In the name of
His Highness Sheikh Mohamed bin Zayed Al Nahyan
President of the United Arab Emirates/ Ruler of the Emirate of Abu Dhabi

COURT OF FIRST INSTANCE
COMMERCIAL AND CIVIL DIVISION

BETWEEN

FEDERAL PROPERTIES LIMITED – SOLE PROPRIETORSHIP LLC
(ALSO KNOWN AS FEDERAL PROPERTIES LIMITED)
Claimant/First Counterdefendant

and

RAWAFID H JAZAIRI IBRAHIM
Defendant/First Counterclaimant

and

AUSAMA AHMED IBRAHIM
Second Counterclaimant

and

DEPARTMENT OF MUNICIPALITIES AND TRANSPORT – ABU DHABI (DMT)
Second Counterdefendant

AND

COURT OF FIRST ISNTANCE
COMMERCIAL AND CIVIL DIVISION

BETWEEN

FEDERAL PROPERTIES LIMITED – SOLE PROPRIETORSHIP LLC
(ALSO KNOWN AS FEDERAL PROPERTIES LIMITED)
Claimant/Counterdefendant

And

AMIR SADIK ALI AL SAMARRAIE
Defendant/Counterclaimant

AND

COURT OF FIRST INSTANCE
COMMERCIAL AND CIVIL DIVISION

BETWEEN

FEDERAL PROPERTIES LIMITED – SOLE PROPRIETORSHIP LLC
(ALSO KNOWN AS FEDERAL PROPERTIES LIMITED)
Claimant/Counterdefendant

and

ZAID AUISAMA IBRAHIM
Defendant/Counterclaimant

JUDGMENT OF JUSTICE PAUL HEATH KC

Neutral Citation:	[2025] ADGMCFI 0013
Before:	Justice Paul Heath KC
Decision Date:	4 July 2025
Decision:	**In Case No. ADGMCFI-2023-249:** see Schedule A to this judgment. **In Case No. ADGMCFI-2024-047:** see Schedule B to this judgment. **In Case No. ADGMCFI-2024-154:** see Schedule C to this judgment.
Hearing Dates:	5, 6, 7, 8 and 9 May 2025
Date of Orders:	4 July 2025
Catchwords:	Consequences of registration under ss.22 and 23 of Real Property Regulations 2024. Exception to indefeasibility of title in s. 24(f) of Real Property Regulations 2024. Nature and effect of equitable obligation owed by registered proprietor to third parties. Rightful owner of residential units. Units held by Claimant as constructive trustee.
Legislation Cited:	ADGM Real Property Regulations 2024 ADGM Companies Regulations 2020 Abu Dhabi Law No (4) of 2013 (as amended by Law No (12) of 2020) Abu Dhabi Law No (3) of 2015 Concerning the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi ADGM Real Property Regulations 2015 Department of Municipal Affairs Chairman's Decision No. (246) of 2015: Issuing the Executive Regulations on the Initial Real Estate Register Pursuant to Law No. 3 of 2015 concerning the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi Land Transfer Act 2017 (NZ) ADGM Application of English Law Regulations 2015
Cases Cited:	NMC Healthcare Ltd v Shetty [2024] ADGMCFI 0007

	Shetty v NMC Healthcare Ltd [2024] ADGMCA 0001 Arthur v The Attorney-General of the Turks & Caicos Islands [2012] UKPC 30 Santiago Castillo Ltd v Quinto [2009] UKPC 15 Gibbs v Messer [1891] AC 248 Assets Co Ltd v Mere Roihi [1905] AC 176 Frazer v Walker [1967] 1 AC 569 Latec Investments Ltd v Hotel Terrigal Pty Ltd (in liq) (1965) 113 CLR 265 Waimiha Sawmilling Co Ltd (in liq) v Waione Timber Co Ltd [1926] AC 101 Bahr v Nicolay (1988) 78 ALR Bank of South Australia Ltd v Ferguson (1998) 192 CLR 248 Byers v Saudi National Bank [2023] UKSC 51 Re D & D Wines International Ltd (in liq); Bailey v Angove's Pty Ltd [2016] UKSC 47 Meridian Global Funds Management Asia Ltd v Securities Commission [1995] 3 NZLR 7 Lennard's Carrying Co Ltd v Asiatic Petroleum Co Ltd [1915] AC 705 Jetivia SA v Bilta (UK) Ltd (in liq) [2015] UKSC 23 Lifestyle Equities CV v Ahmed [2024] UKSC 17 Case No. 92/2022, 7 September 2023, Abu Dhabi Judicial Department Court for Family, Civil & Administrative Cases -B – First Civil Circuit Henderson v Henderson (1843) 67 ER 313 Johnson v Gore Wood & Co (A Firm) [2002] 2 AC 1
Case Numbers:	ADGMCFI-2023-249; ADGMCFI-2024-047 and ADGMCFI-2024-154
Parties and representation:	**In Case No. ADGM CFI-2023-249** Ms Ola El Btadini, for Claimant/First Counterdefendant Mr Silsy Samuel, Mr Faisal Odeh and Mr Karim Yassine for Defendant/Counterclaimants Mr Adil Alami for Second Counterdefendant

	In Case No. ADGMCFI-2004-047 Ms Ola El Btadini for Claimant/Counterdefendant Ms Asha Bejoy for Defendant/Counterclaimant **In Case No. ADGMCFI-2024-154** Ms Ola El Btadini for Claimant/Counterdefendant Ms Asha Bejoy for Defendant/Counterclaimant

JUDGMENT

Introduction

1. Federal Properties Limited – Sole Proprietorship LLC, also known as Federal Properties Limited ("**Federal**"),[1] is the registered owner of an apartment building (the "**Mangrove Place Building**") on Al Reem Island. Federal became the registered owner of 478 out of 480 residential units within the Mangrove Place Building in or about late August/early September 2022, at a time when responsibility for the issue of titles for real property on Al Reem Island rested with the Abu Dhabi Department of Municipalities and Transport ("**DMT**"). Relevantly, for present purposes, since 1 January 2025, Federal has been shown in the register maintained for the Abu Dhabi Global Market ("**ADGM**") as registered proprietor of Units 2701, 1307, 1315 and 914 (collectively, the "**Units**") of the Mangrove Place Building.[2]

2. Federal seeks orders requiring persons who claim ownership of each of the Units to hand over possession to it, on the grounds that they are occupying the Units unlawfully. In addition, Federal claims damages in an unquantified sum representing loss of income for the duration of (what it says are) the respective periods of illegitimate occupation. The defendants in each of the three proceedings have counterclaimed. I explain the nature of the counterclaims later.

3. There are three separate cases before the Court, which were heard together between 5 and 9 May 2025. On 7 February 2025, following case management conferences in each of the three proceedings, I made orders, by consent, that the three cases would be heard concurrently. While, in those orders, I indicated that separate judgments would be given on each proceeding, having heard the evidence, it was clear that most of the important factual findings that I am required to make were common to all three cases. For that

[1] At paras 8-12 below, I explain why (despite the reference to "also known as") Federal can be regarded as one rather than two separate companies.
[2] Registration of real property on Al Reem Island from 1 January 2025 is governed by section 26(3) of the ADGM Real Property Regulations 2024. The reasons for the change in the real property registry are set out at paragraphs 40–44 below.

reason, I have decided to issue a single judgment which deals initially with common issues and then applies my findings to each individual case.[3]

4. More specifically, the three proceedings relate to:

   a. Unit 2701, which is currently occupied by Ms Rawafid Ibrahim ("**Ms Rawafid**") and members of her family. Ms Rawafid opposes Federal's claim because, she asserts, Unit 2701 had been purchased by a sale and purchase agreement from the developer, Luxury Real Estate LLC ("**Luxury Real Estate**") in 2007 by her then husband, Mr Ausama Ibrahim ("**Mr Ausama**"). To complicate matters, Unit 2701 was also the subject of a separate sale and purchase agreement signed by both Luxury Real Estate and Ms Rawafid in 2014. (case no. ADGMCFI-2023-249)

   b. Units 1307 and 1315, for which Mr Amir Samarraie ("**Mr Samarraie**") claims ownership. Mr Samarraie's claim of ownership is based on two sale and purchase agreements (one in respect of Unit 1307 and the other in respect of Unit 1315) into which he says he entered with Luxury Real Estate on 9 August 2012. (case no. ADGMCFI 2024-047)

   c. Unit 914, which Mr Zaid Ibrahim ("**Mr Zaid**") claims to be the owner of, having acquired that Unit by a sale and purchase agreement dated 10 September 2014. (case no. ADGMCFI 2024-154)

5. Ms Rawafid, together with her former husband, Mr Ausama, has counterclaimed for orders that seek to "correct" the real property register so that registration of Unit 2701 is in one or both of their names. Similar relief is sort by Mr Samarraie and Mr Zaid in their respective counterclaims.

6. I thank the parties for their assistance in what has been a difficult case involving the interrelationship of land law principles in both the Emirate of Abu Dhabi and the ADGM. These reasons draw together my analysis of the relevant issues, based on the parties' helpful submissions. Where I do not refer to those submissions directly, it is because to do so would have lengthened this judgment unnecessarily.

Structure of judgment

7. This judgment is structured as follows:

   a. An introduction to the issues and some common background as to the circumstances that gave rise to the claims and counterclaims.

[3] For a summary of the structure of this judgment, see paragraph 7 below.

b. The legal framework in respect of which each of the claims and counterclaims must be determined and the relevant legal principles that apply.

c. Findings, based on the applicable legal principles, as to whether the defendants/ counterclaimants can impeach Federal's registered title to the Units. This requires a close analysis of sections 22 and 24(f) of the ADGM Real Property Regulations 2024 (the "**Real Property Regulations**").[4]

d. Consideration of each separate proceeding:

i. The claim against Ms Rawafid. I shall also consider, under this heading, the counterclaim that Ms Rawafid has brought, in conjunction with Mr Ausama, against Federal;

ii. The claim against Mr Samarraie and his counterclaim against Federal; and

iii. The claim against Mr Zaid and his counterclaim against Federal.

The status of Federal Properties Limited

8. Initially, I deal with an issue that was raised at an earlier stage of the proceedings as to whether the claims have been brought in the name of the correct party. Although the point was not specifically revisited at the joint hearing, I address it out of an abundance of caution.

9. All three proceedings have been brought in the name of "*Federal Properties Limited – Sole Proprietorship LLC (also known as Federal Properties Limited)*" as the Claimant. At the time that each of the proceedings was commenced, Federal produced two licences with its claim form: an Economic Licence issued by the Department of Economic Development of the Emirate of Abu Dhabi in the name of "*Federal Properties Limited – Sole Proprietorship LLC*" (with an expiration date of 4 July 2024) and an ADGM Commercial License (obtained on 13 October 2023 with an expiration date of 12 October 2024) (the "**ADGM License**") in the name of "*Federal Properties Limited*". The ADGM License has subsequently been renewed and continues in force.

10. As a result of the expansion of ADGM's jurisdiction to Al Reem Island, all Al Reem entities (unless exempted) were required to operate on an ADGM license by 31 December 2024. Consistent with that requirement, the licence of any Al Reem entity still operating under the Department of Economic Development regime was invalidated from 1 January 2025.

[4] Sections 22 and 24(f) are set out at paragraphs 46 and 48 below.

11. The ADGM License confirms that Federal Properties Limited was "continued" in the ADGM from 13 October 2023, in accordance with section 107(2) of the ADGM Companies Regulations 2020. That provision declares that property to which the company was entitled immediately before a certificate of continuance was issued and liabilities that existed at that time are assumed by the ADGM entity. The section also provides that all actions and other legal proceedings which, immediately before the issue of the certificate of continuance, were pending by or against the body corporate may be continued by or against the company. The "continuance" regime was discussed by Justice Sir Andrew Smith in *NMC Healthcare Ltd v Shetty*.[5]

12. Adopting Smith J's analysis, "Federal Properties Limited – Sole Proprietorship LLC (also known as Federal Properties Limited)" can be regarded as a single company now operating under the ADGM regulatory scheme in the name of Federal Properties Limited. For those reasons, Federal, as so named, is the correct Claimant.

A chronology of important events

13. Set out below, in chronological form, is an introductory summary of events that are relevant to each of the three proceedings. In this segment, I seek to identify the most significant events relevant to the determination of title in each case.

14. Sorouh Real Estate PJSC ("**Sorouh**") acquired the land on which the Mangrove Place Building stands (Plot C8) in around 2006. After that:

    a. As master developer, Sorouh contracted with Luxury Real Estate to develop the land. Construction of the Mangrove Place Building began in 2007, and was completed in May 2013.

    b. Between 2007 and September 2014, Luxury Real Estate (as "developer") entered into sale and purchase agreements whereby third parties acquired units within the Mangrove Place Building. Although no title documents existed at that time, it was intended that, upon payment of the purchase price, these units would be transferred into the ownership of third-party purchasers.

    c. Mr Ausama (who was also the chief executive officer ("**CEO**") of Luxury Real Estate) purportedly contracted (in his own right) to purchase Unit 2701 from Luxury Real Estate by a sale and purchase agreement dated 19 November 2007 (the "**2007 Agreement**").[6] In his oral evidence at trial, Mr Ausama qualified his written evidence by saying that the 2007 Agreement was not signed until 2012.

[5] *NMC Healthcare Ltd v Shetty* [2024] ADGMCFI 7, at paragraphs 12-13 and 33-38. The view expressed by Smith J was upheld by the Court of Appeal in *Shetty v NMC Healthcare Ltd* [2024] ADGMCA 0001 at paragraphs 19–24.
[6] See paragraph 77.a below.

d. Luxury Real Estate entered into two sale and purchase agreements with Mr Samarraie on 9 August 2012, for Units 1307 and 1315 respectively. Unit 1307 was purchased for AED 995,800 and Unit 1315 for AED 1,368,900. Mr Samarraie's written evidence, based on a statement of account provided to him by Luxury Real Estate on 3 February 2013, was that the full purchase price was paid for both units in cash on that day. At trial, while maintaining that the purchase price was paid in cash, Mr Samarraie explained that it had been delivered to the offices of Luxury Real Estate in an unspecified number of tranches.

e. On 28 March 2014,[7] Mr Ausama procured Luxury Real Estate to enter into a sale and purchase agreement for Unit 2701 with his wife, Ms Rawafid (the "**2014 Agreement**").

f. Mr Zaid alleges that Unit 914 was purchased for him on 10 September 2014. Giving evidence at trial, Mr Zaid frankly accepted that he had no knowledge of the transaction, and could not comment on how the purchase price for Unit 914 was either calculated or paid. All arrangements for the purchase of that Unit were made by his father, Mr Ausama, at a time when Mr Zaid was studying in the United Kingdom. Unlike the purchases of Units 2701, 1307 and 1315, Unit 914 was acquired from an individual, Mr Mahmoud Mustapha El-Dandashli ("**Mr Mahmoud**"), who had been unable to complete his own purchase from Luxury Real Estate.[8]

g. On 22 September 2014, Plot C8 was sold by Aldar Properties PJSC ("**Aldar**") to His Highness Sheikh Tahnoon Bin Saeed Bin Shakhbout Al Nahyan ("**HH Sheikh Tahnoon**"). By that time, Aldar had merged with Sorouh and the company was trading under Aldar's name. In effect, Aldar was acting as master developer.[9]

h. The contract by which HH Sheikh Tahnoon acquired Plot C8 (the "**Aldar Sale Contract**") did not specify whether all or any of the units within the Mangrove Place Building did or did not form part of the Aldar Sale Contract.

i. Mr Ausama alleges that, around the same time as the Aldar Sale Contract, HH Sheikh Tahnoon purchased (separately) "*unsold units*" in the Mangrove Place Building from Luxury Real Estate (the "**Luxury Sale Contract**"). The unsold units were said to comprise 110 residential units plus seven retail units. Mr Ausama added that the proceeds of sale were used to repay the amount outstanding (AED 178 million) to the financier of the project (National Bank of Abu Dhabi, now known as First Abu Dhabi

[7] While no date appears on the attestation clause of the sale and purchase agreement between Luxury Real Estate and Ms Rawafid, one of the annexures to the agreement (Annex D) was executed on 28 March 2014. Annex D was the "*Master Community Declaration*".
[8] See paragraphs 102 and 103 below.
[9] See paragraph 14.a above.

Bank) (the "**Bank**").[10] A copy of the Luxury Sale Contract has not been produced in the proceedings.

j. On 17 August 2021, HH Sheikh Tahnoon donated to Federal whatever (to use a neutral term) "property" that he had acquired from Aldar and/or Luxury Real Estate. At that stage, HH Sheikh Tahnoon held all shares in Federal. It appears that the donation was made because it was necessary, under the law of the Emirate of Abu Dhabi (mainland Abu Dhabi law), for the owner or developer to be a corporate entity in order for the Mangrove Place Building to be registered with the DMT. For the purposes of Abu Dhabi mainland law, Federal became the "developer" at this time, with responsibility for effecting transfers to individual unit owners.[11]

k. In April 2022, HH Sheikh Tahnoon sold and transferred his shares in Federal to Mr Saad Al Aamerie ("**Mr Saad**") (as to 49%) and Mr Khalaf Al Knakkas ("**Mr Al Knakkas**") (as to 51%). In July 2022, Mr Al Knakkas assigned his shares in Federal to Mr Saad. From the date of that assignment, Mr Saad became the sole shareholder of Federal.

l. In around August/September 2022, after Mr Saad took control of Federal, he arranged for all units (except for two residential units) within the Mangrove Place Building to be registered in Federal's name on the Abu Dhabi land register maintained by DMT. By operation of law, registration was transferred to the ADGM register with effect from 1 January 2025.[12]

Context

15. Federal asserts that it acquired the "*land, building and units*" (which, to ensure that a neutral expression is used, I call the "property") after HH Sheikh Tahnoon donated the property to it.[13]

16. Federal's reasoning is as follows:

a. HH Sheikh Tahnoon acquired the property by the Aldar Sale Contract dated 22 September 2014. That agreement is described as a "*Sale Contract of a commercial residential property*".

b. The operative part of the Aldar Sale Contract provides for sale of the commercial/residential property "*Plot No. (C8)*" to HH Sheikh Tahnoon for a consideration of AED 82,536,731.

[10] See paragraphs 66–72 below.
[11] Article 30 of Abu Dhabi Law No (3) of 2015. See also paragraph 41 below.
[12] Real Property Regulations 2024, section 26(3). See also paragraphs 40 below.
[13] See paragraphs14.g-14.l above.

c. Omission of any units from the Aldar Sale Contract means that its acquisition of Plot C8 necessarily included the land on which the Mangrove Place Building stood, the building and all units situated within the Mangrove Place Building.

17. Mr Ausama, as the former CEO of Luxury Real Estate, was the only witness who could give first hand evidence of the development of the Mangrove Place Building and the sale of units within it. Because most of his narrative of background events is not in dispute, I use that evidence to describe the context in which decisions need to be made in all three cases. I make it clear where issue is joined on a material aspect of Mr Ausama's evidence.

18. Mr Ausama worked as area manager with Aldar from 2004 until 2006. During that period, he was in charge of the Al Raha area. Mr Ausama indicates that his expertise in land development grew out of that employment.

19. Things changed in 2006, when Mr Ausama was approached by a businessman from Saudi Arabia, Dr Wisam Al Somaidai ("**Dr Wisam**"), about establishing a "*small-scale sub-developer company*" in which Mr Ausama was to receive 5% profit share. Mr Ausama took the lead in the management of that company (Luxury Real Estate) from the date on which he resigned from Aldar's employment, 1 April 2006.

20. One of the companies with which Mr Ausama dealt was Sorouh, the master developer of Plot C8. Sorouh was merged with Aldar on 1 July 2014. It was Aldar (as the merged entity) that entered into the Aldar Sale Contract with HH Sheikh Tahnoon in September 2014.[14]

21. Luxury Real Estate's operations included (but were not necessarily limited to) design, supervision, procurement, contracts, sales, marketing, implementation, handover, finance and communications with regulatory authorities, such as DMT. Mr Ausama was the person with day-to-day responsibilities for the development and management of the Mangrove Place Building. Mr Ausama says he had authority through a power of attorney executed by Luxury Real Estate in his favour, to deal with all matters, including the sale of units within the Mangrove Place Building.

22. In around October 2005, Dr Wisam had arranged for Luxury Real Estate to purchase two plots of land from Sorouh. These were known as Plot 35 and Plot 43. On 20 November 2007, Plot 43 was sold. Mr Ausama says that this sale produced a "*profit*" of AED 22,549,660, of which he was entitled to 5% (AED 1,127,483), based on his shareholding in Luxury Real Estate. Work on the Mangrove Place Building started at the beginning of 2007.

23. While the 2007 Agreement was dated 19 November 2007 (the day before settlement of Plot 43 was completed), Mr Ausama, at trial, deposed that it was actually signed in 2012. So far as capacity is concerned, he gave evidence that he usually signed agreements for sale and

[14] See paragraph 14.g above.

purchase as the authorised CEO of Luxury Real Estate. However, on this occasion, Dr Wisam, as Chairman of Luxury Real Estate, signed the 2007 Agreement because Mr Ausama was the counterparty to that agreement. Under the 2007 Agreement, Mr Ausama was to pay AED 7,762,165 for Unit 2701.[15]

24. Notwithstanding his change in evidence as to when the 2007 Agreement was signed,[16] Mr Ausama continued to assert that his share of the profit that Luxury Real Estate had derived from the sale of Plot 43 was treated as the "*first downpayment towards the purchase of*" Unit 2701 for a total price of AED 7,762,165.

25. Mr Ausama says that additional payments were due to be paid to him later, by Luxury Real Estate, as recorded in letters dated 9 February 2012 and 15 January 2013. On Mr Ausama's account Luxury Real Estate was required to pay to him sums of AED 1,173,550, AED 450,000, AED 138,811, AED 75,000, AED 150,000, AED 1,050,000 and AED 123,550. Mr Ausama asserts that those amounts, together with the balance, were paid, either in cash or in kind. He maintains that the "*in kind*" payments were put towards the purchase of Unit 2701. Federal disputes Mr Ausama's assertion that he paid for Unit 2701.

26. Mr Samarraie entered into sale and purchase agreements for Units 1307 and 1305 on 9 August 2012. Mr Samarraie's evidence is that he paid cash for the two units, a total of AED 2,364,700.[17] Federal acknowledges that Mr Samarraie entered into the two sale and purchase agreements but denies that he has paid for his two units.

27. A building completion certificate (the "**Completion Certificate**") was issued by DMT on 1 July 2013. Mr Ausama's evidence is that, from that date, existing buyers or investors who had bought off the plans were handed their units, conditional on settling a final payment directly or through an approved financial institution. At that time, he says, 370 out of 480 residential units had been sold. That left 110 residential units unsold.

28. Mr Ausama gave evidence that, prior to the issue of the Completion Certificate, Dr Wisam committed "*a major misstep contractually*" with Gulf Technical Construction Co (the "**Contractor**") which put Luxury Real Estate at risk, from both regulatory and financial perspectives. Mr Ausama says that an employee of the Bank, with whom he had become friends, advised him (unofficially) to transfer Unit 2701 into his wife's name to avoid it being seized by the Bank, the Contractor or even the Abu Dhabi Judicial Department, if the Contractor were to issue proceedings. At that time, Mr Ausama says that the 2007 Agreement was "*withdrawn*" and was replaced by the 2014 Agreement, into which Ms Rawafid and Luxury Real Estate entered, showing Ms Rawafid as the purchaser. It appears

[15] In passing, I note that while Mr Ausama appears to have been careful to avoid the appearance of any conflict by having Dr Wisam sign the 2007 Agreement on behalf of Luxury Real Estate, Mr Ausama signed the Agreement with his son (in September 2014) on behalf of Luxury Real Estate because, on his evidence, Dr Wisam had left the jurisdiction by that time.
[16] See paragraph 14.c above.
[17] See paragraph 14.d above.

that Dr Wisam signed the 2014 Agreement on behalf of Luxury Real Estate. The circumstances in which the 2014 Agreement was entered, and its enforceability, are disputed.

29. Mr Ausama states that Dr Wisam left the United Arab Emirates in mid-2014, allegedly having embezzled "*large amounts of money from*" Luxury Real Estate's bank account. The Contractor took legal proceedings against Luxury Real Estate. The Bank took steps to protect its interests. I infer that the need for the Aldar Sale Contract and the Luxury Sale Contract[18] arose out of Luxury Real Estate's liquidity crisis and Dr Wisam having left the jurisdiction.

30. On 10 September 2014, Mr Ausama negotiated the acquisition of Unit 914 for the benefit of his son, Mr Zaid. This unit was acquired from Mr Mahmoud, whom Mr Ausama asserted was intended to take title to it but could not complete payment.[19] Federal challenges Mr Ausama's evidence on this topic.

31. Transfer of the property acquired by HH Sheikh Tahnoon under the Aldar Sale Contract was effected after that agreement had been deposited with the DMT on 22 September 2014. HH Sheikh Tahnoon acquired the property on the basis of a warranty that the property was free from any encumbrances or impediments to title.

32. It is unclear from the Aldar Sale Contract itself whether the land and buildings included all (or any) of the 480 residential units. The document records that the *"(commercial residential) property unit was valued at (82,536,731.00) dirhams*". The property to be transferred was called "*C8*".[20]

33. Federal's position is that all units were transferred, under the Aldar Sale Contract, to HH Sheikh Tahnoon, together with the land and building itself. Mr Ausama disputes that. He refers to the Luxury Sale Contract as being a separate contract pursuant to which HH Sheikh Tahnoon purchased the 110 residential units and seven retail units that had remained unsold at that time. For present purposes, the question is whether HH Sheikh Tahnoon acquired title to the Units under the Aldar Sale Contract.

34. Mr Ausama gave evidence that HH Sheikh Tahnoon asked him to continue to administer the Mangrove Place Building from September 2014 until the end of that year. At that time, Mr Ausama believed that all 370 completed sales of units within the Mangrove Place Building had been registered at the Bank and DMT in the names of individual owners.

35. From 1 January 2015, Federal was appointed as facilities' management company for the Mangrove Place Building. Mr Saad was appointed by HH Sheikh Tahnoon to oversee

[18] As to which see paragraph 73 below.
[19] See paragraphs 14.f above and 102–103 below.
[20] See paragraph 14.h above.

Federal's business. Mr Saad gave evidence that he, as someone involved in the management of His Highnesses' business activities, had some responsibility for Federal's affairs in the period between 1 January 2015 and sometime in 2017. During this time, a number of invoices were sent to "*occupiers*" of the units in which service charges were claimed. When paid, those moneys were retained by Federal. Invoices were not sent to those who were renting units. That is evidence that Federal was treating unit "*occupiers*" as if they were owners.

36. Mr Saad acknowledges that he had no involvement with Federal from the time that he left the company in 2017 until HH Sheikh Tahnoon transferred shares in Federal Properties to him in April 2022. Mr Saad accepted that he did not know what inquiries had been made about units said to be held in private ownership in the period from 2017 until 2022, during which time he was not involved in Federal's business affairs. Mr Odeh, for Ms Rawafid and Mr Ausama, put documents to Mr Saad relating to this period, to which he responded either that he had not seen them before or was not able to comment on their correctness.

37. In particular, Mr Saad acknowledged that, to the extent that Federal generated documents in the period between 2017 and 2022 which involved the question of private ownership of some of the units, he was unable to comment on the accuracy or otherwise of them. Nobody else connected with Federal during that period gave evidence. I must determine what occurred in that period by reference to the business records of Federal that have been produced in evidence, as supplemented by relevant (and reliable) evidence from other witnesses.

38. Since Mr Saad became the sole shareholder of Federal in July 2022, a number of individual purchasers have been able to satisfy Federal that they did acquire and complete payment for certain units. Federal has, as a result, transferred those units to the purchasers. Indeed, Mr Saad gave evidence that 289 units have, so far, been transferred back from Federal to third parties who have proved (to his satisfaction) that they had previously acquired title to their units, both by producing a copy of their sale and purchase agreements with Luxury Real Estate and proving that they had paid for them. The sheer number of units of which Federal has facilitated transfer of ownership is probative of Federal's knowledge that Luxury Real Estate had, in fact, been engaged significantly in selling units to third parties before the Aldar Sale Contract came into being.

39. In summary, it is common ground that:

    a. Luxury Real Estate developed the Mangrove Place Building, in which 480 residential units were located.

    b. Luxury Real Estate sold some of the units off the plans to third parties. Federal has accepted that 291 units were legitimately transferred by Luxury Real Estate to purchasers. Proof of that acceptance lies in its decision to transfer title to 289

purchasers after title to those units had been registered in favour of Federal in August/September 2022, together with the earlier transfer of two units in or about 2021.

c. If 291 units had been sold by Luxury Real Estate before HH Sheikh Tahnoon acquired the Mangrove Place Building from Aldar in September 2014, a maximum of 189 unsold units could have passed to His Highness, together with unsold retail outlets. Put simply, Luxury Real Estate could not sell what it did not own: to use the Latin phrase, *nemo dat quod non habet*.

d. Federal was not registered as owner of the Units until:

i. 31 August 2022 (2701 and 914); and

ii. 2 September 2022 (1307 and 1315).

Legal analysis

40. It is common ground that the question whether Federal's registered title can be impeached is governed by the Real Property Regulations. Al Reem Island became part of the ADGM from 24 April 2023, with ADGM's own real property regime taking effect on Al Reem Island from 1 January 2025.[21] By article 13(7) of Abu Dhabi Law No (4) of 2013 (as amended by Law No (12) of 2020) (the "**Founding Law**") the ADGM Court of First Instance has exclusive jurisdiction over the claims and counterclaims arising in these three cases.

41. Until Abu Dhabi Law No (3) of 2015 Concerning the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi (the "**2015 Law**") was promulgated on 10 June 2015, there was no satisfactory law in place in the Emirate to deal with ownership of individual units within an apartment complex. The 2015 Law established more detailed rules in relation to the registration of titles within a project such as the Mangrove Place Building. Article 30 of the 2015 Law explains the role of a "*developer*" in registering units sold "*off the plan*" to buyers:

> ***"Article 30 - Moving the Registration to the Real Estate Register***
>
> - *The developer shall, upon completion of the real estate development project and after obtainment of the completion certificate from the Municipality, register the final recurring floor and site plans as well as the condominium or levels management regulation in the Real Estate Register and transfer the property of the real estate units sold off the plan to the buyers registered in the Interim Real Estate Register to the Real Estate Register, provided that they have settled the full price of their real estate units to the*

[21] Real Property Regulations 2015, section 157(2) and Real Property Regulations 2024, section 178.

developer or in accordance with the agreement and the procedures issued by the Department.

- *The Department shall, based upon the request of the buyer or by itself, transfer the real estate units that were sold off the plan as well as any rights and obligations pertaining thereto from the Interim Real Estate Register to the Real Estate Register in the name of the buyer, provided that the latter has fulfilled his contractual obligations and that the developer has registered the final recurring floor and site plans in the Real Estate Register."*

42. Article 30 is not easy to apply to a case such as this. Although Federal was registered as a developer in the Emirate of Abu Dhabi, at the time the 2015 Law came into force it did not "own" whatever property had been transferred under the Aldar Sale Contract. I identify three particular difficulties:

a. First, the process of registration was to be undertaken by the "*developer*". That term is defined in article 1 of the 2015 Law as a person licensed to practise development works in Abu Dhabi.[22] As at the date on which the Mangrove Place Building was transferred to HH Sheikh Tahnoon it had already been "developed" by Luxury Real Estate.

b. Second, the 2015 Law was not in force in 2014 when HH Sheikh Tahnoon acquired the property.

c. Third, in consequence of enactment of the 2015 Law, the Chairman of the Department of Municipal Affairs issued a decision (the "**Chairman's Resolution**")[23] concerning the need for proof of payment, on the part of an individual seeking to be registered as an owner of a unit, under the Abu Dhabi land system.

43. As to the third of those points, articles 4(1) and 5(1) of the Chairman's Resolution stated:[24]

"Article 4 - Registration of Completed Real Estate Development Projects

1. If the Real Estate Development Project is completed and the completion certificate is obtained from the concerned municipality, the Developer must observe the following:

[22] The same concept applies to both a "Main Developer" and a "Sub-Developer".
[23] Department of Municipal Affairs Chairman's Decision No. (246) of 2015: Issuing the Executive Regulations on the Initial Real Estate Register Pursuant to Law No. 3 of 2015 concerning the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi.
[24] The quoted text from articles 4(1) and 5(1) of the Chairman's Resolution has been translated from the original Arabic. There are some minor translation differences in relation to the different versions of the same articles. The translation I have set out appears to best capture the essence of the provisions.

a. *Register the completion of the real estate development project in the Real Estate Register at the Department.*

b. *Register and transfer the ownership of the real estate unit subject of disposition to the Real Estate Register on behalf of the Purchaser, who paid the purchase price.*

...

Article 5 - Transfer to the Real Estate Register

1. *If the Purchaser has fulfilled his contractual obligations and paid the full purchase price under the Agreement registered in the Interim Real Estate Register, the Developer shall within 21 days as of the payment of the purchase price, submit an application to the Department for the transfer of the ownership of the Real Estate Unit or parcel of land, subject of the agreement, to the Purchaser, as well as all real estate rights associated with the ownership right, if any.*"

44. The Real Property Regulations provide a land registration regime based on the Torrens system that was first developed in Australia.[25] The nature and purpose of the Torrens system was discussed by the Privy Council in *Arthur v The Attorney-General of the Turks & Caicos Islands*.[26] Delivering the advice of the Privy Council, Sir Terence Etherton described it as follows:[27]

> "*13. Registration of title was introduced into Australia by Sir Robert Torrens in 1858. The system, which came to be known as the Torrens system and was first embodied in the South Australian Real Property Act 1858, spread to the other colonies in Australia and New Zealand and later to many other countries in the Commonwealth and elsewhere. The objective of the system was to achieve complete certainty of title. It was described by Barwick CJ in Breskevar v Wall (1971) 126 CLR 376, 385 as "not so much a system of registration of title but a system of title by registration". The objective of complete certainty of title has never been achieved, ...*"

[25] For present purposes, the Real Property Regulations 2024 did not make any material changes to the pre-existing ADGM land registration system when it was enacted. Sections 23 and 26(f) of the Real Property Regulations 2015 equate to sections 22 and 24(f) of the Real Property Regulations 2024.
[26] *Arthur v The Attorney-General of the Turks & Caicos Islands* [2012] UKPC 30.
[27] Ibid, at paragraph 13.

45. In *Arthur,* the Privy Council was concerned with the way in which the Torrens system had been adapted to fit the needs of the Turks & Caicos Islands. Importantly, the Board (applying a passage from an earlier judgment of the Privy Council, in *Santiago Castillo Ltd v Quinto*[28]), emphasised the need to interpret statutes enacting a Torrens system with "*varying degrees of flexibility*" to recognise the way in which different countries had adapted[29] the regime for their own purposes. Delivering the advice of the Privy Council, in *Arthur,* Sir Terence Etherton said that a court should take "*special care*" when "*considering the effect of legislation implementing the Torrens system in any particular jurisdiction, [and should] focus on the provisions of the particular legislation in question, and … the relevance and usefulness of judgments in cases in other jurisdictions where the legislation, policy considerations and general principles of law may be different*".[30]

46. For present purposes, my starting point for analysis is section 22 of the Real Property Regulations, which specifies the type of interest that a registered owner possesses. Section 22 provides:

> ***"22. Conclusive effect of registration: ownership***
>
> *The registration of a person as owner of an interest in real property is conclusive evidence that–*
>
> *(a) the person is the owner of that interest; and*
>
> (b) *the person's title to that interest is indefeasible (unless the instrument registered in the Register expressly specifies that such title is defeasible).*"
>
> (Emphasis added)

47. Section 23 of the Real Property Regulations is directed to the quality of registered interests against the land. Relevantly, in relation to registered interests, section 23(1), (2)(a) and (b) and (3)(a) provides:

> ***"23. Quality of registered interests***
>
> *(1) A registered owner holds the registered interest subject to all prior interests registered in the folio for the relevant lot but free from all other interests.*

[28] *Santiago Castillo Ltd v Quinto* [2009] UKPC 15 at paragraph 39 per Lord Phillips of Worth Matravers.
[29] *Arthur v The Attorney-General of the Turks & Caicos Islands* [2012] UKPC 30, at paragraph 14, by reference to *Santiago Castillo Ltd v Quinto* [2009] UKPC 15 at paragraph 39.
[30] *Arthur v The Attorney-General of the Turks & Caicos Islands* [2012] UKPC 30, at paragraph 15.

(2) In particular, neither the registered owner nor any person relying upon a certificate issued by the Registrar showing the registered owner of real property –

(a) is affected by actual or constructive notice of any unregistered interest affecting the lot;

(b) is affected by any interest that, but for these Regulations, might be held to be paramount or to have priority;

...

(3) However, subsections (1) and (2) do not apply-

(a) to an interest or matter mentioned in section 24; or

...."

48. Section 24(f) of the Real Property Regulations identifies an exception (relevant to the present cases) to an indefeasible title that would otherwise be conferred as a result of the combined effect of sections 22 and 23(1). Section 24(f) brings into play obligations owed in equity by the registered proprietor to third parties, as a result of the way in which the registered owner has conducted itself. Section 24(f) provides:

> ***"24. Exceptions to section 23***
>
> *Neither a registered owner of an interest in real property nor any person relying upon a certificate issued by the Registrar showing the registered owner of real property obtains the benefit of section 23 in relation to the following interests or rights affecting the lot -*
>
> ...
>
> *(f) an equitable obligation binding the registered owner as a result of the registered owner's conduct; or*
>
> ...."

49. The primacy given to a registered title under the Torrens system is known as the principle of indefeasibility; a concept that has found its way expressly into section 22(b) of the Real Property Regulations. In common with legislation adopting the Torrens system in both Australia and New Zealand, there are limited circumstances in which a registered interest can be impeached. However, there is an important distinction between the Real Property Regulations and statutes in force in Australia and New Zealand: The primary basis on

which an otherwise indefeasible title can be successfully challenged in Australia and New Zealand is fraud. The term "fraud" is not itself used in the Real Property Regulations to denote an exception to the indefeasibility rule. However, in order to interpret the scope of the "*equitable obligation*" exception in section 24(f) of the Real Property Regulations, it is helpful to trace the development of the law in those jurisdictions. Even though there is no allegation of fraud in this case, observations made in the Australian and New Zealand cases cast light on the way in which the ADGM legislation should be interpreted.

50. The starting point is the advice of the Privy Council in *Gibbs v Messer*.[31] In that case, the Board expressed the principle of indefeasibility as having the "*object [of saving] persons dealing with registered proprietors from the trouble and expense of going behind the register, in order to investigate the history of their author's title, and to satisfy themselves as to its validity*".

51. In *Assets Co Ltd v Mere Roihi,*[32] the Privy Council considered the "fraud exception" to the principle of indefeasibility. The Privy Council took the view that the term "fraud" should be interpreted as meaning "actual" fraud or dishonesty on the part of the registered proprietor. In defining the term in that way, the Board did not exclude from the category of "actual fraud" proof of a registered proprietor deliberately refraining from making inquiries that an honest purchaser would be expected to have made.[33]

52. In *Frazer v Walker*,[34] the Privy Council considered the "fraud exception" in the context of the primacy given to a registered proprietor's title under the Land Transfer Act 1952 (NZ). Explaining the scheme of the Act, Lord Wilberforce, delivering the advice of the Board, said:[35]

> "*... Each of [ss 62 and 63 of the Land Transfer Act 1952 (NZ)] excepts the case of fraud, that is, actual fraud by the registered proprietor or his agent: Assets Co. Ltd. v Mere Roihi ... Sections 62 and 63 confer upon the registered proprietor indefeasibility of title ensuring immunity from attack by adverse claim to the land or interest in respect of which he is registered. The whole system of registration pivots round this central conception. This is subject to the provisions of the Act which provide for correction of errors by the District Land Registrar and for the surrender of the registered instrument to the Registrar: Land Transfer Acts, 1870, s. 140; 1885, ss. 68, 69; 1908, s. 74, 75; 1915, ss. 73, 74; 1952, ss. 80, 81.*"

[31] *Gibbs v Messer* [1891] AC 248 (PC) at 254, on appeal from the Supreme Court of Victoria.
[32] *Assets Co Ltd v Mere Roihi* [1905] AC 176 (PC), on appeal from the Court of Appeal of New Zealand.
[33] Ibid, at 212.
[34] *Frazer v Walker* [1967] 1 AC 569 (PC); [1967] NZLR 1069, on appeal from the Court of Appeal of New Zealand.
[35] Ibid, at 1072.

53. In Australia, there have been some judicial statements to suggest that "*actual dishonesty*" may set the bar too high. It has been said that some forms of equitable or constructive fraud should fall within the "fraud exception".[36] Nevertheless, Australian authority is united in the view that "*moral turpitude*" is required to give rise to the exception.[37] The standard has recently been lowered in New Zealand. In addition to the exception of "fraud" (which continues to exclude the equitable doctrine of constructive notice)[38], the High Court of New Zealand is now empowered to make an order for alteration of the register in cases of "*manifest injustice*".[39] Those developments reflect a desire to provide a more flexible basis on which a court can grant relief to a person who is challenging a registered title.

54. There is no stated "fraud" exception to indefeasibility set out in the Real Property Regulations. Rather, section 24(f) of the Real Property Regulations, by its reference to an "*equitable obligation*", strongly suggests that the threshold for challenging indefeasibility should be something short of fraud, in order to protect those whose interests have been prejudiced by improper registration of the title in the name of another. In my view, the legislator must be taken to have intended that conduct on the part of the registered proprietor that does not reach the threshold of fraud can support a challenge to indefeasibility. Consistent with that policy objective, section 24(f) of the Real Property Regulations,[40] requires a determination of whether an equitable obligation binds a registered proprietor in such a way that the proprietor is required to yield their title to another.

55. The common law of England (including equitable principles) applies in the ADGM. Section 1(1) of the ADGM Application of English Law Regulations 2015 (the "**English Law Regulations**") confirms that the "*common law of England (including the principles and rules of equity), as it stands from time to time, shall apply and have legal force in, and form part of the law of the [ADGM]*". Nevertheless, sections 1(1)(a) and (b) of the English Law Regulations make it clear that the principles and rules of equity only apply so far as applicable in the circumstances of the ADGM, and subject to such modifications as those circumstances require.

56. Section 3(1) of the English Law Regulations requires the ADGM Courts to "*administer English common law and equity on the basis that, wherever there is a conflict or variance*

[36] For example, see *Latec Investments Ltd v Hotel Terrigal Pty Ltd (in liq)* (1965) 113 CLR 265 (HCA) at 273-274 (per Kitto J, with whom, on this issue, Taylor and Menzies JJ agreed). Kitto J also referred, by comparison, to another Privy Council, *Waimiha Sawmilling Co Ltd (in liq) v Waione Timber Co Ltd* [1926] AC 101 (PC) per Lord Buckmaster at 106.
[37] See *Latec Investments Ltd v Hotel Terrigal Pty Ltd (in liq)* (1965) 113 CLR 265 (HCA) and *Bahr v Nicolay* (1988) 78 ALR (HCA) at 4 (Mason CJ and Dawson J), 18-19 (Wilson and Toohey JJ), 35 (Brennan J) and *Bank of South Australia Ltd v Ferguson* (1998) 192 CLR 248 (HCA) at 255 (per Brennan CJ, Gaudron, McHugh, Gummow and Kirby JJ).
[38] Land Transfer Act 2017 (NZ), sections 51(3)(a) and 52(1)(a). The term "fraud" is defined by section 6(4) as excluding the equitable doctrine of constructive notice.
[39] Ibid, sections 54 and 55, which, by virtue of section 51(3) of the Act may be used to impeach the title of a registered proprietor.
[40] Set out at paragraph 48 above.

between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail".

57. It is settled English law that a person who obtains property with knowledge that it belongs to another holds it as a constructive trustee for that person. For present purposes, as long as the property remains identifiable in the hands of the registered proprietor (other than a *bona fide* purchaser for value without notice of a prior interest), the law will require the constructive trustee to restore the property to the person for whose benefit it is held. A recent endorsement of that principle can be found in the judgment delivered by Lord Briggs in *Byers v Saudi National Bank*.[41] The importance of the rule can be seen from the fact that, even upon intervention of a formal insolvency regime (such as liquidation), the relevant asset will not form part of the insolvent estate.[42]

Interpreting section 24(f) of the Real Property Regulations

58. Section 24(f) of the Real Property Regulations requires that the person seeking to impeach title must establish:

    a. an "*equitable obligation*" in his or her favour; and

    b. that the equitable obligation binds the registered owner as a result of the registered owner's conduct.

59. In my view, the concepts underlying section 24(f) are designed to capture conduct short of actual dishonesty that operates contrary to another's equitable interests. That said, deliberate conduct would also fall within the scope of section 24(f). In short, section 24(f) operates to ensure that a registered proprietor cannot take advantage of its own conduct to defeat a third party's claim to title of which it is aware, whether that conduct is innocent or deliberate.

60. As Lord Sumption made clear, in *Re D & D Wines International Ltd (in liq); Bailey v Angove's Pty Ltd*,[43] a party that receives property knowing that it belongs to another will hold the property as a constructive trustee and must restore it to the true owner.[44] In this case, the question is whether Federal had knowledge that the Units had been transferred to the respective defendants/counterclaimants and, by its conduct assumed an equitable obligation to restore the Units to the true owners. That raises a question as to the circumstances in which knowledge held by a person in control of a company can be attributed to the company itself.

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[41] *Byers v Saudi National Bank* [2023] UKSC 51 at paragraph 83.
[42] *Re D & D Wines International Ltd (in liq); Bailey v Angove's Pty Ltd* [2016] UKSC 47 at paragraph 25 (per Lord Sumption, with whom Lord Neuberger P, Lord Clarke, Lord Carnwath and Lord Hodge agreed).
[43] *Re D & D Wines International Ltd (in liq); Bailey v Angove's Pty Ltd* [2016] UKSC 47, discussed at paragraph 57 above.
[44] Ibid, at paragraph 25.

61. The question is not whether Mr Saad had the requisite knowledge that Ms Rawafid and/or Mr Ausama, Mr Sammaraie and Mr Zaid had each acquired their respective units from Luxury Real Estate. As a matter of fact, I find that Mr Saad honestly believed that it was necessary for him to be satisfied that a valid sale and purchase agreement was in existence and that each "purchaser" had paid the purchase price in full. That belief aligned with the need (under the mainland Abu Dhabi law then in force) for a developer's involvement in registering the title to an individual unit to be satisfied that the purchase price had been paid in full.[45]

62. The real question is whether Federal (as a discrete legal entity) had the requisite knowledge of pre-existing interests in the Units. The circumstances in which the knowledge of a person who controls a company may be attributed to the company itself has been discussed by both the Privy Council and the Supreme Court of the United Kingdom. The leading authority, to which the two later decisions of the Supreme Court refer, is *Meridian Global Funds Management Asia Ltd v Securities Commission*.[46]

63. In *Meridian,* the Privy Council considered the circumstances in which knowledge of a person who was properly to be regarded as "*the directing mind and will*" of the company could be attributed to the company. The Board was concerned with the circumstances in which knowledge of the acquisition of shares in a public issuer should be attributed to a company, triggering a statutory requirement that the company give notice as a "*substantial security holder*". The Board recognised that the question was to be determined in the context of "*fast-moving markets*". Speaking in that context, Lord Hoffmann, delivering the advice of the Board, said:[47]

> "*... In the case of a corporate security holder, what rule should be implied as to the person whose knowledge for this purpose is to count as the knowledge of the company? Surely the person who, with the authority of the company, acquired the relevant interest. Otherwise the policy of the Act would be defeated. Companies would be able to allow employees to acquire interests on their behalf which made them substantial security holders but would not have to report them until the board or someone else in senior management got to know about it. This would put a premium on the board paying as little attention as possible to what its investment managers were doing. Their Lordships would therefore hold that upon the true construction of s 20(4)(e), the company knows that it has become a substantial security holder when that is known to the person who had*

[45] Article 30 of Abu Dhabi Law No (3) of 2015 and Articles 4(1) and 5(1) *Department of Municipal Affairs Chairman's Decision No. (246) of 2015: Issuing the Executive Regulations on the Initial Real Estate Register Pursuant to Law No 3 of 2015 concerning the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi.* Article 30 of the former and 4(1) and 5(1) of the latter are set out at paragraphs and 41 and 43 above.
[46] *Meridian Global Funds Management Asia Ltd v Securities Commission* [1995] 3 NZLR 7 (PC) at 16.
[47] See also, *Lennard's Carrying Co Ltd v Asiatic Petroleum Co Ltd* [1915] AC 705.

authority to do the deal. It is then obliged to give notice under s 20(3). The fact that Koo did the deal for a corrupt purpose and did not give such notice because he did not want his employers to find out cannot in Their Lordships' view affect the attribution of knowledge and the consequent duty to notify.

It was therefore not necessary in this case to inquire into whether Koo could have been described in some more general sense as the "directing mind and will" of the company. But Their Lordships would wish to guard themselves against being understood to mean that whenever a servant of a company has authority to do an act on its behalf, knowledge of that act will for all purposes be attributed to the company. It is a question of construction in each case as to whether the particular rule requires that the knowledge that an act has been done, or the state of mind with which it was done, should be attributed to the company. ..."

(Emphasis added)

64. The Supreme Court, in both *Jetivia SA v Bilta (UK) Ltd (in liq)*[48] *and Lifestyle Equities CV v Ahmed,*[49] adopted the test for attribution articulated by Lord Hoffmann in *Meridian*. Nevertheless, it too emphasised the need for care when considering attribution in the context of the particular facts of a case, whether to be addressed by reference to statute or otherwise.

The equitable obligation exception: factual findings

65. Having explained the legal framework, I now consider whether the equitable obligation exception applies. That question arises in the same way in all three cases. It turns on what knowledge HH Sheikh Tahnoon had at the time he acquired property under the Aldar Sale Contract. If he knew, at that time, that there were only 110 unsold units and seven retail premises which were available for sale that knowledge would, applying the principles set out in *Meridian*,[50] be imputed to Federal when HH Sheikh Tahnoon transferred what he had acquired to that company, of which he was a 100% shareholder. Even though I have found that Mr Saad, honestly and without knowledge of what HH Shiekh Tahnoon knew, acted to register all but two units in the Mangrove Place Building in the name of Federal,[51] Federal remains fixed with the knowledge that it acquired from HH Sheikh Tahnoon.

[48] *Jetivia SA v Bilta (UK) Ltd (in liq)* [2015] UKSC 23 at paragraphs 7 (per Lord Neuberger, with whom Lord Clarke and Lord Carnwith agreed), 65–69 (per Lord Sumption,) and 190–191 (Lord Toulson and Lord Hodge).
[49] *Lifestyle Equities CV v Ahmed* [2024] UKSC 17 at paragraphs 34–36 (per Lord Leggatt, with whom Lord Lloyd-Jones, Lord Kitchin, Lord Stephens and Lord Richards agreed).
[50] *Meridian Global Funds Management Asia Ltd v Securities Commission* [1995] 3 NZLR 7 (PC) at paragraph 68, set out at paragraph 63 above.
[51] See paragraph 61 above.

66. HH Sheikh Tahnoon did not give evidence before me. Nor was the Luxury Sale Contract, to which Mr Ausama referred in his evidence, in evidence.[52] Only Mr Ausama (who has a personal interest in the outcome) and (to a much more limited extent) Mr Saad gave evidence about the circumstances of the Aldar Sale Contract and the Luxury Sale Contract, I determine HH Sheikh Tahnoon's state of knowledge primarily from relevant contemporaneous documents.

67. In the absence of evidence from HH Sheikh Tahnoon and the Luxury Sale Contract, I focus on whether the contemporaneous documentation is sufficiently reliable to establish that HH Sheikh Tahnoon had actual knowledge that Units 2701, 1307, 1315 and 914 had been sold to third parties.

68. The most cogent evidence is that contained in a valuation report prepared by a reputable firm of valuers in Abu Dhabi, Knight Frank UAE Limited. While the report was dated 22 December 2014, instructions were given on 27 October 2014. The valuation date was 29 October 2014 for the residential units and 5 November 2014 for the retail units.

69. In summary, the report states that:

    a. The "*client for this instruction is National Bank of Abu Dhabi (Sheikh Tahnoon Bin Shakboot)*".

    b. The valuation was being obtained for secured lending purposes.

    c. The freehold title was the interest to be valued, with the type of asset described as a "*residential building*" with retail units at ground floor level.

    d. The units valued were described as the "*unsold apartments*".

70. Under the heading "*Market Value*", Knight Frank set out their opinion of the market value of the freehold interest in the assets, with vacant possession, and a breakdown of the market value for the unsold apartments and retail units. The freehold interest was valued at AED 141,515,500. The 110 residential apartments were valued at AED 121,230,000. The seven retail units were valued at AED 20,285,500.

71. Appendix 2 to the valuation report is entitled: "*Schedule of Unsold Apartments*". There are 110 residential units and seven retail units contained within that schedule. Units 914, 1305, 1315 and 2701 are not listed as "*unsold apartments*". The differentiation between sold and unsold units reinforces the reference on the cover page of the report: "*110 Residential Units & 7 Retail Units at Mangrove Place, Reem Island, Abu Dhabi*".

[52] See paragraph 14.i above.

72. The Aldar Sale Contract is dated 22 September 2014. The instruction for valuation was given on 27 October 2014. The valuation was being obtained to enable HH Sheikh Tahnoon to enter into a secured lending arrangement with the Bank. The market value of "*Mangrove Place*" was assessed at AED 141,515,500, with the "*Market Value on Special Assumption (Land)*" at AED 226,040,000.[53]

73. There was no reason for HH Sheikh Tahnoon to obtain, through the Bank, a valuation of "*110 Residential Units & 7 Retail Units*" unless he knew that that was the extent of the areas within the Mangrove Place Building that he was acquiring. In that context, it made perfect sense for HH Sheikh Tahnoon to obtain a report for secured lending purposes which excluded those units that had already been sold by Luxury Real Estate to third parties. I find that HH Sheikh Tahnoon did not acquire the four units in issue when he purchased Plot C8 from Aldar on 22 September 2014. It is likely that the unsold residential and retail units that were the subject of the valuation were acquired subsequently from Luxury Real Estate, under the Luxury Sale Contract to which Mr Ausama referred in evidence. A later acquisition, on that basis, would explain why the instruction was given to the valuer in late October 2014. Support for that conclusion can also be found in later conduct by Federal. Knowledge that the four units in issue had been sold is consistent with its conduct in charging the defendants with service charges which would only have been incurred by an owner and with a list of apartments that had been acquired by Federal, dated 23 November 2020, in which the four units were not named.

74. HH Sheikh Tahnoon held a 100% interest in Federal. When the property was transferred to Federal in 2021, Federal acquired it with the same knowledge that HH Sheikh Tahnoon possessed. At the time that title to the Units was registered, Federal had that knowledge. Federal continues to possess that knowledge to the present time. While I accept that Mr Saad did not acquire actual knowledge in the same way as HH Sheikh Tahnoon, that does not assist Federal. On the application of principles set out in *Meridian*,[54] HH Sheikh Tahnoon's knowledge was attributed to the company.

75. I find that Federal had actual knowledge that Units 2701, 1307, 1315 and 914 had not been sold to HH Sheikh Tahnoon under the Aldar Sale Contract. Federal's conduct in registering the four units in its own name was sufficient to give rise to an equitable obligation of the type contemplated by section 24(f) of the Real Property Regulations. That being so, Federal was (at the time that it registered the Units in its name) holding the Units as a constructive trustee for those who had acquired them. As a matter of law, it is bound to restore ownership to those persons.[55]

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[53] The "*special assumption*" conditions were that "*the land upon which the subject property has been constructed upon consists of raw land and there are no buildings constructed upon it*". In addition, the valuer "*assumed that the land [had] permission to develop a residential property comprising a total Built Up area of 1,076,380 sq ft (as per the subject property)*". The valuer's opinion of market value on that special assumption disregarded any demolition costs that would be required to return the land to bare land.
[54] *Meridian Global Funds Management Asia Ltd v Securities Commission* [1995] 3 NZLR 7 (PC).
[55] See paragraph 60 above.

(a) Federal's claim against Ms Rawafid

76. Federal's claim against Ms Rawafid relates to Unit 2701. There are two remaining issues with which I must deal in relation to that Unit. They are interrelated:

    a. The first concerns the ownership claims, and whether primacy should be given to the 2007 Agreement into which Mr Ausama entered or the 2014 Agreement, to which Ms Rawafid was a party. (The "**Ownership Issue**".)

    b. The second is whether payment was made by Ms Rawafid and/or Mr Ausama and, if not, whether that prevents Unit 2701 being registered in one, or both, of their names. (The "**Payment Issue**".)

(b) The Ownership Issue

77. Ms Rawafid's and/or Mr Ausama's ownership claims rest on two sale and purchase agreements into which Luxury Real Estate entered with each of them:

    a. The first was the 2007 Agreement. This agreement was signed on behalf of Luxury Real Estate by its Chairman, Dr Wisam and by Mr Ausama on his own behalf. Although the agreement was dated 19 November 2007, Mr Ausama gave evidence that it was not signed until 2012.

    b. The second was with Ms Rawafid. Due to the risk of significant financial difficulties faced by Luxury Real Estate in 2014, Mr Ausama procured Luxury Real Estate to enter into a sale and purchase agreement with Ms Rawafid (the 2014 Agreement). The 2014 Agreement was dated 19 November 2007 but signed on 28 March 2014. [56] From the date of execution of the 2014 Agreement, Ms Rawafid was held out as the owner of Unit 2701.

78. Since HH Sheikh Tahnoon acquired property under the Aldar Sale Agreement (in 2014), Federal has dealt with Ms Rawafid on the basis that she is the occupier of the Unit. She has also received service invoices from Federal.

79. After Mr Ausama and Ms Rawafid separated, Mr Ausama sought to rely on the 2007 Agreement to demonstrate that he owned the Unit. Ultimately, that issue was aired in a

[56] While no date appears on the attestation clause of the agreement between Luxury Real Estate and Ms Ibrahim, one of the annexures to the agreement (Annex D) was executed on 28 March 2014. Annex D was the "*Master Community Declaration*".

proceeding before the Abu Dhabi mainland courts in which property issues arising out of their separation were determined (the "**Marital Property Judgment**").[57]

80. The Abu Dhabi Court found that Unit 2701 was the property of Mr Ausama and Ms Rawafid jointly and should be sold, with the proceeds being divided equally. Although Mr Ausama and Ms Rawafid rely on the Marital Property Judgment to support their claims of ownership, Federal was not a party to that litigation. As a result, it cannot be bound by that decision.

81. The relevance of the Marital Property Judgment lies in the fact that Mr Ausama and Ms Rawafid now advance their counterclaim based on ownership of the Unit on a common basis, which reflects the decision made by the mainland Court.

82. My impression is that Mr Ausama was someone who (in the period between 2007 and 2014) would determine the path that he wished to take to achieve a business end without worrying too much about the niceties of any regulatory requirements. While I am satisfied that Mr Ausama never acted intentionally to break any law, he did not take care to ensure that all legal obligations were met. The way in which Mr Ausama sought to re-characterise the sale and purchase arrangements with Luxury Real Estate, so that his wife effectively protected him from liability to a third party, and his intention to have the property revert back to him if those eventualities did not occur, provide useful examples of his lack of interest in complying with technical legal requirements.

83. Mr Ausama altered the arrangements to protect himself. Given their joint interest in the unit, he also protected Ms Rawafid's interest. Given the commonality of their interest in Unit 2701, I do not consider it is necessary to resolve the question whether the first or second agreement should be given effect. Subject to my finding on the Payment Issue, I consider that any relief should be given jointly in favour of both Ms Rawafid and Mr Ausama to reflect the outcome of the Marital Property Judgment.

(c) The Payment Issue

84. Federal asserts that there is no evidence that Mr Ausama and/or Ms Rawafid paid the full purchase price to acquire Unit 2701 from Luxury Real Estate. Federal claims that Unit 2701 can only be transferred to Mr Ausama/Ms Rawafid if it can be proved affirmatively that payment was made for the unit.

85. I am satisfied that Mr Saad honestly believed that it was necessary for each of the "purchasers" to prove to his satisfaction the existence of both a valid sale and purchase agreement and payment before Federal should take steps to transfer the property.

[57] Case No. 92/2022, 7 September 2023, Abu Dhabi Judicial Department Court for Family, Civil & Administrative Cases -B – First Civil Circuit.

However, in my view, it was unnecessary for either Mr Ausama or Ms Rawafid to prove to Federal that they paid the purchase price to Luxury Real Estate.

86. Under the Aldar Sale Contract and (what I have inferred to be) the Luxury Sale Contract, Unit 2701 was not transferred to HH Sheikh Tahnoon. Thus, HH Sheikh Tahnoon never received that unit as his property. In that situation, Unit 2701 remained the property of Mr Ausama and/or Ms Rawafid, with any questions involving outstanding payment of the purchase price to be resolved between Luxury Real Estate and them.

87. While it is understandable that Mr Saad, in light of the mainland Abu Dhabi laws in place both at the time that Federal was registered as proprietor of Unit 2701 and when each of the present proceedings was commenced,[58] believed that Federal had to be satisfied that the purchase price had been paid, that position does not pertain now that the relevant land registration scheme is that of the ADGM. Federal had actual knowledge, by way of the rules of attribution, that Unit 2701 had not been transferred to it from HH Sheikh Tahnoon. Having registered the property in its own name, knowing that it was never transferred to HH Sheikh Tahnoon as an "unsold unit", under ADGM law it holds the property as a constructive trustee and must restore it to the true owner.

88. If I were wrong on that point, I consider briefly whether the evidence does establish that payment was made to Luxury Real Estate for Unit 2701. It must be said that the evidence is both incomplete and unsatisfactory. This is due to the lack of any primary records of direct payments and Mr Ausama's insistence that amounts due to him over a period of time should be allocated to the payment price.[59]

89. Had Mr Ausama's evidence stood alone, I would not have been prepared to act on it. However, Luxury Real Estate's external consultant, Mr Osama Al Issa ("**Mr Al Issa**"), gave evidence to confirm that he had satisfied himself, contemporaneously, that the Luxury Real Estate's current account statement was accurate and Mr Ausama was due payments that were transferred as consideration for Unit 2701. Mr Al Issa, a qualified accountant and auditor, summarised his engagement with Luxury Real Estate. He said, in evidence, that:

> "*I was the accountant supervisor. I made – we agreed on supervising their accounts, booking, and representing those accounts to the external auditor, which was Talal Abu Ghazaleh.*"

90. In a written witness statement dated 19 March 2025, Mr Al Issa confirmed that the amount of AED 5,384,844.49 was deducted from Mr Ausama's current account as part of his financial settlement with Luxury Real Estate. The "*Luxury Real Estate General Ledger*" attached to Mr Al Issa's witness statement shows that this amount was allocated against Unit 2701. Mr Ausama's evidence was that the entire purchase price was paid and there

[58] See paragraphs 41 and 43 above.
[59] See paragraphs 22–25 above.

are no moneys outstanding. While he produced a statement of account from Luxury Real Estate to that effect, its accuracy was not accepted by Federal. Nevertheless, on the combined weight of Mr Ausama's and Mr Al Issa's evidence, I would have found that the purchase price had been paid.

(d) The Counterclaim

91. Ms Rawafid and Mr Ausama jointly claim against Federal for orders that would have the effect of enabling the title to Unit 2701 to be registered in their joint names, free from any encumbrances. They also seek costs.

92. There are three other matters contained in the counterclaim on which it is necessary to comment briefly. The first concerns a reservation of "*their right"* to seek specific non-party discovery from HH Sheikh Tahnoon. The second involves the possibility of requiring HH Sheikh Tahnoon to be compelled to give a witness statement. Third, they reserve "*their right*" to file additional claims.

93. I deal with those three points as follows:

a. No attempt was made to have the non-party discovery part of the counterclaim determined before the trial began on 5 May 2025. Nor was any attempt made to press this issue before I reserved judgment on 9 May 2025. It is now too late to pursue an intended application of this type. I decline to make any order on it.

b. The same reasons apply equally to the possibility of HH Sheikh Tahnoon being compelled to give evidence. The trial has been completed. It would be futile to make any further direction as to evidence because I am determining all outstanding substantive issues in this judgment.

c. The opportunity to raise additional claims was present before the trial began but none were pursued. The law requires a party to advance all claims available to it by the time a proceeding is tried. Only in special circumstances will a party be allowed to reopen a dispute based on a ground that could have been advanced, but which was not. That principle of English law goes back as far as 1843.[60] In *Johnson v Gore Wood & Co (A Firm)*, Lord Bingham of Cornhill described the underlying public interest for this form of estoppel as being "*that there should be finality in litigation and that a party should not be twice vexed in the same matter*".[61] My decision will finally determine this litigation.

94. The primary relief sought on the counterclaim is an order requiring Federal to facilitate registration of Unit 2701 in the names of Ms Rawafid and Mr Ausama. As I have held that

[60] *Henderson v Henderson* (1843) 67 ER 313, per Wigram V-C.
[61] *Johnson v Gore Wood & Co (A Firm)* [2002] 2 AC 1 (HL), at 31.

Federal's claim to title fails, an order must be made to reflect that fact. The transfer shall be made into the names of Ms Rawafid and Mr Ausama on the basis that the title is free from any encumbrances, charges or third-party claims. However, Ms Rawafid and Mr Ausama remain liable for any outstanding service charges or utility charges properly incurred by them in relation Unit 2701. For the avoidance of doubt, questions relating to disputed outstanding service charges or utility charges do not fall within the scope of this judgment. A remaining point involves the extent (if any) to which any contribution should be made by Ms Rawafid and Mr Ausama to the costs of registering the title to Unit 2701 in their joint names. Such costs would have been payable had registration been effected at DMT but there is a difference between the amount of fees that would have been paid to DMT and those which are payable to the ADGM authorities. That is something with which I deal (more for convenience than principle) in my comments on costs.

95. No specific claim for damages or compensation has been made against Federal. However, Ms Rawafid and Mr Ausama, if successful, seek an order requiring Federal to meet all of their legal costs related to this proceeding. I shall be reserving all questions of costs, so I make no comment on this aspect of the counterclaim.

Federal Properties Ltd v Samarraie **(ADGMCFI 2024-047)**

(a) Federal's claim against Mr Samarraie

96. Mr Samarraie's position as the person who acquired Units 1307 and 1315 from Luxury Real Estate is not in issue. Federal accepts that he entered into sale and purchase agreements with Luxury Real Estate on 9 August 2012. Further, it accepts that those transactions were conducted at arm's length.

97. The principal issue for Federal has always revolved around payment of the purchase price. Mr Samarraie's evidence was that the funds were paid in cash.[62] Some concern about the veracity of that evidence came from Mr Samarraie's "clarification" in his oral evidence that the cash was paid in an unspecified number of tranches, as opposed to his written evidence that it was paid in cash on the one day.

98. However, Mr Samarraie is in the same position as Mr Ausama and Ms Rawafid in respect of the need for proof of payment. Mr Samarraie's units were not transferred to HH Sheikh Tahnoon under either the Aldar Sale Contract or the Luxury Sale Contract. That being so, any question of unpaid purchase price arises as between Luxury Real Estate and Mr Samarraie. It is not open for Federal to defeat Mr Samarraie's interest in Units 1307 and 1315 by suggesting payment has not been made.

[62] See paragraph 14.d above.

99. As with Unit 2701, I deal briefly with proof of payment in case I were wrong on the prior point. On balance, I would have accepted Mr Samarraie's evidence that the funds were paid in cash. Notwithstanding the amounts involved, the mode of payment appears to have been not uncommon in the United Arab Emirates at the relevant time. Further, Mr Samarraie's business background suggests that this is an issue on which he would be unlikely to lie.

(b) The Counterclaim

100. Mr Samarraie's counterclaim is primarily directed to securing the transfer of title from Federal to himself, in respect of both Units 1307 and 1315. It follows from what I have determined on Federal's claim, that the titles shall be transferred into the name of Mr Samarraie on the basis that those titles are free from any encumbrances, charges or third-party claims. However, Mr Samarraie remains liable for any outstanding service charges or utility charges properly incurred by him in relation to Units 1307 and 1315. For the avoidance of doubt, disputed questions relating to outstanding service charges or utility charges do not fall within the scope of this judgment. The question whether there should be an adjustment in respect of fees payable to register the two units into Mr Samarraie's name will be addressed in the same way as the issue arises in respect of Ms Rawafid and Mr Ausama.[63]

101. Mr Samarraie also seeks compensation from Federal "*for all losses and damages suffered*" due to its alleged breaches of duties to Mr Samarraie. The short point is that no evidence has been directed to the compensation issue. The counterclaim fails on that ground. Mr Samarraie also seeks his legal costs of the proceedings which are reserved.

***Federal Properties Ltd v Z Ibraham* (ADGMCFI 2024-154)**

(a) Federal's claim against Mr Zaid

102. The circumstances in which Mr Zaid acquired Unit 914 proved difficult to unravel. Initially, Luxury Real Estate sold Unit 914 to Mr Mahmoud in 2008, under an executed sale and purchase agreement. Mr Mahmoud had committed to a payment plan requiring the purchase price to be paid in nine instalments. However, after three payments had been made, Mr Mahmoud was unable to continue. A balance of AED 1,019,898.75 was owing to Luxury Real Estate at that time.

103. As Mr Mahmoud was unable to pay and was having difficulty selling Unit 914, Mr Ausama offered to purchase the unit from Mr Mahmoud for his son. A sale and purchase agreement dated 10 September 2014 (a mere 12 days before the Aldar Sale Contract was entered into on 22 September 2014) was executed and a memorandum of understanding between

[63] See paragraph 94 above.

Mr Mahmoud and Mr Zaid dated 23 November 2014 came into existence. Under an assignment agreement between Mr Mahmoud, Mr Zaid and Luxury Real Estate dated 24 November 2014 and a transfer of ownership document signed by Mr Mahmoud on the same day, transfer of the unit to Mr Zaid was completed.

104. Unit 914 was not one of those characterised as "unsold" and transferred to HH Sheikh Tahnoon. The relevant parties who might otherwise have been involved in any dispute over payment are Mr Zaid, Mr Ausama, Mr Mahmoud and Luxury Real Estate. However, because the property never passed to HH Sheikh Tahnoon, Federal is not entitled to challenge on the grounds of non-payment.

105. I consider, however, the state of the evidence on actual payment in case that decision is wrong. Mr Ausama gave evidence that he paid the balance of the purchase price to Luxury Real Estate by way of set-off from other service benefits and pending salaries to which he was entitled as CEO. The best corroborating evidence comes from an expert report provided by Mr Adel Othman Al Amoudy, who was appointed by an Abu Dhabi Court in the context of a separate proceeding dealing with Unit 914.[64] Mr Al Amoudy's report of 26 December 2019 confirmed that payment had been made.

106. Standing alone, I would not have accepted Mr Ausama's evidence of payment of the balance owing by Mr Mahmoud to Luxury Real Estate. In short, the evidence given solely by Mr Ausama did not satisfy me, on a balance of probabilities, that the payment was made. However, the independent report prepared for the Abu Dhabi proceedings provides sufficient weight for the scales to be tipped in favour of a finding that payment was made.

(b) The Counterclaim

107. On his counterclaim, Mr Zaid seeks the same relief as Mr Samarraie. For the reasons I have given in respect of Mr Samarraie, Mr Zaid's counterclaim will be determined in the same way.[65]

Costs

108. Costs of the proceedings are reserved. The general rule is that costs follow the outcome of a proceeding. In this case, that would mean an order for costs should be made against Federal in favour of each of the three defendants and the counterclaimants should be awarded costs on their counterclaims. However, I will defer my decision on costs (both as to liability and quantum) pending receipt of submissions from the parties. Having considered those submissions, I will determine costs on a standard basis, to be summarily

[64] Abu Dhabi Judicial Department Commercial Appeal Case No. 1586/2019 (an appeal to Case No. 291/2018), filed by Dr Wisam against (among others) Luxury Real Estate and Mr Ausama.
[65] See paragraphs 100 and 101 above.

assessed unless otherwise directed. If any party seeks an oral hearing on the question of costs, I will determine whether one is necessary having regard to the totality of the submissions received.

109. I direct that submissions on costs be filed and served as follows:

    a. Each of the defendants/ counterclaimants shall file and serve costs submissions by 4.00 pm on 24 July 2025.

    b. Federal shall file and serve its costs submissions by 4.00 pm on 14 August 2025.

110. In preparing submissions on costs, I ask counsel for the parties to take account of the following points:

    a. Each of the three proceedings were being case managed separately until all parties agreed that they be heard together at the case management conferences held on 6 February 2025.

    b. A joint trial was held which avoided the need for the parties to incur separate costs in relation to the three proceedings. This point primarily affects Federal (as the Claimant in all three cases) and Mr Samarraie and Mr Zaid (who had the same legal representative in their respective cases).

    c. Ms Bejoy has represented both Mr Samarraie and Mr Zaid throughout. I will need a breakdown in terms of costs to reflect an apportionment as between those parties.

111. As mentioned earlier,[66] there remains an issue as to whether the counterclaimants should make any contribution for the costs for having their units registered under the ADGM regime. In post-hearing written submissions, the parties addressed any differences between the fee structures used, at applicable times, by DMT and ADGM. One option is to make a distinct determination for contribution based strictly on those differences. The other is to treat this aspect as if it were part of the question of costs and to make any necessary adjustments (i.e. set-off) in that context. I prefer the latter approach. It has an advantage of simplicity and will enable registration of the titles to be effected immediately by Federal with any reimbursement being made subsequently. Accordingly, this issue should be addressed in submissions on costs. Out of an abundance of caution, I reserve this issue as well as costs.

[66] See paragraph 94 above.

Decision

112. For the above reasons, I will make orders to give effect to my decision as set out in the schedules to this judgment.

Issued by:

Linda Fitz-Alan
Registrar, ADGM Courts
4 July 2025

SCHEDULE A
DECISION IN CASE NO. ADGMCFI-2023-249

1. The Claim is dismissed[67].

2. The Counterclaim is granted on the terms set out below.

3. The title deed issued to the Claimant[68] for residential unit 2701, Floor No. 27, Building No. PRP70407, Plot No. C8, Sector RS6, Al Reem Island (the "**Unit**") was issued in error.

4. The Claimant shall undertake all steps necessary to effect with the ADGM Registration Authority a transfer of the title deed for the Unit into the names of the Counterclaimants.

5. The Counterclaimants shall cooperate with the Claimant and provide such documents or information or take such steps as may be required by them in order to effect the transfer of the title deed for the Unit into their names.

6. For the purpose of paragraphs 4 and 5:

    a. the Claimant shall pay to the ADGM Registration Authority any registration or other applicable fees to effect the transfer of the title deed into the name of the Counterclaimants without prejudice to the Claimant including any claim for those fees in its costs submissions to be filed in accordance with paragraph 10;

    b. the Claimant shall submit to the ADGM Registration Authority the necessary documentation required by it to effect the transfer of the title deeds into the names of the Counterclaimants, including in relation to any 'no objection certificate';

    c. transfer of the Unit to the Counterclaimants is to be made free of any encumbrances, charges or third-party claims save that the Counterclaimants remains liable for any outstanding service charges or utility charges properly incurred by them in relation to the Unit; and

    d. the Counterclaimants are to be registered as tenants in common holding equal shares in relation to the Unit in accordance with section 34 of the Real Property Regulations 2024.

7. The parties have liberty to apply for any further orders or directions to give effect to paragraphs 4, 5 and/or 6.

[67] Paragraph 1 is subject to paragraph 11 and the Court's decision on costs.
[68] A reference to "the Claimant" in this Order means the Claimant to the Claim and the First Counterdefendant to the Counterclaim.

8. All other counterclaims are dismissed[69].

9. By **4.00 pm on 24 July 2025**:

   a. the Counterclaimants[70] shall file and serve their costs submissions on both liability and quantum on the basis that any costs to be awarded are to be on the standard basis and summarily assessed; and

   b. the Second Counterdefendant has permission to file and serve any costs submissions if it intends to claim its costs of the proceedings.

10. By **4.00 pm 14 August 2025**, the Claimant shall file and serve its cost submissions in reply.

11. Costs are reserved pending the filing of the parties' costs submissions.

12. General liberty to apply.

[69] Paragraph 8 is subject to paragraph 11 and the Court's decision on costs.

[70] A reference to "the Counterclaimants" in this paragraph means the Counterclaimants to the Claim and the Defendant to the Claim.

SCHEDULE B
DECISION IN CASE NO. ADGMCFI-2024-047

1. The Claim is dismissed[71].

2. The Counterclaim is granted on the terms set out below.

3. The title deeds issued to the Claimant[72] for the following residential units were issued in error:

   a. 1307, Floor No. 13, Building No. PRP70407, Plot No. C8, Sector RS6, Al Reem Island ("**Unit 1307**"); and

   b. 1315, Floor No. 13, Building No. PRP70407, Plot No. C8, Sector RS6, Al Reem Island ("**Unit 1315**").

4. The Claimant shall undertake all necessary steps to be undertaken by it in order to effect with the ADGM Registration Authority a transfer of the title deeds for Unit 1307 and Unit 1315 (collectively, the "**Units**") into the name of the Defendant.[73]

5. The Defendant shall cooperate with the Claimant and provide such documents or information or take such steps as may be required by him in order to effect the transfer of the title deeds for the Units into his name.

6. For the purpose of paragraphs 4 and 5, and without limiting those paragraphs:

   a. the Claimant shall pay to the ADGM Registration Authority any registration or other applicable fees to effect the transfer of the title deeds into the name of the Defendant without prejudice to the Claimant including any claim for those fees in its costs submissions to be filed in accordance with paragraph 10;

   b. the Claimant shall submit to the ADGM Registration Authority the necessary documentation required by it to effect the transfer of the title deeds into the name of the Defendant, including in relation to any 'no objection certificate'; and

   c. transfer of the Units to the Defendant is to be made free of any encumbrances, charges or third-party claims save that the Defendant remains liable for any

[71] Paragraph 1 is subject to paragraph 11 and the Court's decision on costs.
[72] A reference to "the Claimant" in this Order means the Claimant to the Claim and the Counterdefendant to the Counterclaim.
[73] A reference to "the Defendant" in this Order means the Defendant to the Claim and the Counterclaimant to the Counterclaim.

outstanding service charges or utility charges properly incurred by him in relation to the Units.

7. The parties have liberty to apply for any further orders or directions to give effect to paragraphs 4, 5 and/or 6.

8. All other counterclaims are dismissed[74].

9. By **4.00 pm on 24 July 2025**, the Defendant shall file and serve his costs submissions on both liability and quantum on the basis that any costs to be awarded are to be on the standard basis and summarily assessed.

10. By **4.00 pm on 14 August 2025**, the Claimant shall file and serve its cost submissions in reply.

11. Costs are reserved pending the filing of the parties' costs submissions.

12. General liberty to apply.

[74] Paragraph 8 is subject to paragraph 11 and the Court's decision on costs.

SCHEDULE C
DECISION IN CASE NO. ADGMCFI-2024-154

1. The Claim is dismissed[75].

2. The Counterclaim is granted on the terms set out below.

3. The title deed issued to the Claimant[76] for residential unit 914, Floor No 9, Building No. PRP70407, Plot No. C8, Sector RS6, Al Reem Island (the "**Unit**") was issued in error.

4. The Claimant shall undertake all necessary steps to be undertaken by it in order to effect with the ADGM Registration Authority a transfer of the title deed for the Unit into the name of the Defendant.[77]

5. The Defendant shall cooperate with the Claimant and provide such documents or information or take such steps as may be required by him in order to effect the transfer of the title deed for the Unit into his name.

6. For the purpose of paragraphs 4 and 5, and without limiting those paragraphs:

    a. the Claimant shall pay to the ADGM Registration Authority any registration or other applicable fees to effect the transfer of the title deed into the name of the Defendant without prejudice to the Claimant including any claim for those fees in its costs submissions to be filed in accordance with paragraph 10;

    b. the Claimant shall submit to the ADGM Registration Authority the necessary documentation required by it to effect the transfer of the title deed into the name of the Defendant, including in relation to any 'no objection certificate'; and

    c. transfer of the Unit to the Defendant is to be made free of any encumbrances, charges or third-party claims save that the Defendant remains liable for any outstanding service charges or utility charges properly incurred by him in relation to the Unit.

7. The parties have liberty to apply for any further orders or directions to give effect to paragraphs 4, 5 and/or 6.

8. All other counterclaims are dismissed[78].

[75] Paragraph 1 is subject to paragraph 11 and the Court's decision on costs.
[76] A reference to "the Claimant" in this Order means the Claimant to the Claim and the Counterdefendant to the Counterclaim.
[77] A reference to "the Defendant" in this Order means the Defendant to the Claim and the Counterclaimant to the Counterclaim.
[78] Paragraph 8 is subject to paragraph 11 and the Court's decision on costs.

9. By **4.00 pm on 24 July 2025**, the Defendant shall file and serve his costs submissions on both liability and quantum on the basis that any costs to be awarded are to be on the standard basis and summarily assessed.

10. By **4.00 pm on 14 August 2025**, the Claimant shall file and serve its cost submissions in reply.

11. Costs are reserved pending the filing of the parties' costs submissions.

12. General liberty to apply.