When Blockchain Whitepapers Are Not Automatic Representations of Fact:
da Silveira, Virgilio Tarrago and another v Hashstacs Pte Ltd and another
[2025] SGCA(I) 3

I. Executive Summary

This appeal addresses key issues in the law of misrepresentation arising from a blockchain project whitepaper and a product-launch website. When do forward-looking statements in a blockchain whitepaper amount to actionable representations of fact in the tort of deceit? Additionally, who in a multi-entity corporate structure should be treated as the legal "maker" of those statements? In *da Silveira, Virgilio Tarrago and another v Hashstacs Pte Ltd and another* [2025] SGCA(I) 3, the Singapore Court of Appeal ("**CA**") addressed these questions.

The dispute arose from claims of, among others, fraudulent and negligent misrepresentation made against Hashstacs Pte Ltd ("**Hashstacs (SG)**") over statements in a whitepaper and product-launch website concerning the "**STACS Protocol**" blockchain project. Virgilio Tarrago da Silveira ("**Mr da Silveira**") claimed the statements induced him to acquire "**STACS Tokens**", which were the STACS Protocol's utility tokens. These STACS Tokens later lost utility when they were swapped for new "**Gate Tokens**" and the project pivoted to a new "GATENet" platform.

In dismissing the misrepresentation claims, the CA held that Hashstacs (SG)'s role in editing and uploading the materials did not make it the representor as it did not adopt the statements as its own. Additionally, the statements merely reflected the ambitions and aspirations of the publishers, and were thus not representations of present fact or present intention capable of being true or false at the time they were made. In explaining that actionable representations of fact must concern existing or pre-existing facts, the CA distinguished these from forward-looking promises of future performance. The CA cautioned that there should be a clear distinction between enforceable contractual duties as to the future, and misrepresentations of past and present fact in the tort of deceit.

II. Background Facts

The key parties were as follows:

(a) The first appellant, Mr da Silveira, was a British citizen residing in Cyprus, and the sole director and shareholder of the second appellant, Munchetty Investments Ltd ("**Munchetty**"), a special purpose vehicle which Mr da Silveira incorporated in Cyprus. Mr da Silveira and Munchetty will be referred to collectively as the "**Investors**" in this case summary.

(b) The first respondent was Hashstacs (SG), a Singapore-incorporated company and a wholly-owned subsidiary of Hashstacs Inc ("**Hashstacs (BVI)**"), a British Virgin Islander (BVI) entity. Hashstacs (BVI) was incorporated as a joint venture entity pursuant to an agreement between a Gibraltarian entity, Gibraltar Stock Exchange Group Ltd ("**GSX**"), and a blockchain development company and a Hong Kong publicly-listed company (collectively, the "**JV Partners**"), with GSX being the majority shareholder in Hashstacs (BVI).

(c) The second respondent ("**Mr Soh**") was the director of Hashstacs SG.

Sometime around March-April 2019, Mr da Silveira came across the following documents:

(a) a whitepaper published in relation to a blockchain technology project, the "STACS Protocol", being the third in a series of such whitepapers (the "**Third Whitepaper**" and the statements therein the alleged "**Whitepaper Representations**"); and

(b) the product-launching website of the STACS Protocol (the "**STACS Website**"), on which employees of Hashstacs (SG) uploaded and hosted the Third Whitepaper (the statements therein the alleged "**Website Representations**").

The Whitepaper Representations were pleaded to bear the following meanings:

(a) The **entire** STACS Protocol Ecosystem will be powered by the STACS Token;
(b) Verified Parties [*sic*, the Third Whitepaper uses "Verified Partners"] (i.e. VPs) on the STACS Protocol would need to stake the STACS Token;
(c) Transaction Fees on Global STACS are based on the Gas Price Concept (i.e. payments for transaction fees would be made on-chain, using the STACS Token, intended to be used as the sole embedded common medium of exchange for the settlement of all transactions among all its user [*sic*], ie on the STACS Ecosystem);
(d) Transactions on the STACS Protocol Ecosystem (including on any Native STACS, the private blockchain subsection on the STACS Protocol) can be paid directly on chain using the STACS Token, or be invoiced and paid using the STACS Dollar (a stablecoin pegged to Fiat USD), which Hashstacs would convert *via* an open market purchase into STACS Tokens; and
(e) 80% of all Transaction Fees from the STACS Protocol will be used to purchase STACS Token from the open market (i.e. *via* exchanges such as GBX, a Gibraltarian subsidiary of GSX, which operates itself on the same common integrated STACS infrastructure), which would subsequently be distributed to certain nodes within the STACS Ecosystem and/or retained in an "Investor Protection and Governance Fund".

The Website Representations were pleaded to bear the following meanings:
(a) STACS Token is the utility token of the STACS Protocol Ecosystem (as well as the GSX Group);
(b) Transaction fees will be charged for all transactions using the STACS Protocol;
(c) 70% of all transaction fees will be used to purchase STACS Tokens from the open market and shared with Global Nodes and Supernodes as reward; and
(d) 10% will be used to purchase STACS Tokens from the open market and retained in an Investor Protection Governance Fund.

The Third Whitepaper made no mention of Hashstacs (SG): it only listed Hashstacs (BVI) as the author and publisher on the cover page, and presented GSX and Hashstacs (BVI) as the relevant providers of the STACS Protocol. The Third Whitepaper also described the STACS Protocol project as a future design of GSX and Hashstacs (BVI) that was in progress and had yet to be fully rolled out. The Third Whitepaper did not include any express disclaimers that the statements provided were forward-looking only, or that actual outcomes were not guaranteed.

In the first quarter of 2019, the Native STACS was implemented in a limited fashion only, while the Global STACS was never implemented due to regulatory issues. As a result, Mr Cowan, founder and Group Chief Executive Officer of GSX, changed GSX's business model by (among other things) replacing the STACS Protocol project with another project, "**GATENet**", which he claimed to be able to overcome the obstacles faced by the STACS Protocol model. Consequently, there was a one-to-one swap between the old STACS Tokens and the new Gate Tokens. Some time on 27 January 2021, the Gate Tokens were air-dropped to the private wallets of the existing STACS Tokens holders (the "**Token Swap**"), including that of Mr da Silveira's. The result of the Token Swap was that the Transacted STACS Tokens ceased to have any remaining utility going forward.

In November 2020, after a series of purchases and acquisitions, Hashstacs (BVI) was struck off the BVI register of companies, leaving Hashstacs (SG) as the continuing operating entity in the group. Hashstacs (SG) contractually took over Hashstacs (BVI)'s role in providing technological services to GSX in relation to the STACS Protocol.

According to Mr da Silveira, relying on the Whitepaper Representations and Website Representations, he began purchasing STACS Tokens between August to December 2019 (the "**Transacted STACS Tokens**") from GBX and a third-party exchange. He claimed that he then

transferred his legal title to the Transacted STACS Tokens to Munchetty, such that Munchetty held the tokens on trust for him and he retained beneficial ownership over the tokens.

III. Proceedings before the SICC

Before the Singapore International Commercial Court ("**SICC**"), the Investors argued that the Token Swap showed that their pleaded representations were false and fraudulently or negligently made. They claimed that Hashstacs (SG) made fraudulent or negligent misrepresentations, which led Mr da Silveira to purchase the STACS Tokens, and thereafter suffering economic loss as a result of the Token Swap. Hashstacs (SG) countered that the representations were made by Hashstacs (BVI) and/or GSX instead.

The SICC dismissed the Investors' claims *in toto*, entering judgement for Hashstacs (SG) and Mr Soh on all causes of action, including the claims of misrepresentation. Among other findings, the SICC held that (1) Hashstacs (SG) was not the maker of the Whitepaper Representations as the employees of Hashstacs (SG) had edited the Third Whitepaper and published it on the STACS Website on Mr Cowan's instructions, solely for the benefit of Hashstacs (BVI) and GSX, and it was not necessary to consider the Website Representations; and (2) in the alternative, even if Hashstacs (SG) was the maker of the Whitepaper Representations, the claim could still not be proven. The Investors appealed.

IV. Issues on Appeal

The Investors argued on appeal that Hashstacs (SG) was the representor of both the Whitepaper Representations and the Website Representations. Alternatively, it argued that Hashstacs (SG) had approved and adopted the Whitepaper Representations by uploading and hosting them on the STACS Website, which it was said to control, among other indicia of ratification.

The CA dismissed the Investors' claims for two main reasons. *First*, the Investors failed to prove that Hashstacs (SG) was the representor of the Whitepaper Representations, or that Hashstacs (SG) had adopted and ratified the contents of those representations as its own. *Second*, the pleaded representations were not representations of fact, and thus the first ingredient of the tort of deceit was not met.

The CA also took the opportunity to clarify the conceptual distinction between liability for misrepresentation in the tort of deceit and for breach of contract.

A. Hashstacs (SG), by its words or conduct, was not the representor of the Third Whitepaper and Website Representations

The CA reiterated that for the tort of deceit to arise, there must first be a representation of fact made by the defendant through words or conduct, including where the defendant manifestly approves or adopts a third party's representation. The court's inquiry is based on an objective assessment of the proper meaning that is conveyed by a representation when understood by a reasonable person in the position of the representee, considering the totality of a defendant's words or conduct, in the full context and circumstances of their making. The same inquiry is also applied by the court when determining whether the silence or non-disclosure of the defendant, in the circumstances, can be read as making an implied positive representation of fact, in its full context, i.e. asking how a reasonable person would view the silence in the circumstances.

The next question here would be whether a reasonable person would have considered that Hashstacs (SG)'s words or conduct, in the totality of the circumstances, rendered Hashstacs (SG) a maker of those representations of fact (in that the facts satisfied the abovementioned reasonable person test).

The CA noted that while Hashstacs (SG)'s employees may have directly uploaded the Whitepaper Representations onto the STACS Website, it was Hashstacs (BVI) and GSX (through Hashstacs

(BVI)) – not Hashstacs (SG) – which controlled the contents on the STACS Website. Given that, the CA held that a reasonable person would not consider that Hashstacs (SG) made or adopted the alleged misrepresentation of facts.

It is not the law that *any* involvement in the process of the making of a representation would make any knowingly involved party – however ancillary, subordinated, or concomitant– into a representor who is potentially liable in the tort of deceit, should the representation prove to be false. Otherwise, it would mean that a secretary and mailroom employee, acting on the direction of the company's director by typing and printing publicity materials, and sending them out, respectively, would also be considered representors of the publicity materials, solely on account of their intentional involvement in *some* part of the process of producing and delivering them, with nothing more. A reasonable person would not regard the intermediaries participating in the workflow at different stages of a publication to be makers of the representations, merely because they were involved, somehow or other, in their preparation.

Rather, a reasonable onlooker, in appraising the words or conduct of a putative representor, would bear in mind the common-sensical considerations of the role played by the putative representor. In particular, the degree of authorial and editorial influence over a representation's contents, and the degree of control exercised over the process of publication, would be relevant considerations.

In this case, given that:

(a) the contents of the Third Whitepaper made no mention of Hashstacs (SG);
(b) Hashstacs (BVI) was named on the cover page as the publisher;
(c) it was written from the perspective of GSX as the persona;
(d) it expressly identified GSX and Hashstacs (BVI) as the service providers in relation to the STACS Protocol, who were in a position to fulfil the Whitepaper Representations; and
(e) the unchallenged evidence of Mr Soh and Mr Cowan established that Hashstacs (SG)'s only roles in relation to the Third Whitepaper had consisted of its (i) editing the Third Whitepaper, on the instructions of Mr Cowan, for the benefit of Hashstacs (BVI) and GSX, not for its own ends; and (ii) uploading it onto the STACS Website, which was controlled by Hashstacs (BVI), not Hashstacs (SG),

a reasonable person would conclude that it was Hashstacs (BVI), not Hashstacs (SG), which controlled the STACS Website in the substantive sense of having control over its contents (as opposed to which entity's employees directly performed the technical acts required to upload materials onto the STACS Website).

With regard to the Website Representations, the CA held that the only evidence that the Investors relied on to show the contents of the STACS Website – a single screenshot from a Telegram group chat that contained the wording of the representations but not their context – was not a sufficient evidential basis to show that Hashstacs (SG) was the maker of the Website Representations or had adopted their contents as its own.

Hence, the CA held that the Investors failed to show that Hashstacs (SG), by its words or conduct, made or adopted the pleaded representations.

B. The Representations were statements which reflected the representor's then-vision concerning the future and, accordingly, were not representations of fact giving rise to an actionable tort

The first element of the tort of deceit additionally requires that the alleged statement must amount to a representation of fact, i.e. a statement of past or present fact capable of being objectively true or false at the time it was made. The Investors argued that the pleaded representations were not

statements as to the future, but an inducement to investors to make an investment based on present characteristics held out to them regarding the features of the STACS Tokens and how the STACS Protocol was to operate.

The CA highlighted that a representation of "fact" requires that the representation be one of past or present fact, capable of being objectively true or false at the time that it was made. It does not include statements as to future state of affairs and promises regarding one's future conduct, as such statements are merely an expression of one's belief as to what will happen in the future. While a representation about a future fact may be capable of giving rise to liability in contract law, it is incapable of forming the basis for tortious liability in deceit.

In ascertaining whether the source of the representation conveyed the pleaded meaning of the representation, the test is an objective one. The inquiry was whether the representations in the Third Whitepaper could be objectively regarded as having conveyed the pleaded meanings of the representations as alleged by the Investors, based on how a reasonable person would regard their act of publishing the Third Whitepaper's contents. On this basis, the CA concluded that only three of the five pleaded Whitepaper Representations could properly be regarded as having been made (the "**Representations**").

Nonetheless, the CA held that none of the Representations were representations of fact capable of forming the subject-matter of a valid action in deceit. They, on their face, merely represented that certain acts would happen in the future. They envisaged a future project that was in the works but had yet to be finalised or fully rolled out to the public. In other words, the characteristics of the project described within the Third Whitepaper reflected the ambitions and aspirations of the Third Whitepaper's writers: what they envisaged the STACS Protocol to provide in an ideal state of affairs, overlaid with an ambition to bring it to fruition. As such, the Representations were not considered a representation of past or present fact, capable of being made the subject of an action in deceit if they were false at the time they were made.

The CA noted that the SICC had considered that a statement as to the future may implicitly convey a statement as to a present fact, including the representor's present intention to bring about a future state of things. However, the SICC's application of this approach came close to holding a representation to be actionable in a manner analogous to a contractual promise as to the future. Insofar as a representation as to the future could be actionable as a representation of a then-present intention, this principle cannot be taken too far. The mere fact that an expressed intention is not eventually carried into effect is little evidence of the original non-existence of the intention, for there may have been a genuine change of heart from the representor.

This was precisely what happened in this present case, when the STACS Protocol project was amended to GATENet and the Token Swap was effected to replace STACS Tokens with Gate Tokens. Here, the SICC went beyond a finding that the Representations were actionable as representations of fact of a state of mind present solely at the time they were made by applying a prior representation to a subsequent state of affairs. Specifically, the SICC considered whether the Representations would be adhered to even after the Token Swap was effected and the STACS Protocol was replaced with GATENet. The CA emphasised that there should be a conceptual distinction between misrepresentations of past or present fact and contractual obligations as to future performance. The SICC's approach would risk blurring this distinction.

With regard to the Website Representations, apart from the Investors' failure to adduce context to the screenshot to prove the representations' objective meaning, the text of the representations showed that that they pertained only to future conduct and were thus not representations of fact.

Hence, the CA dismissed the Investor's misrepresentation claims against Hashstacs (SG) as the Representations were not representations of fact.

V. Lessons Learnt

This case offers a cautionary reminder to commercial readers that whitepapers often articulate the publisher's vision or ambitions for a project and will not necessarily be treated as representations of fact in law. While such documents are still expected to reflect the publisher's genuine intention at the time of publication, their future-oriented language and aspirational tone may mean that disappointed expectations are more appropriately addressed through the law of contract rather than through the tort of deceit.

For lawyers, the decision also clarifies that statements about the future are actionable in deceit only to the extent that they impliedly misrepresent a present state of mind, i.e. that the representor already lacks any genuine intention to perform and not simply because the project later fails or is altered. This preserves the conceptual distinction between liability for misrepresentation in the tort of deceit and for breach of contract.

Written by: Quek Hui En Aretha, 4th-Year LLB student, Singapore Management University Yong Pung How School of Law.
Reviewed by: Ong Ee Ing, Principal Lecturer, Singapore Management University Yong Pung How School of Law