interpretation put forth by the plaintiff appears attractive only when the Relevant Clause is read *in vacuo*, but once placed in context, it is readily apparent that it is beset with obvious conceptual and logical flaws. As the defendant points out,⁵⁰ such an interpretation founders on the basic point of logic that Kassim could never, during his lifetime, have allocated two-fifths of the income from the Wakaf Properties to himself, since a will, by very definition, has no operative effect until the testator's demise (see *Theobald on Wills* at para 1-001; s 19 of the WA). Yet, that is precisely what the Will purports to have the effect of doing. Indeed, there are other provisions of the Will which are somewhat difficult to reconcile with its testamentary character. In particular, Kassim reiterates that he is a trustee of the Wakaf Properties, a statement that lacks legal coherence in a document that necessarily only operates upon his death. The Will further refers to Kassim being granted rights of residence in "house No. 76 Changi Road", again a provision that cannot sensibly be given effect to in the testamentary context. The point I make on this front is that the plaintiff's interpretation is incapable of actually being operationalised fully as purportedly intended.

⁴⁹ PCS at paras 61–62.

⁵⁰ DCS at paras 144–145.

30 This leaves the court with the unenviable task of ascertaining what the intended purpose of the Relevant Clause must have been. In this regard, the following principles are relevant:

- (a) The overriding aim of any court construing a will is to seek and give effect to the testamentary intention as expressed in the words employed by the testator. The court's function is not to rewrite the will or to seek to improve upon or perfect testamentary dispositions (*Goh Nellie v Goh Lian Teck* [2007] 1 SLR(R) 453 ("*Goh Nellie*") at [59]).
- (b) The intention must predominantly be derived from the wording of the will itself, although the circumstances prevailing at the time the will was executed may be taken into account (*Foo Jee Seng v Foo Jhee Tuang* [2012] 4 SLR 339 ("*Foo Jee Seng*") at [17]).
- (c) Where the court finds on the face of the will a clear, general or paramount intention to which effect can be given, and a particular or subordinate intention to which, by reason of some rule of law, the court cannot wholly or partially give effect, or which is inconsistent with or does not carry out all the intentions which the testator has or is presumed to have, then the particular intention must be rejected or modified, and the general intention of the testator carried into effect (*Goh Nellie* at [60], citing *Williams on Wills* vol 1 (C H Sherrin *et al* eds) (Butterworths, 8th Ed, 2002) at para 50.2).
- (d) Where a strict literal construction of the will would give rise to an effect which is clearly out of sync with the general intention of the testator as derived from the will as a whole, such a reading

should give way to a more purposive interpretation (*Foo Jee Seng* at [17]).

- (e) There is a presumption that effect should be given to every word and the court should not discount any part of the will if there can be some meaning that is not contrary to the express intention that could be ascribed to it (*Foo Jee Seng* at [17]).

31 In my view, having regard to those principles, it would seem that the primary purpose of the Relevant Clause is to grant Zainal a two-fifths share of the income of the Wakaf Properties post-Kassim's death. I explain:

- (a) Kassim's intention, as derived from the wording of the Will, can be broken down as follows:
 - (i) The net income derived from the Wakaf Properties is to be divided into five shares.
 - (ii) Two such shares are to be allocated to himself during his lifetime.
 - (iii) Upon Kassim's death, these two shares are to devolve to his poor son, *ie*, Zainal.
 - (iv) The three other shares shall go towards the payment of the wages of the employees of the mosque, Burial-ground, school and towards the costs of repairing the Wakaf Properties.
- (b) Taking into account the circumstances in which the Will was made, it is defensible to adopt the construction that the eventual devise of the two shares to Zainal was Kassim's general intention, while the initial allocation of the two shares to himself

was the subordinate intention. This is because prior to the birth of Zainal, Kassim had constituted the various wakafs without any reservation of income to himself, giving credence to the position that the insertion of the Relevant Clause in Kassim's Will was not so much for maintaining himself (in which case Kassim would likely have made such reservation at the outset) but rather to provide for Zainal. In this regard, the defendant argues that if Kassim intended to provide for Zainal, Kassim should have bequeathed the two shares directly to Zainal, and that since Kassim did not do so, his first priority was to benefit himself and not Zainal.⁵¹ I am unable to agree with the defendant's position. It is equally plausible that such an arrangement was created because Zainal, being a child, would not be able to utilise or manage the income by himself.

- (c) Given the above, and the legal impossibility of a testator bequeathing property to himself, the court in construing the Relevant Clause should give effect to Kassim's broader intention of providing for Zainal. In doing so, the strict literal construction, *ie*, that the two shares must first pass to Kassim (which as explained earlier is legally impossible), should give way to a purposive interpretation that "bridges the gap" and allows for the two shares to be bequeathed directly to Zainal. This is not inconsistent with the principles set out above regarding improving or rewriting the Will, since ultimately, these two shares were meant to go to Zainal.

⁵¹ DRS at para 40.

- (d) Finally, given the presumption that effect should be given to every word, the court should reject a construction which revokes the wakafs in their entirety, as this would do violence to Kassim's charitable intention for the remaining three shares to go towards maintaining the Wakaf Properties (which presupposes the existence of the wakafs). I come back to this specific point when dealing with the plaintiff's alternative argument below at [68].

32 I therefore find for the above reasons that the intended primary purpose of the Relevant Clause was to grant Zainal two-fifths share of the income of the Wakaf Properties.

Can the intended purpose of the Relevant Clause be given effect to?

33 Having examined the intended purpose of the Relevant Clause, I turn to the logically prior question of whether such purpose is legally capable of taking effect at all. This issue turns on three successive inquiries. The first concerns the nature of the Relevant Clause, *ie*, whether it has the effect of revoking the wakafs (partially or otherwise). The second concerns Kassim's madhab, in particular, whether he was a Shafie or a Hanafi. If Kassim were Shafie, it seems common ground between both parties that a wakaf is generally irrevocable. I note in passing that there are narrow instances where amendments might be possible, *eg*, where the purpose of the wakaf has become impossible or in frustration-type situations,⁵² but it is clear that such narrow exceptions simply do not apply here.⁵³ The third inquiry arises only if Kassim was Hanafi. In that

⁵² 20 January 2026 Transcript at p 12, lines 4–10.

⁵³ 20 January 2026 Transcript at p 11, lines 31–32 and p 12, lines 1–10; DCS at para 54.

event, the court must then decide whether to adopt the minority view attributed to Abu Hanifah, which contemplates the theoretical possibility of revocation of a wakaf, or the majority view attributed to Abu Yusuf and Imam Muhammad, which generally rejects such a possibility and treats wakafs as irrevocable.⁵⁴ I therefore deal with each in turn.

What is the nature of the Relevant Clause?

34 The plaintiff argues that the Relevant Clause amounts only to a reservation of income, which all Muslim wakifs have the power to do, and does not constitute revocation or variation of the wakaf because the corpus of the wakaf, *ie*, the Wakaf Properties, remains intact.⁵⁵ With respect, it is clear to me that this is not correct and rests on an unduly narrow and unacceptable conception of the wakaf as an institution. A wakaf is not constituted merely by the immobilisation of property; it is a dedication of property for specified religious or charitable purposes, to be realised through the application of its usufruct in accordance with the wakif's instructions at the time. The disposition of income is therefore central to, and plainly not severable from, the juridical character of the wakaf. As the defendant notes, diverting a portion of the income of the Wakaf Properties to Kassim would permanently deprive the wakaf of that income for use in the maintenance and upkeep of the Wakaf Properties and for the performance of the other charitable purposes of the wakafs.⁵⁶ To redirect that income is therefore, in substance, to alter the operative scheme of the

⁵⁴ Affidavit of Evidence-in-Chief of Dr Mohd Zamro bin Muda dated 19 May 2025 ("PA-2") at pp 50–51, paras 14–17; ABAEIC1 at pp 320–321; Affidavit of Evidence-in-Chief of Associate Professor Dr Mohammad Tahir Sabit Haji Mohammad dated 22 May 2025 ("DA-2") at pp 26–27, questions 2 and 3; ABAEIC2 at pp 342–343; PCS at paras 111 and 116(a); DCS at para 55.

⁵⁵ PCS at paras 85, 88–91 and 102; PRS at paras 5–6, 51, 53 and 64.

⁵⁶ DRS at para 38.

endowment and seemingly frustrate the very purpose for which it was created. In fact, this is readily apparent when considering the wording of the Relevant Clause alone, without which the whole income of the Wakaf Properties, and not just three-fifths, would have been applied for charitable purposes. The suggested distinction between varying the wakaf and reserving or diverting its proceeds is thus one of form rather than substance, and a distinction that by its nature, seeks to disregard the essential nature of the wakaf itself.

35 In any event, I am of the view that the plaintiff's argument should also be rejected for the separate reason that it is premised on irrelevant authorities or authorities which relate to a reservation of income in the *original* wakaf instrument, *ie*, a reservation made at the point of declaration of the wakaf, and not *subsequent* to the constitution of the wakaf.

36 One authority the plaintiff cites is *Abdul Rahman bin Mohamed Yunoos v Majlis Ugama Islam Singapura* [1995] 2 SLR(R) 394 ("*Abdul Rahman*"),⁵⁷ where the testator made a will in which he directed for income obtainable from three properties (out of which only one remained at the time of the proceedings) to be applied toward several religious and charitable purposes. The Court of Appeal held that given that the testator had dedicated income from the property, it was obvious that the property itself was also dedicated to the wakaf declared by the testator, for without such dedication there would be no income to perform the wakafs (at [19]). In effect, this was a case in which, by the same instrument and at the same time, the corpus of the wakaf was dedicated and the income reserved. There was no reservation of income subsequent to the constitution of the wakaf.

⁵⁷ PCS at paras 96–97.

37 Another authority the plaintiff cites is *LS Investment Pte Ltd v Majlis Ugama Islam Singapura* [1998] 3 SLR(R) 369 (“*LS Investment*”),⁵⁸ where the testatrix made a will in which she directed a house or a shop to be purchased and for the net income from the house or shop to be applied towards several private and charitable purposes. The Court of Appeal held, applying *Abdul Rahman*, that as the income was dedicated in perpetuity, it followed that the testatrix intended a similar dedication of the property which was to produce the income (at [28]). This was therefore again a case in which the reservation of income was made at the time the wakaf was constituted by the will. Moreover, while the plaintiff appears to rely on the extract from AA Fyzee, *Outlines of Muhammadan Law* (4th Ed) (“*AA Fyzee*”) cited by the Court of Appeal at [21] in support of her argument, this extract only supports the position that a Hanafi wakif may take benefit in the wakaf property and does not go further to establish that this may be done subsequent to the constitution of the wakaf.

38 Yet another authority cited is *Majlis Ugama Islam Singapura v Saeed Salman* [2016] 2 SLR 26 (“*Saeed Salman*”),⁵⁹ in which the testator directed his executors to sell his property and to divide the balance into three shares, with one share going to the maintenance and upkeep of a school and two shares going to his heirs under Muslim law. In this case, the corpus of the wakaf was money itself (see [21]) and there was no reservation of income in the sense advanced in the plaintiff’s argument. This fact pattern is simply not relevant to the matter at hand.

⁵⁸ PCS at paras 92–93.

⁵⁹ PCS at paras 100–101.

39 The plaintiff also cites several foreign authorities which ostensibly support her argument,⁶⁰ but the same criticism can be levelled at them. None of these cases support the proposition that a wakif may validly reserve income derived from wakaf properties after the wakaf had been constituted. On the contrary, these decisions, as was the case with *Abdul Rahman* and *LS Investment*, involved reservations of income made at the time the respective wakafs were constituted. The further point to be made is that, conceptually speaking, such authorities simply cannot support the plaintiff's argument that a reservation of income does not amount to revocation of a wakaf because a reservation of income at the point of declaration of a wakaf, as a matter of logic, cannot amount to a revocation of that very wakaf.

40 I deal with a final point in this regard. I note that the plaintiff has sought to rely on the fact that Kassim had reserved certain powers and rights in the various instruments executed, including the right to “make such rules and regulations for the proper administration and management of the said trust premises as they or the trustees for the time being shall think fit”, as a basis to argue that Kassim was entitled to alter the wakafs.⁶¹ In my view, these clauses only empower the trustees to make rules of an administrative nature, *eg*, that the income from the Wakaf Properties must be deposited in a particular bank account, and do not disclose a substantive right to redirect the income from the Wakaf Properties. Therefore, the presence of these clauses does not alter my analysis above.

41 In light of the above, I find that the Relevant Clause must take effect as a partial revocation of the wakafs.

⁶⁰ PCS at paras 94–95, 98 and 99.

⁶¹ SOF at para 22E; BP at p 49; PRS at para 55.

Is Kassim Shafie or Hanafi?

42 The plaintiff submits that Kassim was Hanafi because he originated from Tamil Nadu and was a Tamilian, and the Indian courts have established a presumption that Muslims in India follow the Hanafi school.⁶² The plaintiff further submits that the defendant had taken no objections to the certificates of inheritance obtained in respect of both Zainal and Kassim which declared them to be Hanafi.⁶³

43 The defendant argues that Kassim was born in Singapore and that the presumption cited by the plaintiff is inapplicable in Singapore where a different set of societal circumstances applies.⁶⁴ To buttress its case that Kassim was Shafie, the defendant relies on Zainal’s statement in Probate No 469 that Kassim was “a Muslim of Shaffi Sect”,⁶⁵ Kassim’s proficiency in Jawi,⁶⁶ Kassim’s use of Malay words and phrases in the various instruments executed,⁶⁷ and the fact that Zainal was himself Shafie.⁶⁸

44 To commence analysis on this point, I first observe that there is, with respect, an inherent artificiality in seeking to ascribe rigid doctrinal labels to the religious practice of an individual who lived about a century ago. The classificatory frameworks of madhabs are, of course, well-recognised in Islamic jurisprudence, but the lived reality of religious observance – particularly in an

⁶² PCS at paras 9–11 and 65–73.

⁶³ PCS at paras 50 and 53; PRS at para 10.

⁶⁴ DCS at paras 63 and 68–70; DRS at para 5–8.

⁶⁵ DCS at paras 72–76; DRS at para 9.

⁶⁶ DCS at para 83.

⁶⁷ DCS at paras 84–85

⁶⁸ DCS at paras 87–96.

earlier era – may not always map neatly onto such taxonomies. For rather self-evident reasons, Kassim cannot now be asked how he understood or identified his practice of Islam, nor is the court able to reconstruct his religious affiliation by way of meaningful direct inquiry. Instead, on facts like these, the court has to proceed by drawing informed inferences from such indirect evidence as is available: patterns of conduct, surrounding circumstances and the broader social and religious context in which Kassim lived. I should caution that any conclusion reached in this regard must therefore be understood as a reasoned judgment (drawing reasonable inferences from somewhat limited available facts) rather than a statement of historical certainty. This is because to demand certainty in such matters would be to ask more of a fact-finder than the nature of the inquiry can reasonably bear. Nonetheless, the fact that the inquiry admits of uncertainty does not itself absolve the court from deciding; instead, the law necessarily requires a conclusion, imperfect though the evidential foundations may be, and it is the duty of the court to reach one conscientiously on the best material available.

45 In reaching my determination on this issue, the assessment of the credibility of the factual witnesses before me is, in a sense (save the points I make later at [50]), of only tangential relevance. This is because the present factual matrix is such that the central issues turn on beliefs and practices of Kassim in many decades past and for which the witnesses on both sides have no personal knowledge of. Viewed in this specific light, the court’s task is not so much to weigh competing oral accounts as it is to examine what the documentary record, taken as a whole, fairly permits by way of inference as to the positions and intentions of Kassim and Zainal.

46 Further, in my view, there is an obvious danger in resting such conclusions on broad, unmoored assumptions – such as the assertion that “it is

common knowledge that most Tamil Indian Muslims were and are from the Hanafi sect”⁶⁹ or for that matter that “the majority [of] South Indian Muslims who came to Singapore in the early 20th century were Shafie’s”⁷⁰ – and then applying these generalisations as an anchor for the religious identity and practices of a particular Muslim individual who has resided in Singapore for an extended period of time. Such reasoning displaces the individual in favour of abstraction. It overlooks the elementary point that identity is to be discerned from the person concerned, rather than inferred some decades later, through recourse to demographic shorthand or sociological averages. It concomitantly ignores the reality – one, I might add, both the plaintiff and defendant accept⁷¹ – that religious practice is by its nature not always static. An individual’s observance of a religion may evolve, adapt or vary with geographic context, social milieu and, of course, personal conviction and practice. Put in the current context, whether one’s madhab is Hanafi or Shafie is not just a function of one’s birthplace, but a myriad of realities best understood by assessing evidence pertaining to the *individual in a particular place and time* and not by recourse to abstract generalisations. In the same vein, reliance on generalities about language (such as the use of Tamil, Jawi or particular Malay words and phrases) or naming conventions at birth⁷² adds very little, if anything, to the analysis. These are, at best, cultural indicators, not determinative religious anchors. Language and naming practices often reflect family heritage, historical circumstance or social custom as much as, if not more than, religious affiliation. To treat them as religious identity may therefore be to conflate culture with

⁶⁹ PCS at para 67.

⁷⁰ DRS at para 8.

⁷¹ PCS at paras 76–78; DCS at para 60.

⁷² PA-1 at para 97; ABAEIC1 at p 31–33; 15 January 2026 Transcript at p 24, lines 29–32 and p 25, lines 1–3.

creed. This is not to say that such proxies are never useful, but simply to make the point that such proxies, on these specific facts, are extremely poor and misleading markers, and the best evidence really ought to be fact-specific and anchored to the individual concerned. To this I add that the court should likewise be wary of importing a presumption established by a foreign court, which would inevitably be grounded in the specific societal conditions and generalisations operating within that jurisdiction, and applying it wholesale and unthinkingly in Singapore.

47 For those reasons, it is, in my view, more helpful to look at the documentary evidence in this case to discern whether Kassim was, on balance, from the Hanafi school or the Shafie school. On this, as alluded to above at [9], what is particularly revealing is the fact that in Probate No 469, Zainal stated that Kassim was Shafie. This was not part of the standard form and was specifically added to the document by its author (who presumably was acting on Zainal's instructions). The plaintiff takes especial pains to make the point that Zainal must have been mistaken in making such a declaration,⁷³ basing this on (a) the fact that Zainal had also mistakenly stated that Kassim had died intestate which impugns the reliability of Zainal's statement,⁷⁴ and (b) her assertion that Zainal had no knowledge of Kassim's personal background given that Zainal was only six years old when Kassim died and that Zainal did not reside with his mother, Mymon, after Kassim's death.⁷⁵ With respect, these arguments do not stand up to scrutiny.

⁷³ PCS at para 51.

⁷⁴ PRS at para 8.

⁷⁵ PA-1 at paras 12–15, 73–74 and 102; ABAEIC1 at pp 6–7, 25–26 and 34–35.

48 Turning to the first point, I do not accept that the error in relation to Kassim's intestacy has any bearing whatsoever on the error in relation to Kassim's madhab or the reliability of Zainal's statement in the petition as a whole. On the plaintiff's own case, Zainal did not know of Kassim's Will at all.⁷⁶ From that standpoint, Zainal was correct in stating that Kassim had died intestate. In other words, this statement, erroneous as it may be with the benefit of hindsight, was likely to be an accurate representation of Zainal's knowledge at the material point of time. It is therefore difficult to see how this affects the reliability of Zainal's statement in any way.

49 Coming to the latter argument, the irony of the point is, in my view, self-evident and indeed answers itself. Even if the premise that Zainal had insufficient knowledge of Kassim's personal background was accepted, the inevitable retort must be that the plaintiff stands in an even more attenuated and divorced position: she has had even less, or to be precise, no contact with Kassim whatsoever. It is therefore difficult to see how the plaintiff can plausibly seek to contend that she is of any superior footing to ascribe a religious affiliation to Kassim. As Kassim's son, Zainal would have been in a position of immediate proximity, lived experience and familial knowledge, which the plaintiff, who was born many years after Kassim had passed, simply would not have had the benefit of. To add on, I note that there is also some incongruity in the plaintiff seeking to discredit documentary evidence in this manner. I say this because the plaintiff argues that neither herself nor any of the witnesses can prove every historical detail by first-hand memory and that the case is instead built on, among other things, documentary evidence such as deeds and probate documents,⁷⁷ yet she attempts to circumvent these very documents on the back

⁷⁶ PRS at paras 33–34.

⁷⁷ PRS at para 28.

of her own account of facts. Taken altogether, in my view, the plaintiff's bare assertions are not convincing, given the lack of objective evidence supporting the plaintiff's version of events relating to Zainal's upbringing and the plaintiff's obvious vested interest in maintaining the narrative painted in her affidavit.

50 In contrast to Zainal's statement in Probate No 469, I note that there is no contemporaneous evidence to suggest that Kassim may have been Hanafi at the time. In this regard, and for the reasons that follow, I gave no weight to the fact that the plaintiff had in Probate No 70 applied for, and obtained, letters of administration on 24 April 2024 on the premise that Kassim was a Hanafi. I make a few observations in this regard:

- (a) First, the timing of the attempt to alter Kassim's madhab close to nine decades after his death, and very shortly after the filing of this claim, is highly revealing. That coincidence, taken together with the fact that the plaintiff had already, shortly before the filing of the present claim in 2019, also reapplied for a new certificate of inheritance declaring that Zainal was Hanafi, appears to be far too precise to be accidental.
- (b) Second, the letters of administration were granted on the basis of the certificate of inheritance obtained in 2021 (*ie*, after the present claim was filed) which declared that Kassim was of the Hanafi school. Quite apart from the fact that it would have been procured with one eye to these proceedings (therefore self-evidently hollowing it of any evidential force), it was obtained by the plaintiff who clearly did not have any personal knowledge of Kassim's madhab (see above at [49]). In fact, the plaintiff herself, when asked in cross-examination, was unable to identify

a single difference between the practices of the Hanafi and Shafie schools to set them apart.⁷⁸ To be clear, no one blames her for not necessarily understanding the fine distinctions across these two madhabs. The point is, given that reality, it is difficult to see how she can meaningfully assert that Kassim must have been Hanafi.

- (c) Third, and relatedly, while the plaintiff alleges that the defendant has not raised any objections to this certificate of inheritance, as mentioned above at [11], the plaintiff and defendant had entered into a deed of undertaking under which the defendant had reserved its right to dispute the correctness of the certificate of inheritance. This deed of undertaking was entered into so that Probate No 70 would proceed uncontested and to avoid unnecessary costs and delay.⁷⁹ It therefore lies ill in the mouth of the plaintiff to now base its claim on the lack of objection by the defendant in Probate No 70.
- (d) Given all the above, the plaintiff's belated attempts to characterise Kassim as a Hanafi – where such a classification appears to be a necessary predicate to sustaining her claim – must therefore, with respect, be viewed in that light.

51 The next closest piece of documentary evidence would be the petition filed in respect of Mymon's estate which states that she was herself a Hanafi at the time of her death.⁸⁰ However, in my view, this carries limited evidential

⁷⁸ 15 January 2026 Transcript at p 36, lines 27–32.

⁷⁹ ABOD2 at pp 276–277, recitals VII and VIII.

⁸⁰ ABOD1 at p 313, para 3.

weight when it comes to determining Kassim's madhab. For one, there is no reason to necessarily suggest that spouses must be of the same madhab. While the plaintiff has argued that at that point of time, inter-faith marriages were frowned upon,⁸¹ it does not appear that this would apply to inter-madhab marriages. The plaintiff has, in any case, provided no evidence of this assertion. For another, even if spouses ought to be of the same madhab, it must be stressed that a considerable amount of time had passed between Kassim's death in 1935 and Mymon's death in 1945,⁸² and it is undisputed that she had remarried and had two children in this subsequent marriage. In the circumstances, it would be entirely possible (and the plaintiff accepted this during cross-examination⁸³) that Mymon's identification as Hanafi was nothing more than a consequence of her subsequent remarriage rather than reflective of Kassim's own affiliation. Properly viewed therefore, this material is of only marginal assistance.

52 Finally, any suggestion on the plaintiff's part that Kassim must have been Hanafi as he had sought to vary a wakaf by his Will amounts,⁸⁴ in my mind, to bootstrap logic. It assumes Hanafi affiliation in order to justify revocability and then relies on that assumed revocability to infer Hanafi affiliation. Such reasoning is, with respect, circular and unsound. One would have thought that, in the conventional scheme of things, ordinary people of the Islamic faith writing wills do not pause to engage in detailed reflections of their madhab. They simply write what they believe to be sensible and what they assume they could meaningfully give away (whether rightly or wrongly) and indeed the

⁸¹ PCS at para 13.

⁸² PA-1 at para 15; ABAEIC1 at p 7; DA-1 at para 76; ABAEIC2 at p 29; ABOD1 at p 312.

⁸³ 21 January 2026 Transcript at p 18, lines 22–29.

⁸⁴ PCS at paras 44 and 87.

plaintiff herself appears to recognise this.⁸⁵ An attempted variation of a wakaf set out in a will may therefore just as readily reflect mistake, misunderstanding or imperfect advice and cannot by itself, without more, be used to retroactively fit the wakif's madhab. I make a broader point in this regard that one ought to be careful not to impute into a will a variety of assumptions which are wholly speculative. To state a simple example, I did not accept the defendant's suggestion that Kassim must have been Shafie by virtue of his Will being written in Jawi, a localised form of Arabic conventionally used by Malays (who are conventionally Muslims of the Shafie sect).⁸⁶ As adverted to previously at [24], there may be a variety of reasons for this, and it seems inherently unsafe to merely pick one of many equally plausible reasons for this state of affairs.

53 In the premises, the plurality of evidence before me suggests that Kassim was a Shafie, and for the purposes of these proceedings, I so find.

Assuming Kassim was Hanafi, should the court adopt the minority view or the majority view?

54 My finding above that Kassim was Shafie is sufficient to dispose of the matter. Nonetheless, assuming I am mistaken on this, I next turn to the question of whether I should adopt the majority or minority view of Hanafi jurisprudence on the point of revocability of a wakaf.

55 At this juncture, it is worth noting the somewhat distinctive treatment of expert evidence when it comes to Muslim law. Muslim law is part of the law of the land and need not be proved like foreign law (see *LS Investment* at [38]). As such, arguments on Muslim law should be presented as submissions on law

⁸⁵ PRS at para 88.

⁸⁶ DCS at para 83.

rather than on facts and, strictly speaking, expert opinion on Muslim law should not be addressed to the court by way of reports or affidavits (see *Saeed Salman* at [26]). Nevertheless, given that Muslim law is a highly specialised area, I found utility in the expert evidence adduced, though, as cautioned in *Saeed Salman*, I ultimately treat the experts' views as arguments only.

56 Both experts agree that there exists, within Hanafi jurisprudence, a divergence of approach amongst the original scholars of the Hanafi school as to whether a wakaf may be revoked.⁸⁷ The majority position – conventionally attributed to Abu Yusuf and Imam Muhammad – takes the view that a wakaf, once validly constituted (or at the very latest, once the assets that are part of the wakaf are handed to the trustees⁸⁸), becomes irrevocable. The minority position – attributed to the Hanafi school's founder, *ie*, Abu Hanifah – admits the possibility of revocability. The question is therefore which view a court seeking to apply Muslim law should adopt as the right interpretation of Muslim law when dealing with someone subscribing to the Hanafi school of jurisprudence.

57 The parties, relying on expert evidence, take divergent views on this. The defendant argues that the minority position is not preferred because various hadiths of Prophet Muhammad contradict such a view,⁸⁹ and the authorised textbooks listed in s 114(1) of the AMLA also express the position that the minority position has been discredited and abandoned.⁹⁰ The defendant further argues that according to a rule of construction for resolving differing views by Abu Hanifah, Abu Yusuf and Imam Mohammad, whenever either Abu Hanifah

⁸⁷ PA-2 at pp 50–51, paras 14–17; ABAEIC1 at pp 320–321; DA-2 at p 26, question 2: ABAEIC2 at p 342.

⁸⁸ DA-2 at p 25, question 1: ABAEIC2 at p 341.

⁸⁹ DCS at paras 107–109.

⁹⁰ DCS at paras 113–117.

or Imam Mohammad agrees with Abu Yusuf, the view espoused by Abu Yusuf should prevail.⁹¹ In any case, in order for the plaintiff to rely on the minority position, the plaintiff must prove, first, that Kassim expressly declared his intention to follow the view of Abu Hanifah and, second, that Kassim was a mujtahid (*ie*, one who has acquired the capacity to independently or originally interpret problems not precisely covered by the Koran) or had sought a fatwa from a scholar that permitted him to constitute a wakaf in accordance with Abu Hanifah's view.⁹²

58 Against this, the plaintiff argues that there is no conclusive statement that one of the jurists' opinions is to prevail over the others',⁹³ and where the jurists differ, the court should adopt the view most consonant with justice, equity and good conscience.⁹⁴

59 Having considered the parties' arguments and expert reports, it appears to me that the weight of evidence suggests that the majority position commands substantially broader acceptance. I note, for example, that two of the authorised books set out in s 114(1) of the AMLA make the point that the majority view has "prevailed" (see Sir Roland Knyvet Wilson & A Yusuf Ali, *Anglo-Muhammadan Law* (Thacker, Spink & Co, 6th Ed, 1930) at p 345; *AA Fyzee* at pp 278–279). Yet another of the authorised books state that Abu Hanifah's minority position "was never accepted as law among his followers" and "combated and refuted by hadises (traditions) from the Prophet himself", whilst contrasting this against Abu Yusuf's majority position which "is in force

⁹¹ DCS at paras 118–120.

⁹² DCS at paras 129–131.

⁹³ PRS at paras 82–88 and 90.

⁹⁴ PCS at paras 117–118; PRS at para 76.

among all the Hanafi jurists” (Syed Ameer Ali, *Mohammedan Law* (Kitab Bhavan, 5th Ed) (“*Syed Ameer Ali*”) at pp 195–196). Not a single authority takes the converse view of the minority position being widely adopted. Nonetheless, it would not be necessary for me to conclusively prefer the views of one expert or the other in relation to whether this issue remains an open question. Suffice it to say that even if one were to accept, for present purposes, the proposition advanced by the plaintiff’s expert in his report that a decision-maker would be at liberty to elect between these competing views in the event of a conflict and could apply doctrines of “justice, equity and good conscience” in making any such election⁹⁵ – a proposition, I would highlight, that itself is fraught with problems since it raises difficult questions on how a judge could meaningfully ignore such broader consensus amongst a majority of scholars – I am of the view that the equities necessitate aligning with the majority position. I say this because a cogent assessment of the equities must begin with an appreciation of the modern-day realities that underlie instruments such as a wakaf. A wakaf, is, at its core, an act of piety and foresight – it is a deliberate setting aside of property in order to ensure stability, continuity and communal benefit that would extend beyond the lifetime of the wakif. In many ways, its moral force lies precisely in its certainty – that those who rely on it and the charitable purposes for whom it is intended would be able to order their lives on the assurance that the wakaf’s terms will not be lightly unsettled.

60 In saying this, I should make clear that the impulse to permit a subsequent will to vary a wakaf in order to provide for an impoverished child of the wakif after his death is an understandable one. It speaks to one’s concern of the need for compassion, parental concern and a natural reluctance to see

⁹⁵ PA-2 at p 54, paras 24–26: ABAEIC1 at pp 324–325.

one's offspring suffer hardship. That instinct deserves respect and empathy. Indeed, all parties before me agree that there are hadiths that make plain that a parent is duty-bound to take care of the needs of their children.⁹⁶ Yet, equity must understandably look beyond the immediacy of the individuals before it to the wider moral economy within which such instruments have to operate. If wakafs were rendered vulnerable to *post hoc* alteration through subsequent testamentary acts, however well-intentioned these may be, the resulting erosion of certainty would carry consequences that go far beyond the immediate parties and this case. Indeed, it would seem that some scholars explicitly recognise the obvious detriments within the logic of the minority position, observing that it appeared to them to be “primitive and unpractical” (see *Syed Ameer Ali* at p 195). The downsides of such an interpretation are self-evident: beneficiaries, who are often vulnerable in the case of wakafs, would be left in a state of permanent contingency; trustees would be placed in an invidious position; and the community's confidence in the integrity of a wakaf as a stable charitable institution would be gravely undermined. In some senses, one of the intrinsic features that makes wakafs a trusted vehicle for enhancing long-term communal welfare (*ie*, its permanent dedication to its charitable goals, evident in the use of the phrases “permanent dedication” or “dedication in perpetuity” in the various definitions of wakafs in s 2 of the AMLA) would be compromised. In this specific context, equity, properly understood, is not blind to hardship but neither is it confined to addressing hardship in isolation. The broader needs of the community, including the need for predictability, trust and institutional coherence, must, in my mind, weigh heavily in the balance when considering whether existing wakafs should be susceptible to variation in favour of a wakif's, or his family's, interests.

⁹⁶ PCS at paras 34 and 87; DRS at para 39.

61 I would add that there are potentially cogent doctrinal bases to reject the minority position, at least as it ought to apply in the domestic context. At the core of Abu Hanifah’s minority position, as the plaintiff’s expert himself observes,⁹⁷ lies the premise that the corpus of the wakaf remains vested in the wakif. By contrast, the majority position proceeds on the fundamentally different conception that, once constituted, a wakaf effects a transfer of ownership to God (see *AA Fyzee* at p 279).⁹⁸ It is, at least in part, this conceptual divergence that explains why the former contemplates the possibility of variation or revocation, and the latter does not. Yet, the implications of the minority position are somewhat problem-fraught: if ownership of the corpus truly remained with the wakif, it would follow, at least as a matter of logic, that the wakaf itself would customarily terminate upon the death of the grantor, since no divestment of ownership ever occurred.⁹⁹ On that view, the *default* position for wakafs would be that they necessarily perish together with the wakif. Such a view is so plainly untenable given the parties’ understanding of domestic Islamic law and customs (and so diametrically opposed to the parties’ universal understanding that a wakaf must endure the wakif’s death) that neither party is prepared to embrace it. But once that consequence is rejected, it becomes difficult to maintain the underlying premise from which it flows. To eschew the proposition that the wakaf ends upon the death of the wakif is, in my mind, in substance, to reject the corollary that the wakaf remains revocable during one’s lifetime. The two propositions, in my view, are inextricably intertwined and it would not seem entirely coherent to accept one while conveniently jettisoning or rejecting the other.

⁹⁷ PA-2 at pp 49–50, paras 10–12 and 15; ABAEIC1 at pp 319–320.

⁹⁸ PA-2 at p 50, para 13; ABAEIC1 at p 320; DA-2 at p 25, question 1; ABAEIC2 at p 341.

⁹⁹ PA-2 at p 51, para 16(ii); ABAEIC1 at p 321.

62 On the other hand, the majority position doctrinally makes sense: applying the logic that the wakaf effectively constitutes a transfer to God, it holds that such constitution is irreversible. This has obvious consequential implications which, I might add, are largely positive: irreversibility preserves trust, minimises exploitation and guarantees continuity and stability, ensuring that the endowed property remains forever devoted to its stated charitable purpose and allowing generations to benefit without fear that the endowment would be reclaimed or diverted. In this way, the wakaf embodies Islam’s commitment to social justice, ethical stewardship and the belief that acts done sincerely for God should outlast the individual and serve as an enduring legacy of good.

63 Indeed, it would appear that the plaintiff’s expert recognises some of the doctrinal difficulties surrounding the minority position. In response to the critique that Abu Hanifah’s view was “primitive and unpractical”, he accepted that such criticisms may have been fair at the time of the critique, but stated that these criticisms were made only because “the issues of today have not been” anticipated by such critics.¹⁰⁰ He then contended that whatever the academic criticisms of Abu Hanifah’s view, he takes the view that “laypersons ... would subscribe to the view of Imam Abu [Hanifah]”,¹⁰¹ and eschew the scholarly view (which he accepts conduces to the majority view). I am unable to accept the logic of such reasoning. I make three observations:

- (a) First, it appears that by “issues of today”, the plaintiff’s expert was referring to the issues in the present suit as opposed to

¹⁰⁰ 20 January 2026 Transcript at p 21, lines 26–31 and p 22, lines 1–15.

¹⁰¹ 20 January 2026 Transcript at p 23, lines 17–21.

modern day developments that affect the wider society.¹⁰² In essence, the plaintiff’s expert attempts to justify adoption of the minority position on the basis that such adoption would avoid the issues presently before the court. At the risk of belabouring the points made above at [59]–[60], this impermissibly elevates the concerns of an individual to a position of paramountcy at the expense of the interests of the community.

- (b) Second, no evidence has been adduced as to this supposed lay practice. An assertion of a common practice without more, not least by a scholar who conceded that he had never done any research on the Muslim community in Singapore,¹⁰³ cannot serve as a substitute for actual evidence. In such circumstances, it would be especially hazardous for the court to proceed on impressions, instincts or generalised perceptions of what laypersons would have believed or done, absent reliable evidence grounded in the local context. Indeed, I am also hesitant to rely on the scholarship that the plaintiff’s expert cites in support of a move towards non-perpetual wakafs.¹⁰⁴ One of these is a chapter in the book Kamila Tyabji, *Limited Interests in Muhammadan Law* (Stevens & Sons Ltd., 1949), in which the author calls for laws “which would restrict the duration of private [wakafs]” as “no useful purpose is served at the present time by perpetuities neither capable of benefiting the heirs of the [wakif]

¹⁰² 20 January 2026 Transcript at p 22, lines 30–32 and p 23, lines 1–8.

¹⁰³ 20 January 2026 Transcript at p 49, lines 9–13.

¹⁰⁴ PA-2 at pp 59–60, paras 36–38: ABAEIC1 at pp 329–330.

nor the public at large”.¹⁰⁵ However, it appears to me that the focus in the chapter was very much the need to ensure that domestic Muslim laws in India are maintained and developed outside the strictures of English law,¹⁰⁶ and the position taken was motivated, at least in part, by “the vicious system of perpetual family settlements”.¹⁰⁷ In a sense, therefore, the chapter cited by the plaintiff’s expert is not directly on point and, in any case, would appear to be somewhat inconsistent with the plaintiff’s position in the present suit: her claim, if allowed, would have the effect of redirecting income from the Wakaf Properties from the “public at large” (*ie*, income that would otherwise go toward the upkeep and maintenance of the mosque and other charitable purposes) to what is, in some form, essentially a family settlement, the very arrangement the chapter cited appears to be advocating against. The other scholarship the plaintiff’s expert relies on is an article by an Islamic scholar that itself expressly makes clear that the view that a wakaf ought to be revocable simply cannot be applied to mosques and graveyards as “these are religious and not economic institutions”.¹⁰⁸ In my judgment, the scholarship the plaintiff’s expert cites to advance his proposition is therefore not entirely consistent with the facts of the present case. In view of the above, and bearing in mind that the determination of whether expert evidence should be accepted is guided by considerations of

¹⁰⁵ PA-2 at pp 321 and 325; ABAEIC1 at pp 591 and 595.

¹⁰⁶ PA-2 at pp 313–321 and 325; ABAEIC1 at pp 583–591 and 595.

¹⁰⁷ PA-2 at p 322; ABAEIC1 at p 592.

¹⁰⁸ PA-2 at p 343; ABAEIC1 at p 613.

consistency, logic and coherence (*Armstrong, Carol Ann v Quest Laboratories Pte Ltd* [2020] 1 SLR 133 at [90]), I am of the view that the plaintiff's expert evidence in this regard should not be given much, if any, weight.

(c) Third, the court cannot set aside what Muslim law (*ie*, doctrinal law) provides in favour of impressions of how laypersons choose to interpret or perceive it. Perceptions of the law are not the law. The content of Muslim law must be determined by reference to recognised sources and doctrinal reasoning. Admittedly, cultural and societal norms may play a part but only to the extent that it is able to do so meaningfully within the framework of doctrinal reasoning to begin with. I would add that there appears to be a degree of circularity inherent in the suggestion that the court should prefer lay practice over doctrine. Expert evidence was adduced in this case precisely to inform the court of the doctrinal basis of Muslim law. To then urge the court to jettison such doctrinal analysis, because it is allegedly unprincipled, in favour of undefined notions of layperson practice would be to undermine the very purpose of such evidence.

64 The plaintiff's expert, in his report, also discusses some select countries in North Africa (*ie*, Algeria and Egypt) where a wakaf is capable of being annulled or varied by the maker.¹⁰⁹ In my mind, this adds little to the discussion. This is because he concomitantly accepts that this is a *custom prevailing in North Africa*. Put another way, it is not the case (and to be fair, the plaintiff's expert does not suggest this) that their actions are a reflection of the undisputed position taken by Hanafis but rather a function of North African custom. Even

¹⁰⁹ PA-2 at pp 51–53, paras 18–20: ABAEIC1 at pp 321–323.

then, the plaintiff's expert appears to concede that the Algerian and Egyptian positions cannot really be put down to Abu Hanifah's doctrine since he notes that "these countries have not subscribed to Abu Hanifa[h]'s conception of the nature of [the wakaf]".¹¹⁰ As I have explained earlier at [61]–[62], there is little reason to conclude that such customs ought to inform the domestic context. Indeed, it seems implicit in the plaintiff's expert's report that save these countries, there are not many Muslim countries (whether of the Hanafi or Shafie school) that accept the minority position. I note, for example, that the majority position finds currency in India (see s 2 of the Musalman Waqf Validating Act (Act 6 of 1913); *Irfan Ali v Bhagwant Kishore* AIR 1912 All 180 at [104]–[105]). I make these points not to suggest that any one country's practices should inform our understanding of Islamic law in the domestic context, but merely to make the broader point that customs and the practice of Muslim law have a clear domestic gloss to it. Accordingly, one should not be overly persuaded to try and divine what Singapore Muslim law might be by reference to what Indian, Algerian or Egyptian Muslim law may be, and certainly not by way of recourse to their customs, which by their nature, are shaped by the jurisdiction in question and its unique melange of complex realities.

65 I pause here to make two further observations. There is evidence before me to suggest that the wakaf property in this case had been used as a burial ground and mosque by the 1920s, *ie*, for some years before the Will was drawn up,¹¹¹ and no evidence has been led to rebut such an assertion.¹¹² This itself has some implications. I say this because even if one assumes, for the sake of argument, that the minority position ought to apply, the defendant claims that

¹¹⁰ PA-2 at p 51, para 18: ABAEIC1 at p 321.

¹¹¹ DA-1 at paras 34–40: ABAEIC2 at pp 15–17.

¹¹² DCS at para 16.

all three scholars who had taken divergent approaches on the interpretation of the Hanafi school on the revocability of a wakaf converge on the secondary point that once such a wakaf has been dedicated to a burial ground or a mosque, it acquires a status of being inalienable.¹¹³ During cross-examination, the plaintiff's expert appeared to concede this, accepting for example that even under the minority view, a wakaf for a mosque that has already been built and is in operation cannot be revoked.¹¹⁴ Nonetheless, he claimed that the proceeds can be diverted regardless, as the corpus is not disturbed.¹¹⁵ As expounded upon earlier at [34], to adopt such reasoning would be to run roughshod over the conception of a wakaf as an institution. It would therefore seem to me that even if one found that the minority Hanafi view is correct, there would still be the added problem of how any variation or revocation could have taken place given that the wakaf had been constituted for a mosque and/or burial ground. To add to this, I note that it appears undisputed that a wakif who intends to adopt the minority position must, first, expressly declare this intention and, second, prove that he was a mujtahid or had sought a fatwa from a scholar permitting him to do so.¹¹⁶ It is clear that these requirements were not satisfied by Kassim.¹¹⁷ If these observations are correct, then the preceding discussion at [59]–[64] would ultimately be of no practical consequence since no variation or revocation could, even assuming the applicability of the minority position in theory, be contemplated on the facts of the present case.

¹¹³ DCS at paras 137–138.

¹¹⁴ 20 January 2026 Transcript at p 14, lines 22–29 and p 15, lines 9–32.

¹¹⁵ 20 January 2026 Transcript at p 14, lines 30–32, p 15, lines 31–32 and p 16, lines 1–10.

¹¹⁶ DCS at paras 130–132; 20 January 2026 Transcript at p 37, lines 18–31.

¹¹⁷ DCS at para 133.

66 For the above reasons, to the extent that it is necessary for me to find, I am of the view that for reasons of doctrinal logic, reasonableness and context-appropriateness, a Hanafi in Singapore cannot revoke or vary a wakaf previously dedicated, and in any event, even if he could, he would not be able to do so in these circumstances where the wakaf property consists of a mosque and/or burial ground.

Did Kassim's Will alternatively constitute a testamentary wakaf?

67 I turn to consider the plaintiff's alternative argument that Kassim's Will operates as a valid testamentary wakaf and that consequently, any excess beyond one-third would devolve according to the Muslim law of inheritance.¹¹⁸

68 In my view, this argument may be disposed of quickly. The plaintiff's alternative argument, in essence, proceeds on the footing that the Relevant Clause, in effect, served as a revocation of the wakafs in their entirety and itself had the effect of setting up a fresh testamentary wakaf. This argument sits uneasily, indeed, irreconcilably, with the language of the Relevant Clause and would require the court to attribute to Kassim an intention that directly frustrates his evident primary aim, which was to ensure that the bulk of the charitable endowment remained devoted, as before, to charitable purposes. More fundamentally, however, as explained above in relation to the plaintiff's main arguments, Kassim simply had no such power to revoke the wakafs. As such, the plaintiff's alternative argument has no legs to stand on and must fail.

¹¹⁸ PCS at paras 126–130.

Is the claim barred by limitation or the doctrine of laches?

69 In light of the foregoing findings, the question of whether the plaintiff's claim is barred, whether under the Limitation Act 1959 (2020 Rev Ed) ("LA") or by operation of the doctrine of laches is, strictly speaking, moot. Nonetheless, for completeness, I address the issue briefly. In my view, the claim is not time-barred, even if the doctrine of laches would, on these facts, likely bar relief.

70 I turn first to the matter of the LA. In my view, the most appropriate characterisation of the plaintiff's cause of action is a claim in respect of trust property. It would be useful for me to observe at this juncture that where a wakaf is concerned, the Majlis Ugama Islam Singapura ("MUIS") (*ie*, the defendant) is the true "trustee" of a wakaf (*Syed Abbas bin Mohamed Alsagoff v Islamic Religious Council of Singapore* [2010] 2 SLR 136 ("*Syed Abbas*") at [39]). In other words, it is MUIS which holds the legal title to property for a beneficiary (*Mohamed Shariff Valibhoy v Arif Valibhoy* [2016] 2 SLR 301 ("*Mohamed Shariff*") at [71]). This represents the necessary corollary of the effect of ss 58 and 59 of the AMLA. By contrast, a trustee named in the instrument setting up a wakaf is not a trustee in the English sense of the word, but a mutawalli, *ie*, an administrator or manager (*Syed Abbas* at [39]).

71 Properly understood then, the plaintiff, is, in essence, claiming an interest in the income derived from the Wakaf Properties, which is constituted in a wakaf, and of which MUIS is the trustee. Such income, in my view, is considered trust property, especially given the definitions of wakaf 'am and wakaf khas set out in s 2 of the AMLA. Although I accept that a wakaf differs from an English law trust as received in Singapore law (*Mohamed Shariff* at [69]), given that the AMLA does not exclude or make special provision for limitation periods in relation to actions involving wakafs, one assumes that a

wakaf would fall within the meaning of “trust” as used in the LA. Therefore, given that I have found that the Will is valid and the intended primary purpose of the Relevant Clause was to grant Zainal two-fifths share of the income of the Wakaf Properties (see above at [25] and [32]), Zainal would be a beneficiary under a trust seeking to recover trust property from a trustee. Zainal’s claim (brought by the plaintiff on behalf of his estate) should therefore be governed by the limitation period in s 22 of the LA, which provides as follows:

Limitations of actions in respect of trust property

22.—(1) No period of limitation prescribed by this Act shall apply to an action by a beneficiary under a trust, being an action —

(a) in respect of any fraud or fraudulent breach of trust to which the trustee was a party or privy; or

(b) to recover from the trustee trust property or the proceeds thereof in the possession of the trustee, or previously received by the trustee and converted to his use.

(2) Subject to subsection (1), an action by a beneficiary to recover trust property or in respect of any breach of trust, not being an action for which a period of limitation is prescribed by any other provision of this Act, shall not be brought after the expiration of 6 years from the date on which the right of action accrued.

...

72 As a starting point, as set out in s 22(2) of the LA, the limitation period that applies would be six years from the date on which the right of action accrued. Significantly, it is obvious that such a cause of action would have accrued latest by the date of Kassim’s death, which would have been many decades before this action was commenced. The plaintiff contends in her pleadings and affidavit that the cause of action arose only in 2016, since that was when she instructed solicitors to inspect court records after purportedly discovering various documents while clearing Zainal’s rental flat in 2014 after

his death in 2011, and because Zainal himself was unaware that the Will contained what it did.¹¹⁹ Not only is this narrative and timeline provided by the plaintiff somewhat dubious (as I will explain below at [78]), but, even if one assumes that timeline of events to be true, it does not significantly move the needle on the limitation period more broadly since, except where the law specifically states otherwise, limitation is accrual-based and not discovery-based. As the Court of Appeal recently observed in *Pacmar Shipping Pte Ltd v South of England Protection and Indemnity Association (Bermuda) Ltd* [2026] SGCA 20 (“*Pacmar Shipping*”) at [2], “where the statute stipulates that a limitation period commences on ‘the date on which the cause of action accrued’, then in the absence of other statutory provisions, time starts running even if the claimant did not know that it had a cause of action”. Consequently, as a starting point, any action for breach of trust *per se* would likely have long been extinguished.

73 That, however, does not represent the end of the discussion as the starting point set out in s 22(2) of the LA is itself inoperable if either of the two exceptions in s 22(1) of the LA applies. In particular, on the matter of s 22(1)(b) of the LA, it would be fair to assume that the defendant, *qua* trustee, remains in possession of some parts of the proceeds from the Wakaf Properties. This would appear to be true since the defendant’s financial records from about six years ago suggest that the wakaf has an accumulated sum (above and beyond its corpus) of over \$21 million.¹²⁰ Consequently, in theory at least, s 22(1)(b) of the LA potentially allows the plaintiff, on behalf of Zainal’s estate, to recover such

¹¹⁹ SOC at para 29C: BP at pp 53–54; Reply (Amendment No. 4) dated 11 September 2024 at paras 37–41: BP at pp 122–128; PA-1 at paras 16, 22–28, 73–74: ABAEIC1 at pp 7–10 and 25–26.

¹²⁰ PA-1 at pp 264–265: ABAEIC1 at pp 267–268.

proceeds that remain in the defendant's possession, assuming these are proceeds from the estate to begin with. In that sense, the cause of action is not completely extinguished as a result of limitation, though the claim would in all likelihood be limited to the appropriate percentage of such proceeds that remains in the possession of the defendant at this juncture.

74 Nonetheless, even assuming I had found in favour of the plaintiff on all of the other matters discussed earlier (which I did not), in my view, the doctrine of laches would apply such that it would be inequitable to grant the plaintiff any relief. The doctrine of laches is an equitable doctrine which is properly invoked where there has been a substantial lapse of time coupled with circumstances where it would be practically unjust to give a remedy either because the party has by his conduct done that which might fairly be regarded as equivalent to a waiver thereof; or where, by his conduct and neglect he had, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him (*Dynasty Line Ltd v Sukanto Sia* [2014] 3 SLR 277 (“*Dynasty Line*”) at [58]). As a preliminary point, I note that the Court of Appeal has observed that the doctrine of laches cannot apply to claims which are subject to statutory limitation periods (*Pacmar Shipping* at [21]). However, the present discussion is premised on s 22(1)(b) of the LA applying to the case at hand, and that section provides that “[n]o period of limitation prescribed by this Act shall apply” to claims that fall within its scope. Indeed, I note that in the decision of *Dynasty Line* itself, the Court of Appeal had found that the exception in s 22(1)(a) of the LA (which shares the same chapeau as s 22(1)(b)) applied, yet it proceeded to consider whether the doctrine of laches applied to bar relief (see [57]–[64]). In the circumstances, I proceed to analyse whether the doctrine of laches operates to bar relief.

75 The relevant factors in ascertaining whether to allow a claim in such circumstances include the length of delay, the nature of the prejudice said to be suffered by the defendant, as well as any element of unconscionability in allowing the claim to be enforced; it is not an inquiry that is limited to ascertaining whether the claimant has done something that would render it unconscionable to permit the claim to proceed (*Re Estate of Tan Kow Quee* [2007] 2 SLR(R) 417 at [38]). In this regard, where there has been undue delay without any proper justification in taking earlier steps to assert a claim leading to prejudice to the other party, such delay may be held to bar any remedy, especially where there were multiple occasions over the intervening period where the claimant had both reason and opportunity to commence proceedings (see *Geok Hong Co Pte Ltd v Koh Ai Gek* [2019] 1 SLR 908 at [99]–[101]).

76 Applying these principles, it is my view that the doctrine of laches should bar the plaintiff's claim (on behalf of Zainal's estate). First, it is plain to me that it would be wrong to adopt 2016 (or 2014 for that matter) as the appropriate reference point as the plaintiff urges the court to do. The evidence strongly suggests that these documents have been in Zainal's possession from at least 1981, when he applied to the Registrar of the Supreme Court through his solicitors, Chelliah & Co, for certified true copies of the documents filed in Probate No 50 (which would, as noted above at [8], have included the Will).¹²¹ An Assistant Registrar replied Chelliah & Co by letter and informed them to send their court clerk to inspect and copy the relevant documents.¹²² Despite this documented exchange, the plaintiff argues that there is no evidence that the inspection of the file ever took place, relying on the fact that if Zainal had

¹²¹ DA-1 at p 311: ABAEIC2 at p 314.

¹²² DA-1 at p 312: ABAEIC2 at p 315.

discovered Kassim's Will, he would have taken steps to pursue his interest.¹²³ This is, with respect, difficult to accept. It strains credulity to suppose that Zainal, who is said to be without much financial means, instructed lawyers to apply for these documents but then decided to abandon the endeavour for no discernible reason, and no less after having obtained approval for such inspection. In my view, the more reasonable inference is that Zainal had received those documents and was made aware of the contents of the Will (presumably in 1981 or thereabouts), and either assumed the claim was not a viable one (an entirely plausible state of affairs since he appeared to take the position that Kassim was Shafie – see above at [9] and [47]) or otherwise elected, for reasons best known to him, not to act on such a Will. This is buttressed by my finding below at [78] that the plaintiff had in fact found a copy of the Will in Zainal's rental flat.

77 Placed in this context, close to four decades has elapsed from the point of time Zainal had gained knowledge of such possible claim till the time the present suit was commenced. This was an exceptionally long period of time that necessarily militated against relief. By way of simple comparison (even if I caution that each case must turn on its own facts), the court in *Chng Weng Wah v Goh Bak Heng* [2016] 2 SLR 464 found that a delay of ten years in commencing proceedings was “by any measure, a rather significant delay on the facts of the case” (at [52]). The plaintiff has not provided any cogent justification as to why Zainal failed to commence any proceedings since obtaining knowledge of Kassim's Will in August 1981, save claiming non-knowledge on Zainal's part. Furthermore, the effluxion of time has also caused prejudice to the defendant, in that several issues in the plaintiff's present claim

¹²³ PRS at paras 33–34.

rest on disputed facts that, given the extensive period of time that has passed, none of the factual witnesses can attest to, whereas if the claim had been brought by Zainal more timeously, the relevant witnesses (including Zainal) could have been cross-examined.¹²⁴ Finally, I also did not accept the plaintiff's reliance on Audrey Lim J's findings in *Fauziyah* (SLA).¹²⁵ In that decision, Lim J found that the plaintiff's arguments on why laches should not apply were not so clearly unsustainable or inconsistent to be rejected, with the result that the plaintiff's claim could not be said to be legally unsustainable (see *Fauziyah* (SLA) at [54]–[57]). However, it must be borne in mind that Lim J was hearing an appeal against the striking out of the plaintiff's claim and the relevant threshold in striking out is the high standard of a “plain and obvious” case (*Gabriel Peter & Partners v Wee Chong Jin* [1997] 3 SLR(R) 649 at [18]). A finding in that context that the plaintiff's claim was not legally unsustainable and not liable to be struck out therefore does not add much strength to the plaintiff's present argument. This is especially so as Lim J had considered, at the preliminary stage of that proceeding, that Zainal might not have known of the existence of the Will (see *Fauziyah* (SLA) at [56]), a conclusion which, having considering the evidence that emerged in the present trial, I do not accept (see above at [76]).

78 I would add, for good measure, that it was clear that the plaintiff's account of how the Will was found and the circumstances in which it was found is impossible to accept. In the course of the proceedings, the plaintiff herself conceded, in essence, that given Zainal's death was in 2011, even if her version of events were true, she must have discovered the Will in 2011, not 2014.¹²⁶ Even this version could be questioned, as she previously contended that she had

¹²⁴ DOS at paras 71–73 and 80; DCS at paras 62–63.

¹²⁵ PCS at para 133.

¹²⁶ 15 January 2026 Transcript at p 32, lines 23–32 and p 33, lines 1–20.

only found out about the Will in 2016, after she had made an inspection of the court records (see above at [72]) and not by virtue of a document she obtained while cleaning Zainal's rental flat. Later on, it transpired that she was in fact already in discussions with the defendant in relation to aspects of the Will from as early as 2006. While the specifics of such discussions are not before me, what appears clear is that the plaintiff had made a claim for such proceeds under the Will and such claim was rejected by the defendant at the time.¹²⁷ Given that the plaintiff elected not to testify to the specifics of this discussion (indeed, the fact of such a meeting in 2006 was not even pleaded by her, even if it is clear from the questions that had been posed by her counsel that she accepts it happened¹²⁸), it would be unsafe for me to place too much reliance on this, save to make the point that it only proves that the plaintiff's accounts of events of how she first found the Will cannot be believed, and that it was obvious that she knew about it from much earlier. This only reinforces the conclusion that the doctrine of laches would make allowing relief when the present suit was brought only in 2019 inequitable.

Conclusion

79 For the reasons above, I dismiss the claim in its entirety. As I made clear at the outset, I do so not without a deep appreciation of the somewhat unfortunate human dimension that underlies the plaintiff's case. One can readily understand the plaintiff's deep sense of grievance that her father, Zainal, and by extension herself, never received what she genuinely believes Kassim intended for Zainal to enjoy. That sense of being hard done by is not difficult to comprehend, and it would be wrong, in my view, to dismiss such grouses as

¹²⁷ 21 January 2026 Transcript at p 23, lines 12–31 and p 24, lines 1–12.

¹²⁸ 21 January 2026 Transcript at p 23, lines 12–31 and p 24, lines 1–12.

being anything other than a sincere and deeply felt conviction. Nonetheless, as I also explained then, the courts are not at liberty to reshape the law in response to sympathy, however genuine it may be. The law is the law. To bend settled legal principles, or to unsettle the certainty that wakafs were intended to provide, in order to retrospectively give effect to what she *bona fide* believes to have been Kassim's testamentary wishes, would risk doing greater injustice still. It would do violence not only to the governing legal framework, but also to the very institution of the wakaf, whose moral and societal value (in the domestic context at least) lies in its stability and predictability. However poignant and heartfelt the plaintiff's position may be, justice in its truest sense cannot be achieved by arcing the course of the law to meet an outcome driven by hindsight. To do so would be to undermine both legal principle and communal trust, and this is a price the law cannot, and should not, pay.

80 I make one other observation. The views I have expressed in this judgment must be viewed and understood in their proper context and directed specifically to the issues that have arisen herein. In particular, nothing that has been said here necessarily applies to categories of charitable giving (whatever the nomenclature one assigns to such giving) in which the gifts are intended only to crystallise upon the death of a donor – for example, legacy giving under the Wakaf Masyarakat Singapura initiative. In such arrangements, the structure and legal effect of the giving are fundamentally different. The dispositive scheme in such a situation is, by design, contingent and deferred. The identity, use and even precise allocation of benefits may therefore only become fixed and come into effect at a later point in time, or not at all, if the donor decides, before his death, not to proceed with such gifts. In those circumstances, the concerns

that animate the present case, which involves the immediate constitution of a wakaf, simply do not arise in the same way.

81 On the matter of costs, if these are not otherwise agreed, the parties are to file submissions on costs, limited to no more than ten pages each, within two weeks of the issuance of this judgment. Finally, let me end off by commending counsel on both sides for the work they did in streamlining the issues, for illuminating and navigating somewhat complex questions surrounding Muslim law, and for the significant assistance they provided to me in this case.

Mohamed Faizal
Judge of the High Court

Kirpal Singh s/o Hakam Singh (Kirpal & Associates) for the
plaintiffs;
Namazie Mirza Mohamed and Chua Boon Beng (Mallal & Namazie)
for the defendant.
