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

[2026] SGHC 87

Magistrate's Appeal No 9185 of 2025

Between

Tan Kheng Yeow (Chen Qingyao)

… *Appellant*

And

Public Prosecutor

… *Respondent*

EX TEMPORE JUDGMENT

[Criminal Law — Offences — Property — Criminal breach of trust]
[Criminal Procedure and Sentencing — Sentencing — Appeals]

Version No 1: 23 Apr 2026 (17:06 hrs)

TABLE OF CONTENTS

Version No 1: 23 Apr 2026 (17:06 hrs)

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Tan Kheng Yeow (Chen Qingyao)
v
Public Prosecutor

[2026] SGHC 87

General Division of the High Court — Magistrate's Appeal No 9185 of 2025
Christopher Tan J
23 April 2026

Christopher Tan J:

1 The appellant in this case ("Appellant") pleaded guilty in the hearing below to one charge of criminal breach of trust ("CBT") under s 406 of the Penal Code (Cap 224, 1985 Rev Ed) ("Penal Code"), with another charge of CBT taken into consideration for the purpose of sentencing. The Appellant was sentenced by the learned District Judge ("DJ") to 32 months' imprisonment. Dissatisfied, he filed this appeal against sentence.

2 I dismiss the appeal and now set out my reasons.

Background

3 In August 2014, the Singapore Exchange ("SGX") announced the introduction of a measure where shares listed on SGX's Mainboard had to trade at a volume weighted average price of at least 20 cents. Issuers whose shares traded at prices below this minimum trading price ("MTP") would face

delisting. This measure was introduced with a one-year transition period, to give issuers time to bring the traded prices of their shares up to the MTP.

4 When the MTP measure was introduced, the Appellant was the CEO and director of KTL Global Limited ("KTLG"), a company listed on SGX's Mainboard. At that time, KTLG's shares were trading at around 11 cents. Subsequently, in October 2014, KTLG's share price rose only slightly, reaching a maximum of 14.3 cents – *ie*, still far below the MTP. Given the potentially serious consequences of KTLG's share price falling below the MTP, the Appellant entered into an agreement with his accomplice ("the Accomplice") where the latter would use various share trading accounts to give the false impression of active trading in KTLG's shares. The false trades were intended to create the appearance of liquidity in KTLG's shares and thereby inflate the share price artificially. In exchange for his assistance, the Accomplice would receive 7 million KTLG shares.

5 Between November 2014 and September 2015, the Accomplice bought and sold a total of over 120 million KTLG shares. Over that period, more than 30% of the total traded market volume in KTLG shares were wash trades conducted by the Accomplice. The price of KTLG's shares increased from a low of 11.5 cents in early November 2014 to as high as 19.1 cents towards the end of May 2015.[1]

6 The Appellant sought to finance the false trades using monies misappropriated from KTLG's subsidiary, KTL Offshore Pte Ltd ("the Singapore Subsidiary") – the Appellant was a director of the Singapore Subsidiary and controlled its bank accounts. On or about 5 May 2015, the

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1 *Public Prosecutor v Tan Kheng Yeow (Chen Qingyao)* [2024] SGDC 23 at [26].

Version No 1: 23 Apr 2026 (17:06 hrs)

Appellant withdrew $1.001m from the Singapore Subsidiary on the pretext of wanting to transfer the monies to KTLG's subsidiary in Hong Kong for the latter to fund the purchase of machinery. In truth, after being transferred from the Singapore Subsidiary to KTLG's Hong Kong subsidiary, the monies were siphoned to another Hong Kong entity and then channelled to a bank account controlled by the Accomplice.

7 The Appellant was eventually charged with one count of engaging in a conspiracy with the Accomplice to commit an offence of false trading under s 197(1)(*a*) of the Securities and Futures Act (Cap 289, 2006 Rev Ed) ("SFA"). On 8 February 2024, the Appellant pleaded guilty to this charge ("the SFA Charge") and was sentenced to eight months' imprisonment by District Judge Ong ("Judge Ong"): see *PP v Tan Kheng Yeow (Chen Qingyao)* [2024] SGDC 23.[2] The Appellant has since completed serving his prison term.

8 Thereafter, the Appellant faced two outstanding charges for cheating under s 420 of the Penal Code – the charges alleged that the Appellant had, by his deception, dishonestly induced the transfer of two sums of money ("Cheating Charges"). One of the Cheating Charges pertained to the $1.001m that was transferred from the Singapore subsidiary (see [6] above), while the other pertained to the Appellant's diversion of $500,000 from funds that KTLG had intended to extend as a working capital loan to another entity. The Appellant claimed trial to both the Cheating Charges. During the hearing of the trial below, the DJ harboured some doubts whether the element of deception, which was required for an offence under s 420 of the Penal Code, had been established. Consequently, at the close of the Prosecution's case, the DJ amended both the

[2] AWS at para 12(a).

Version No 1: 23 Apr 2026 (17:06 hrs)

Cheating Charges by substituting the underlying offence of s 420 of the Penal Code with the lesser offence of CBT under s 406 of the Penal Code:

(a) The first amended charge thus alleged that the Appellant dishonestly misappropriated $1.001m from the Singapore Subsidiary – this being the sum that had been channelled to the Accomplice to finance the false trades.

(b) The second amended charge similarly alleged that he dishonestly misappropriated the $500,000 that KTLG had intended to extend as a working capital loan to another entity.

Upon the amendment being made, the Appellant pleaded guilty to the first charge in (a) above – I will refer to this charge as "the CBT Charge". The second charge in (b) was taken into consideration for the purpose of sentencing.

9 Following the amendment of the charges, the Appellant also made full restitution of the $1.001m that had been siphoned from the Singapore Subsidiary. For completeness, the Appellant made full restitution in respect of the $500,000 that was the subject of the charge taken into consideration for sentencing.

10 In arriving at the sentence for the CBT Charge, the DJ held that if the Appellant had continued to claim trial for the CBT Charge, the notional imprisonment term would have been 48–51 months,[3] *prior* to accounting for the restitution that was made. The DJ then gave the Appellant a sentencing discount for restitution, although the DJ had – in arriving at the quantum of this discount – remarked that the restitution appeared to have been tactical rather than borne

[3] GD at [38].

Version No 1: 23 Apr 2026 (17:06 hrs)

out of remorse (given the late stage at which it was made).[4] Although not expressly spelt out in the DJ's judgment, a backward calculation reveals that the notional imprisonment term that the DJ would have imposed had the Appellant claimed trial would have been about 46 months, *after* factoring in the discount for the restitution made by the Appellant – meaning that the discount for restitution would have been two to five months' imprisonment. The DJ then accorded the Appellant the full sentencing discount of 30% under the Sentencing Advisory Panel's "Guidelines on Reduction in Sentences for Guilty Pleas" ("PG Guidelines").[5] Applying the 30% reduction to the notional imprisonment term of 46 months yielded a final sentence of 32 months' imprisonment for the CBT Charge.[3]

11 The Appellant now appeals against this sentence, asking that the imprisonment term of 32 months be reduced to 15–21 months.[6]

My decision

12 The Appellant's main grounds of appeal can be summarised as follows:

(a) In sentencing the Appellant for the CBT Charge, the DJ took into consideration aggravating factors that Judge Ong had already taken account of when sentencing the Appellant for the SFA Charge – the Appellant argues that this amounted to impermissible double counting.[7]

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4 GD at [36]-[37].

5 GD at [38].

6 AWS at para 2.

7 AWS at para 12(a).

Version No 1: 23 Apr 2026 (17:06 hrs)

(b) The DJ placed excessive weight on the extent to which the Appellant personally benefitted from the offence in the CBT Charge.[8] In reality, the Appellant's actions in financing the trades that inflated KTLG's share price had been calculated to benefit other parties, such as KTLG's shareholders.

(c) The DJ failed to give sufficient mitigating weight to the restitution made, in that the DJ erroneously concluded that the restitution was tactical and not borne out of remorse.[9]

(d) The Appellant also contends that the sentencing range adopted by the DJ was arbitrary and too high.[10]

13 I deal with each of these grounds below.

Double counting of aggravating factors

14 Firstly, the Appellant contends that the DJ impermissibly double counted one of the aggravating factors – being that the Appellant personally benefitted from misappropriating the $1.001m from the Singapore Subsidiary. As explained at [6] above, this sum had been used to finance the false trades that were the subject of the SFA Charge which the Appellant pleaded guilty to before Judge Ong. In sentencing the Appellant for the SFA Charge, Judge Ong expressly took account of the fact that the Appellant stood to personally benefit from the false trades.[11] The Appellant thus complains that the DJ should not have taken account of how the misappropriation underlying the CBT charge

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8 AWS at paras 12(b)-(c).

9 AWS at paras 12(d)-(e).

10 AWS at para 12(f).

11 *Public Prosecutor v Tan Kheng Yeow (Chen Qingyao)* [2024] SGDC 23 at [42].

Version No 1: 23 Apr 2026 (17:06 hrs)

personally benefitted the Appellant, given that the element of personal benefit had *already* served to enhance his sentence for the SFA Charge.[12]

15 I reject the Appellant's contention that the element of personal benefit was double counted towards aggravating his sentence. It is important to understand that the Appellant had sought to portray his offence as having been motivated by the desire to benefit KTLG and its shareholders, through increasing KTLG's share price and avoiding the prospect of delisting (see [3] above on the MTP requirement). It was thus imperative for the DJ to highlight the personal benefit which the Appellant gained from the offence, if only to debunk the suggestion the Appellant was not motivated by self-interest in committing the offence. This is seen in how the DJ relied on the personal benefit flowing to the Appellant as a means of distinguishing the Appellant's actions from cases such as *PP v Lam Leng Hung* [2017] 4 SLR 474 ("*Lam Leng Hung*"), where some of the offenders could conceivably be construed as having been motivated by altruistic reasons.[13] I fail to see how this constitutes impermissible double counting of the fact that the Appellant personally benefitted from the offence.

16 The Appellant also argues that the DJ had double counted another aggravating factor – being that the Appellant abused his senior position (as KTLG's CEO and director and as the Singapore Subsidiary's director). The Appellant contends[14] that the DJ's decision to take the seniority of the Appellant's position into consideration when imposing sentencing for the CBT

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12 AWS at paras 27-28.

13 GD at [40].

14 AWS at paras 31-32.

Version No 1: 23 Apr 2026 (17:06 hrs)

Charge was prejudicial, as this same factor had also been taken into account by Judge Ong when sentencing the Appellant for the SFA Charge.

17 This submission is unpersuasive. To begin with, the seniority of the Appellant was an inextricable facet of the backdrop to the CBT charge. The Appellant abused his position in KTLG (as CEO) and the Singapore Subsidiary (as director and controller of its bank accounts) to illicitly siphon funds from the Singapore Subsidiary. This was clearly more aggravating than if the misappropriation had been perpetrated by (say) a junior clerk in the Singapore Subsidiary's accounting department – the degree of trust that has been reposed (and abused) would be vastly different. It would not be possible to artificially disregard the Appellant's seniority when assessing his culpability for the CBT Charge, at least not without conveying a grossly incomplete picture of what he had done. Although Judge Ong also took account of the Appellant's senior position when considering his culpability for the SFA Charge, it is critical that her observations were made in the context of a different offence (s 197(1)(*a*) of the SFA) which catered to a very different mischief (damage to market confidence). The Appellant's position of seniority would have exacerbated that offence differently, in a manner that spoke specifically to the mischief which it sought to target: *Soh Chee Wen v PP* [2026] SGCA 13 (at [63]). Specifically, if the traded price of a listed company's shares is artificially inflated by false trades, the fact that this has been facilitated by the company's own CEO is an aggravating factor because the impact on market confidence would be that much more acute. The Appellant's mechanistic attempt to invoke the rule against double counting, to prevent the court from properly having regard to the Appellant's seniority when considering both offences, is thus misconceived.

Version No 1: 23 Apr 2026 (17:06 hrs)

Weight placed on the benefit personally reaped by the Appellant from the offence in the CBT Charge

18 The Appellant also argues that the DJ failed to accord sufficient weight to the fact that the Appellant's actions were not motivated by personal benefit but rather intended to bring wider benefit to others.[15] Specifically, the false trades financed by the misappropriated sum were intended to increase the share price of KTLG and thereby benefit KTLG and its shareholders.[16]

19 At the outset, it is necessary to properly frame the Appellant's submission about how his actions were not motivated by "personal benefit". Realistically speaking, so long as there is an element of self-interest in the commission of an offence (as there generally will be), it is always possible to glean some form of "personal benefit" that the offender stands to reap from the offending act and thereby infer that the offence *was* motivated by "personal benefit". The exception arises only in a fractional minority of cases where the offender acts purely out of altruistic reasons – an example being the case of *Lam Leng Hung*, where the offenders had misappropriated monies from a church not out of self-interest but out of a (misguided) belief that the misappropriated monies could be applied towards advancing the church's interest. That is certainly not the case here, where the element of the Appellant's self-interest was very much a *live* consideration. The Appellant has thus conceded that his case is unlike the altruism existing in *Lam Leng Hung*.[15]

20 During the hearing of the appeal, I sought clarification as to what exactly was meant by the Appellant's submission that he was not motivated by "personal benefit". Counsel explained that at the very least, the Appellant's case

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15 AWS at para 38.

16 AWS at para 12(b)(ii).

Version No 1: 23 Apr 2026 (17:06 hrs)

was that he was not motivated by greed, and that the absence of such a motivation could be gleaned from how the misappropriated sums were subsequently applied. The Appellant thus argues that his actions, while not purely altruistic, were less aggravating than if they had been motivated by greed or personal enrichment. Following from this, the Appellant takes objection to the DJ's observations (in her oral remarks[17]) that "*no discount* can be given for the lack of personal enrichment".[18]

21 I see little reason to fault the DJ for this observation. Assuming that I accept the Appellant's contention that he was not motivated by greed or personal enrichment, this would only signify the *absence* of what might potentially have been an aggravating factor. It is trite that absence of an aggravating factor does not in and of itself qualify as a mitigating factor. And if there is no mitigating factor at play, there is little basis in principle for the Appellant to demand a "discount" in sentence, in the sense of a reduction from what might ordinarily be imposed in the norm. Rather, all that the sentencing court needs to do is ensure that the punishment meted out is not inflated to the same level of severity as that in cases where the aggravating factor concerned was operative (all other factors being equal). As See Kee Oon JC (as he then was) observed in *Lim Ying Ying Luciana v Public Prosecutor* [2016] 4 SLR 1220 (at [52]):

> … I would view the absence of a motive of personal enrichment not as a general mitigating factor *per se*, operating across the entire spectrum of cases, but as a factor which could, *in the right circumstances*, mitigate the seriousness of an offence when *compared* to other possible offences of like nature.
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> [emphasis in original]

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17 Transcripts for Day 12 at line 28.

18 AWS at para 41.

Version No 1: 23 Apr 2026 (17:06 hrs)

Based on an analysis of the precedents (see [31] below), I am not satisfied that the DJ erred in the sense of failing to accord sufficient weight to the absence of greed or personal enrichment as a distinguishing factor. Rather, the DJ had explicitly reminded herself, in her written grounds, that the misappropriation was not motivated by greed or profit.[19]

22 The Appellant nevertheless seeks to downplay the *personal* advantage accruing to himself from financing the false trading in KTLG's shares, claiming that this would merely have resulted in an "*incidental*, *unintended non-pecuniary* benefit"[20][emphasis added] to him. With respect, this claim is a parody of reality. KTLG faced the prospect of being delisted from the SGX Mainboard on account of the traded price falling below the MTP of 20 cents, as set by SGX. To foil SGX's measure, the Appellant artificially propped up KTLG's share price by misappropriating funds from KTLG to fund wash trades by the Accomplice. This ultimately led to the share price of KTLG rising close to the 20-cent mark (see [5] above). Considering that the Appellant was a ***substantial*** *shareholder* of KTLG and employed as its CEO,[21] it would plainly be a misuse of the English language to describe the advantage that he stood to *personally* reap from the improper inflation of KTLG's share price as "incidental", "unintended" or "non-pecuniary".

23 The Appellant also argues that in increasing KTLG's share price, his actions had benefitted KTLG and its shareholders.[22] This argument fails on two counts. Firstly, it is perverse to suggest that inflating a company's share price

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19 GD at [30].

20 AWS at para 50.

21 *Public Prosecutor v Tan Kheng Yeow (Chen Qingyao)* [2024] SGDC 23 at [42].

22 AWS at para 12(b)(ii).

Version No 1: 23 Apr 2026 (17:06 hrs)

by way of wash trades on the stock market "benefits" the company's shareholders. Shareholders benefit from higher share prices that arise from *genuine* trades backed by fundamentals, not from schemes hatched to artificially prop up waning share prices. The scheme in this case had been contrived to frustrate SGX's MTP measure. Once such manipulative schemes are discovered (as it was in this case) and share prices plummet to their true value, I seriously doubt that any right-thinking shareholder left holding on to the shares (after having been lulled by the manipulative trades into a false sense of security) would regard the scheme as having brought him any "benefit". Secondly, even if I were to accept the argument that KTLG and its shareholders had benefited from the manipulative trades, the Appellant has failed to demonstrate why this should be construed as a mitigating factor. No authorities were cited to show that just because an offence incidentally happens to benefit third parties *over and above* benefiting the offender, the latter's culpability is necessarily mitigated in any way.

24 I therefore reject the Appellant's argument that the DJ erred in her appraisal of the benefit which the Appellant stood to personally reap from his offending. There was no reason in principle to accord the Appellant any sentencing discount on account of this.

Restitution

25 To recapitulate, the DJ appears to have accorded the Appellant a reduction in sentence of about *two to five months*' imprisonment, as credit for the restitution which was made: see [10] above. The Appellant claims that this reduction failed to accord sufficient credit for the restitution which he made.

26 As Sundaresh Menon CJ explained in *Gan Chai Bee* (at [62]-[64]), the making of restitution can have two mitigating effects:

Version No 1: 23 Apr 2026 (17:06 hrs)

(a) it serves as a demonstration of the offender's remorse; and

(b) the harm to the victim is ameliorated.

In this case, the DJ accepted that the Appellant's restitution achieved the effect in (b), *ie*, reducing the harm caused. However, the DJ doubted that the restitution made by the Appellant evinced genuine remorse on his part, given how it was made so late in the day, *ie*, only after close of the Prosecution's case and the amendment of the Cheating Charges to the reflect the lesser offence of CBT (see [9] above).[23] The Appellant contends that the DJ erred in inferring a lack of genuine remorse. Presumably, the Appellant's position is that once remorse is factored into the balance, the restitution would have garnered an *even greater* reduction than the two to five months accorded by the DJ.

27 In my view, the DJ was perfectly entitled to infer that the restitution in this case was insufficient to evince remorse, given that it had been made so late in the day. The law allows the court to make such an inference: *Soong Hee Sin v PP* [2001] 1 SLR(R) 475 (at [9]). In effect, the Appellant only made restitution after the Prosecution had presented its case in full and he knew that the amended charges were fully backed by the evidence. Prior to that, there was no evidence that the Appellant had any intention of returning the misappropriated funds to the Singapore subsidiary.[24]

28 The Appellant nevertheless argues that there was good reason for the delay in effecting restitution. Specifically, he claims that he could not have made restitution prior to the DJ amending the charges to alter the underlying offence from cheating under s 420 of the Penal Code to CBT under s 406 of the

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[23] GD at [37].

[24] GD at [30].

Version No 1: 23 Apr 2026 (17:06 hrs)

Penal Code. The very fact that the DJ amended the Cheating Charges shows that they were not made out, thus vindicating the Appellant's decision to contest them. The Appellant accordingly contends that he could not make restitution prior to the charges being amended to reflect the offence of CBT, as doing so could have potentially prejudiced his defence against the (baseless) Cheating Charges.[25]

29 In my view, this contention fails to hold water when one examines the essence of the Appellant's defence against the Cheating Charges. Looking at the transcripts of the proceedings at the close of the Prosecution's case during the trial below, it is clear that the main sticking point with the Cheating Charges centred on whether a deception had been practiced by the Appellant.[26] In fact, this was the very reason that prompted the DJ to amend the charges to substitute the underlying offence from cheating under s 420 of the Penal Code to CBT under s 406 of the Penal Code.[27] There is no suggestion that the Appellant had at any point disputed the fact that the funds which he extracted from the Singapore Subsidiary *were* misappropriated, in that they were applied to purposes other than that which had been authorised. This was, as the DJ pointed out, the substratum of the Prosecution's case which had remained unchanged,[28] even after amendment of the Cheating Charges to reflect the offence of CBT. That being so, it is difficult to see why the making of restitution would have prejudiced the defence to the Cheating Charges – restoring the funds that the Appellant had wrongfully siphoned out would not contradict the Appellant's position that no dishonest representation was ever made.

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25 AWS at para 61.

26 NE Day 12 pp 34-40.

27 NE Day 13 pp 1-7.

28 GD at [37].

Version No 1: 23 Apr 2026 (17:06 hrs)

30 As I see no reason to disturb the DJ's inference that the restitution made was insufficiently demonstrative of genuine remorse, I do not propose to disturb the quantum of the reduction that the DJ gave as credit for the restitution made by the Appellant.

Whether the DJ's sentencing range was too high

31 This then leads me to the next contention raised by the Appellant, being that the starting sentencing range adopted by the DJ was too high. In my view, the precedents cited by the Appellant do not support this claim. As highlighted at [10] above, the DJ took the position that the notional sentencing range had the Appellant *claimed trial, prior to factoring in the discount for restitution*, was 48–51 months' imprisonment. This does not strike me as excessive, when compared with the two cases cited by the Appellant in his submissions.

32 One of these cases is *PP v Tio Chee Hui* [2018] SGDC 112 ("*Tio*"). The offender in that case pleaded guilty to two charges of CBT under s 406 of the Penal Code. The relevant charge in that case pertained to an amount of $1.294m. The Appellant contends that his case ranks as less serious than *Tio*.[29] On that, I agree as there are various aggravating factors in *Tio* which are absent here. For example, although the offender in *Tio* pleaded guilty (as did the Appellant), he did so only on the ninth day of trial (while the Appellant pleaded guilty immediately after the Cheating Charges were amended). The amount of $1.294m in *Tio* is also slightly higher than the $1.001m in the CBT Charge that the Appellant was sentenced for. The offender in *Tio* also appears to have acted purely out of personal gain. Finally, there was also no restitution made in *Tio* and the offender was not cooperative (having failed to attend court once). Still,

[29] AWS at para 75.

Version No 1: 23 Apr 2026 (17:06 hrs)

we cannot lose sight of the fact that the sentence imposed in *Tio*, in respect of the charge relating to the $1.294m, was 54 months' imprisonment. This was *much* higher than the 32 months that the Appellant received for the CBT Charge. Given the differential of 22 months' imprisonment imposed in *Tio*, I do not think that the sentence imposed on the Appellant can be considered manifestly excessive in comparison, *even* after factoring in the aggravating factors in *Tio* that are absent here. One also cannot lose sight of the fact that the Appellant's case bears aggravating factors that were absent in *Tio*, *eg*, the abuse of his senior position, as well as the sophistication with which the misappropriation had been perpetrated (with the monies passing through two Hong Kong entities before being channelled to the Accomplice – see [6] above).

33 The other case cited by the Appellant is *PP v Varusai Mohamed Bin Syed Hanifa* [2022] SGDC 238 ("*Varusai*"). The offender in that case claimed trial to seven charges for CBT under s 406 of the Penal Code. One of these charges related to an amount of $751,558, for which the offender received an imprisonment term of 42 months. I do not view the notional sentence of 48–51 months' imprisonment which the Appellant would have received – had he claimed trial and not made restitution – to be excessive in comparison. After all, the amount misappropriated by the Appellant ($1.001m) is higher than the amount of $751,558 in *Varusai*. Admittedly, there were various aggravating factors in *Varusai* that are not present here,[29] including the fact that the misappropriation had been for personal gain and the offender had spun a "web of lies" to facilitate the misappropriation. However, the riposte to this would be that the aggravating factors in the preceding paragraph – being the abuse of the Appellant's senior position and the sophistication by which the misappropriation had been effected – were similarly absent in *Varusai*.

Version No 1: 23 Apr 2026 (17:06 hrs)

34 Consequently, the precedents do not suffice to satisfy me that the sentencing range adopted by the DJ was excessive.

Conclusion

35 The appeal against sentence is accordingly dismissed.

Christopher Tan
Judge of the High Court

Marina Chin SC and Jeslyn Tan Yuan Lin (TKQP Law LLP) for the appellant;
Darren Sim and Xavier Tan (Attorney-General's Chambers) for the respondent.

Version No 1: 23 Apr 2026 (17:06 hrs)