IN THE COURT OF APPEAL OF MALAYSIA

(APPELLATE JURISDICTION)

CRIMINAL APPEAL NO: J-05-411-08/2025

BETWEEN

LWC GOOD SERVICE SDN BHD **APPELLANT**

AND

PUBLIC PROSECUTOR **RESPONDENT**

(In the matter of Criminal Application No: JA-44-48-09/2024 in the High Court of Malaya at Johor Bahru, between Public Prosecutor v Winter Bloom Sdn Bhd & 27 Ors and Shaik Ahmad Nizam bin Shaik Abdullah)

CORAM:

HAJI AZMAN BIN ABDULLAH, JCA

MUNIANDY KANNYAPPAN, JCA

DEAN WAYNE DALY, JCA

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JUDGMENT

I. Introduction

[1] This is an appeal against the decision of the learned Judicial Commissioner of the High Court of Malaya at Johor Bahru delivered on 7 November 2025. By the said decision, the High Court allowed in full the application filed by the Public Prosecutor (the Respondent) under Section 56(1) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (Act 613), ordering the civil forfeiture of all monies seized from twenty-eight (28) named respondents, including the entire standing credit balances in two bank accounts belonging to the 19th Respondent, LWC Good Service Sdn Bhd (the Appellant).

[2] For the record, there are two (2) appeals in this case, one is by the Public Prosecutor against the order of return of the monies to the 19th Respondent and another is by the 19th Respondent against the order of forfeiture of an amount of RM360,000 residing in the Hong Leong Bank Account (HLB), its detail follows in this judgment. In the main is the appeal by the Public Prosecutor for the return of monies residing in the CIMB account of RM139,329.24 and RM863,179.84 residing in the Hong Leong Bank account (HLB).

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[3] The seized accounts belonging to the Appellant were:

(i) Hong Leong Bank Berhad ("HLB") Account No. 18300055795 (HLB5795), maintaining a balance of RM1,223,179.82; and

(ii) CIMB Bank Berhad ("CIMB") Account No. 8605543430 (CIMB3430), maintaining a balance of RM139,329.24.

[4] Following extensive oral and written submissions by learned counsel for the Appellant and the learned Deputy Public Prosecutor (DPP), we rendered a unanimous oral decision allowing the appeal in part in the following specific terms:

(i) The sum of RM139,329.24 maintained in the CIMB account is ordered to be returned to the Appellant;

(ii) The sum of RM863,179.84 maintained in the HLB account is ordered to be returned to the Appellant; and

(iii) The sum of RM360,000.00 maintained in the HLB account is forfeited to the Government of Malaysia.

[5] We now set out our comprehensive grounds of judgment in support of the orders made.

II. Factual Background and Narrative of the Money Trail

[6] The inception of the proceedings arose from an online investment fraud scheme operating under an application known as "*Comoncaps*". On 5 September 2023, Inspector Gelbino Morris lodged a police report (Taman Pelangi Report: 12074/23) under

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Section 4(1) of Act 613, stemming from an initial report (Taman Pelangi Report: 1197/23) lodged by a victim, Siti Noridah Binti Darison, regarding an offence of cheating under Section 420 of the Penal Code.

[7] The predicate investigation carried out by the AMLA Investigating Officer, Inspector Muaizah Binti Muhammud (PP AMLA), revealed that approximately twenty-two (22) victims were lured into investing money via the *Comoncaps* platform under promises of exponential financial yields. The victims were instructed to deposit their investment funds into designated corporate and individual accounts. The total defrauded proceeds identified by the enforcement authorities amounted to approximately RM3,490,153.82.

[8] Utilizing financial forensic tracing, PP AMLA identified that the funds deposited by the victims were routed and dispersed across three structured layers of bank accounts:

(i) First Layer Accounts: Comprising the 1st to 5th Respondents;

(ii) Second Layer Accounts: Comprising the 6th to 12th Respondents; and

(iii) Third Layer Accounts: Comprising the 13th to 28th Respondents, which included the Appellant as the 19th Respondent.

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[9] Between 5 September 2023 and 10 November 2023, 31 freezing orders under Section 44(1) of Act 613 were issued, followed on 30 November 2023 by 31 seizure orders under Section 50(1) of Act 613 against the respective bank accounts.

[10] Within this multi-tiered money trail, the specific factual findings pertaining to the Appellant were as follows:

(i) Monies deposited by victims into the first-layer account of Winter Bloom Sdn Bhd (1st Respondent, Account ABMB1048) and WLEE Concept Sdn Bhd were transferred downstream;

(ii) Between 3 August 2023 and 11 August 2023, the 1st Respondent's account channelled funds through twenty-nine (29) separate transactions totalling RM1,474,368.09 into the account of Liberty Shining Enterprise (7th Respondent, HLB Account No. 1268, being a second-layer account);

(iii) On 4 August 2023, the 7th Respondent executed two (2) discrete transactions into the Appellant's HLB5795 account, amounting to RM200,000.00 and RM160,000.00, representing an aggregate inflow of RM360,000.00;

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(iv) The account holders of both the 1st Respondent and 7th Respondent admitted during investigation that their accounts were controlled and operated as "mule accounts" on the instructions of third-party handlers known as "Jen" and "Kevin".

[11] Before the High Court, the Appellant resisted the forfeiture application by affidavit. The Appellant contended that it operated a legitimate commercial business engaging in cryptocurrency transactions and that the credit balances in its HLB and CIMB accounts derived from legitimate peer-to-peer crypto trades with a counterparty named "David" in exchange for USD250,000.00. The High Court rejected the Appellant's defence *in toto* and ordered the forfeiture of the entire sums of RM1,223,179.82 (HLB) and RM139,329.24 (CIMB).

[12] In its submissions before this Court, learned counsel for the Appellant, mounted a multi-pronged challenge against the decision of the High Court:

(i) First, it was submitted that the predicate offence of cheating under Section 420 of the Penal Code was never legally established on a balance of probabilities. Citing *Dato' Sri Mohd Najib Hj Abd Razak v PP* [2022] 1 CLJ 491, the Appellant argued that the Investigating Officer for the

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predicate offence was not an expert witness under the Evidence Act 1950, thus his opinion, inferences, and conclusions of an offence remains inadmissible. Furthermore, reliance was placed on the complainant Siti Noridah's Section 112 statement, where she merely stated she was "directed" to transfer funds *("saya diarahkan untuk membuat pindahan wang"),* which the Appellant contended negated the vital ingredient of dishonest inducement. Absent proof of the predicate offence, civil forfeiture under Section 56(1) must fail (reference made to *PP v SS Dolphine Marine (M) Sdn Bhd & Ors* [2015] 8 CLJ 1189*; Badan Perhubungan UMNO Negeri Pahang v PP* [2022] 2 CLJ 364).

(ii) Second, the Appellant argued that the bank accounts were active, legitimate commercial trading accounts rather than "mule accounts" or "instrumentalities of an offence." On 4 August 2023, the two questioned inflows of RM360,000.00 were merely incidental transactions within a high-volume day comprising approximately 132 transactions and a closing balance exceeding RM1.87 million.

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(iii) Third, the Appellant invoked the defence of a *bona fide* purchaser for value without notice, contending that the deposits were legitimate consideration received for the lawful sale of 250,000 USDT via the "*imToken*" platform, evidenced by contemporaneous commercial records (Exhibit LWC-4) which went unrebutted by affidavit in reply (reference made to *Ng Hee Thoong & Anor v Public Bank Berhad* [1995] 1 CLJ 609).

(iv) Fourth, relying on the case of *Badan Perhubungan UMNO Negeri Pahang*, at paragraph 92, the Appellant highlighted that as a non-reporting institution under the First Schedule of Act 613, it was under no statutory or common-law duty to interrogate or investigate the provenance of funds utilized by buyers in lawful commercial transactions.

(v) Finally, the Appellant stressed that there was a total absence of evidence connecting the CIMB account to the scam, and that forfeiting the entire HLB balance of RM1,223,179.84 for a localized impugned sum of RM360,000.00 was manifestly disproportionate, warranting appellate intervention pursuant to the settled authority, *Gan Yook Chin & Anor v Lee Ing Chin & Ors* [2004] 4 CLJ 309.

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[13] In response, the learned DPP submitted that the High Court committed no error of fact or law in ordering the complete forfeiture of both accounts. The Respondent emphasised that:

(i) Civil forfeiture under Section 56(1) of Act 613 is an action *in rem* against the property itself, not an *in personam* prosecution requiring a prior criminal conviction under Section 4(1) (reference made to *Noor Ismahanum Mohd Ismail v PP* [2018] 10 CLJ 597; *Liew Ket Boh & Anor v PP* [2024] CLJ 563);

(ii) The standard of proof under Sections 56(4) and 70(1) is the civil standard of a balance of probabilities. Once the prosecution demonstrated the money trail tracing victims' funds through three layers of mule accounts into the Appellant's HLB5795 account, the evidential burden shifted under Section 103 of the Evidence Act 1950 to the Appellant to prove legitimate acquisition on a balance of probabilities;

(iii) The Appellant's cryptocurrency defence was completely unverified: the alleged counterparty "David" was an unidentified individual contacted exclusively via WeChat, and the documents tendered failed to establish any credible link to the actual inflows;

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(iv) The Appellant operated through fictitious corporate arrangements, with registered business premises confirmed by building management to be vacant and not operational; and

(v) Both accounts exhibited highly suspicious operational profiles, opening with zero balances in May 2023 and immediately receiving large inflows from confirmed mule accounts and entities not operational and lacking tax records (such as *Kam Fook Sneakers Enterprise*), demonstrating that the Appellant turned a blind eye and failed to exercise reasonable care or oversight.

III. The Statutory Scheme under Act 613

[14] Section 56 of Act 613 governs the non-conviction-based civil forfeiture of property seized under the Act where there is no prosecution under Section 4(1). The relevant parts of Section 56 provide:

> 56. Forfeiture of property where there is no prosecution
>
> (1) Subject to section 61, where in respect of any property seized under this Act there is no prosecution and no conviction for an offence under subsection 4(1) or a terrorism financing offence, the Public Prosecutor may, before the expiration of twelve months from the date of the seizure, or if there is a freezing order, twelve months from the date of the freezing, apply to a High Court Judge for an order of forfeiture of that property if he is satisfied that such property is -

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(a) an (*offence-related property)* or evidence relating to the commission of such an offence;

(b) terrorist property;

(c) the proceeds of an unlawful activity; or

(d) the instrumentalities of an offence.

(2) The Judge to whom an application is made under subsection (1) shall make an order for the forfeiture of the property if he is satisfied—

(a) that the property is—

(i) an (*offence-related property)* or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;

(ii) terrorist property;

(iii) the proceeds of an unlawful activity; or

(iv) the instrumentalities of an offence; and

(b) that there is no purchaser in good faith for valuable consideration in respect of the property.

...

(4) In determining whether the property is—

(a) an (*offence-related property*) or evidence relating to the commission of an offence under subsection 4(1) or a terrorism financing offence;

(b) terrorist property;

(c) the proceeds of an unlawful activity; or

(d) the instrumentalities of an offence,

the Court shall apply the standard of proof required in civil proceedings.

[15] The standard of proof is explicitly reiterated in Section 70(1) of Act 613, which mandates that any question of fact decided by a court in

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proceedings under the Act shall be determined on a balance of probabilities. This civil standard was unequivocally affirmed by the Federal Court in *PP v Awalludin Sham Bokhari* [2018] 1 CLJ 305.

[16] Under Section 3 of Act 613, **proceeds of an unlawful activity** is defined expansively as:

> any property, or any economic advantage or economic gain from such property, within or outside Malaysia -
>
> (a) which is wholly or partly -
>
> (i) derived or obtained, directly or indirectly, by any person from any unlawful activity;
>
> (ii) derived or obtained from a disposal or other dealings with the property referred to in subparagraph (i); or
>
> (iii) acquired using the property derived or obtained by any person through any disposal or other dealings referred to in subparagraph (i) or (ii); or
>
> (b) which, wholly or partly, due to any circumstances such as its nature, value, location or place of discovery, or to the time, manner or place of its acquisition, or the person from whom it was acquired, or its proximity to other property referred to in subparagraph (a)(i), (ii) or (iii), can be reasonably believed to be property falling within the scope of subparagraph (a)(i), (ii) or (iii);

[17] Furthermore, Section 61(1) and (4) of Act 613 safeguard the rights of third parties claiming an interest in the seized property, requiring proof that the claimant has a legitimate legal interest; acted without participation or collusion; had no knowledge of the unlawful use of the property; and took all reasonable steps to prevent its illegal use.

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IV. Appellate Evaluation of the Grounds of Judgment by the High Court

[18] In forfeiting the entirety of the Appellant's funds in both the HLB and CIMB accounts, the learned Judicial Commissioner relied substantially upon the Court of Appeal authority in *Liew Ket Boh & Anor v PP* [2024] CLJ 563. The High Court reasoned that under the broad definition in Section 3, liquid assets commingled in an account need not be traced penny-for-penny from victims, and because the accounts functioned as conduits for receiving tainted funds, the whole standing balance constituted an "instrumentality" or tainted "proceeds".

[19] While we endorse the legal proposition that the prosecution is not encumbered with proving an exact direct correlation for every single commercial transaction, *Liew Ket Boh* cannot be construed as a statutory licence to forfeit independent, untainted funds where the prosecution's own forensic investigation demarcates a distinct, finite sum.

[20] We deal first with the Appellant's threshold submission that the forfeiture must fail *in limine* because the predicate offence under Section 420 of the Penal Code was not established. We find no merit in this contention. In a Section 56 civil forfeiture application, the court is not trying a criminal indictment against an accused person requiring proof beyond reasonable doubt of every element of

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cheating. Applying the civil standard of a balance of probabilities under Section 56(4) and Section 70(1), the affidavits of PP AMLA and the predicate IO provided comprehensive primary facts demonstrating that twenty-two victims were induced to part with RM3.49 million through a fictitious investment app (*Comoncaps*) that displayed fabricated profits and blocked withdrawals. The statements of the victims, read contextually, disclose dishonest inducement on a balance of probabilities. Nor do we accept the Appellant's contention that the Respondent impermissibly shifted its stance from "instrumentality" to "proceeds of unlawful activity". Under Section 56(1) and (2), the court is mandated to order forfeiture if satisfied that the property falls within any of the statutory descriptions, whether as proceeds or instrumentalities.

A. *The Forfeiture of the RM360,000.00 in the HLB Account*

[21] In respect of the sum of RM360,000.00, we find that the High Court was entirely justified in ordering its forfeiture.

[22] The financial investigation established a continuous, unbroken money trail showing that on 4 August 2023, two transfers of RM200,000.00 and RM160,000.00 were executed from the 7th Respondent's HLB1268 account into the Appellant's HLB5795 account. The 7th Respondent’s account was an established second-layer conduit fed directly by the first-layer account of *Winter*

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Bloom Sdn Bhd (1st Respondent), which held the victims' defrauded funds. Both the 1st and 7th Respondents admitted their status as operative "mule accounts" controlled by syndicates.

[23] Once the Respondent proved on a balance of probabilities that the RM360,000.00 was directly traceable to the predicate cheating offence under Section 420 of the Penal Code, the evidential burden shifted to the Appellant under Section 56(2)(b) read with Section 61(4) to show that it had acquired those funds as a *bona fide* purchaser for valuable consideration without notice.

[24] The Appellant failed to discharge this burden on a balance of probabilities:

(i) The Appellant relied on vague assertions of a cryptocurrency exchange with an unidentified third party, "David";

(ii) The documentation produced failed to establish any verified, legitimate link to the Appellant's operations;

(iii) The physical premises of the Appellant were inspected and confirmed to be vacant, non-operational units; and

(iv) The Appellant took no steps whatsoever to conduct customer due diligence or verify the source of funds entering its account.

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[25] Consequently, the sum of RM360,000.00 represented the proceeds of an unlawful activity within the scope of Section 3(a)(i) and (b) of Act 613, and the order of forfeiture in respect of this quantified sum must stand.

[26] In upholding the forfeiture of the RM360,000.00, we specifically reject the Appellant's invocation of the bona fide purchaser defence pursuant to the case of *Badan Perhubungan UMNO Negeri Pahang* and its reliance on the precedent, *Ng Hee Thoong.* While a commercial vendor is ordinarily under no obligation to investigate the origin of a buyer's funds, Section 56(2)(b) and Section 61(4) of Act 613 require affirmative proof that the recipient acted in good faith with valuable consideration. Here, the Appellant transacted substantial sums with an anonymous, unverified counterparty ("David") exclusively over WeChat, operating out of empty shell premises. The tendered commercial exhibits failed to establish any credible link between the specific transfers of RM200,000.00 and RM160,000.00 and the alleged release of 250,000 USDT. Having deliberately insulated itself from the provenance of funds channelled directly from a proven mule account (7th Respondent), the Appellant cannot seek refuge behind the status of a *bona fide* purchaser to resist the forfeiture of this tainted tranche.

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B. *The Severability and Return of the Remaining RM863,179.84 (HLB) and RM139,329.24 (CIMB)*

[27] We turn next to the remaining standing balance in the HLB account (RM863,179.84) and the entire balance in the CIMB account (RM139,329.24).

[28] It is an elementary principle of civil asset forfeiture that the State cannot confiscate property on the basis of extraneous suspicion or generalized corporate delinquency. To succeed under Section 56(2)(a), the court must be satisfied on a balance of probabilities that the specific property subject to the order falls within one of the four statutory categories:

(i) *offence-related property*,

(ii) terrorist property,

(iii) proceeds of an unlawful activity, or

(iv) an instrumentality of an offence.

[29] In the present case, the record is devoid of any evidence linking the remaining RM863,179.84 in the HLB account or the RM139,329.24 in the CIMB account to the *Comoncaps* investment fraud or any other scheduled serious offence under the Second Schedule of Act 613:

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(i) PP AMLA's money trail only established an inflow of RM360,000.00 from the 7th Respondent into the HLB account;

(ii) No funds whatsoever were traced from the *Comoncaps* victims into the Appellant's CIMB account;

(iii) The prosecution attempted to justify the total forfeiture by highlighting that the CIMB and HLB accounts received large transfers from an entity named *Kam Fook Sneakers Enterprise*, which had an abandoned premise and lacked tax filings with the Inland Revenue Board (LHDN).

[30] In our considered view, the learned Judicial Commissioner fell into grave error by treating tax anomalies and the suspicious nature of *Kam Fook Sneakers Enterprise* as a legal proxy to establish that those separate deposits constituted proceeds of unlawful activity derived from Section 420 of the Penal Code. Suspicion, however compelling or grave, does not take the place of legal proof (see *Miller v Minister of Pensions* [1947] 2 All ER 372). Section 56 of Act 613 cannot be utilized by the State as an arbitrary, catch-all confiscation device to seize funds simply because an entity's corporate profile is irregular or its trading partners are financially non-compliant.

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[31] Nor can the concept of instrumentality of an offence under Section 3 and Section 4(1)(b) be stretched to forfeit unrelated standing bank balances. An account is an instrumentality only to the extent that it is deployed in or in connection with the commission of the unlawful activity. It does not follow that every other ringgit residing in a commercial account is permanently dirtied because the account was used to receive a specific tainted tranche.

[32] The Court of Appeal must therefore apply the **doctrine of severability.** Where the tainted proceeds are distinct and mathematically identifiable, as the RM360,000.00 indisputably is, the court is duty-bound to sever the proven tainted funds from the untainted standing balance. Forfeiting the remaining RM863,179.84 in HLB and RM139,329.24 in CIMB would amount to an unconstitutional deprivation of property without authority of law under Article 13 of the Federal Constitution and exceeds the mandate of Section 56(2) of Act 613.

[33] It is in relation to the remaining sums, the RM863,179.84 in the HLB account and the RM139,329.24 in the CIMB account, that the Appellant's arguments regarding proportionality, lack of reporting duty; and the absence of evidentiary nexus carry decisive legal weight:

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(i) As the Appellant correctly submitted, neither it nor its directors are reporting institutions under the First Schedule of Act 613. They carry no statutory obligation to submit suspicious transaction reports. In the absence of a proven nexus linking specific deposits to a predicate crime, an account holder cannot have its commercial funds confiscated under AMLA merely because it interacted with tax-delinquent entities such as *Kam Fook Sneakers Enterprise*;

(ii) Furthermore, the prosecution conceded in its own money trail that zero funds from the *Comoncaps* victims entered the CIMB account, and no inflows other than the RM360,000.00 entered the HLB account from the predicate fraud;

(iii) To forfeit the entire standing balance of RM1,362,509.08 across two commercial accounts on the basis of two isolated inflows totalling RM360,000.00 constitutes a manifest breach of the doctrine of proportionality and an unjudicial appreciation of the evidence (see *Gan Yook Chin & Anor v Lee Ing Chin & Ors*). By severing the proven tainted tranche of RM360,000.00 from the untainted remainder, full effect is given to the statutory purpose of AMLA while preserving the integrity of civil property rights under Article 13 of the Federal Constitution.

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V. In a Nutshell

[34] This Court drew the line strictly where the specific predicate money trail stopped. Paragraph 67 to 68 of the judgment by the High Court recorded that the only traceable inflows from the 2nd layer, which is the 7th Respondent/HLB1268 into the 19th Respondent's HLB account were two transfers on 4 August 2023 totalling RM360,000 (RM200,000 + RM160,000). By ordering the return of the remaining RM863,179.84 in HLB and the entire RM139,329.24 in CIMB, this Court effectively held that the prosecution could not forfeit the whole balance merely because the account also received funds from other suspicious entities, like *Kam Fook Sneakers* or unregistered addresses, without concrete proof linking those separate funds to the *Commoncaps* predicate offence.

[35] On the appeal by the Public Prosecutor, reliance is on the broad definition of **proceeds of an unlawful activity** under Section 3 (1) (b) of Act 613 and the Court of Appeal ruling in *Liew Ket Boh.* It was argued that once an account is commingled with illicit funds, the entire liquid asset becomes contaminated, especially given the suspicious corporate shell background and the unverified "David" crypto defence. It cannot be gainsaid that the Federal Court in its decisions has routinely required the prosecution to establish an

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evidential nexus on a balance of probabilities between the seized property and the predicate offence. *Liew Ket Boh* only dispenses with proving every single transaction down to the cent, but it does not dispense with establishing that other inflows into the account derived from an unlawful activity. The prosecution cannot use Act 613 as a dragnet to forfeit separate, untraced commercial funds merely because the company has a dubious address or poor tax compliance.

[36] On the appeal by LWC, the 19th respondent, it maintained that the RM360,000 was legitimate consideration received in a peer-to-peer cryptocurrency trade with "David" for USD250,000, and that LWC is a *bona fide* third party without knowledge of the upstream *Commoncaps* fraud. But, premised on the available evidence via affidavits, the prosecution successfully established that the RM360,000 arrived directly from the 7th respondent, an admitted mule account controlled by upstream syndicates, "Jem" and "Kevin" carrying *Commoncaps* money.

[37] To resist forfeiture of directly traced tainted funds, the burden shifted to LWC, the 19th respondent, to establish that it was a *bona fide* purchaser for value without notice. The concurrent findings that the crypto documentation produced did not substantiate a verifiable transaction, combined with LWC's lack of oversight and empty

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corporate premises, will make it nearly impossible to persuade the court that the RM360,000 does not represent proceeds of crime.

[38] Therefore, the order made by this Court, is premised on the application of the civil forfeiture law, elaborated as follows:

(i) Forfeiting the RM360,000 honours the principle that proven proceeds of a predicate crime (offence of Cheating under the Penal Code) must be **disgorged.**

(ii) Returning the RM1,002,5009.08 (HLB + CIMB balances) prevents statutory overreach, reaffirming that the State cannot confiscate unrelated account balances based purely on suspicion, non-compliance, or commingling without a predicate evidentiary link.

[39] The orders made are legally compatible and it also demonstrate that this Court strictly confined the forfeiture order to the exact parameters of the proven money trail. They reflect the established application of the doctrine of severability and the civil burden of proof in asset forfeiture under Section 56 of Act 613. The rationale for why these orders is consistent, legally sound, and common in mixed-funds jurisprudence includes:

(i) Under Section 56 (1) of Act 613, civil forfeiture proceedings are actions *in rem* (directed against the property itself) rather than *in personam* (against the individual or company);

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(ii) A bank account is simply a ledger or holding repository;

(iii) The court's legal inquiry is focussed on whether the specific funds inside that repository constitute **proceeds of an unlawful activity** or **instrumentalities of an offence** under Section 3 and Section 56 (2) of Act 613;

(iv) When an account holds both tainted money and untainted money, i.e. a commingled account, the court does not have to treat the whole account as an indivisible unit;

(v) Forfeiture applications must be decided on a balance of probabilities. This creates a bifurcation finding of fact for the two tranches within the same Hong Leong Bank account:

- For the RM360,000 – **forfeited** – the prosecution successfully established a direct, unbroken evidentiary money trail showing two transfers on 4 August 2023 (RM200,000 and RM160,000) flowing from the 7th Respondent, a confirmed second-layer mule account holding *Commoncaps* cheat funds, straight into LWC's HLB account. Because the illicit nexus was proven and LWC failed to discharge its rebuttal burden under Section 61, this specific tranche was legally forfeitable.
- For the **return** of RM863,179.84 – the prosecution failed to show that this remaining portion derived from

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the *Commoncaps* predicate scam. While the account had other transactions and suspicious trading partners, e.g. *Kam Fook Sneakers,* suspicion does not satisfy the civil burden. The prosecution did not discharge its burden of proof to show that this specific balance was proceeds of a scheduled offence.

(vi) Because the burden was discharged for one tranche but not for the other, making different orders for each portion is an exact, appropriate application of the standard of proof;

(vii) If the court were to adopt an **all-or-nothing** rule, it would lead to legally untenable results:

- If finding RM360,000 of dirty money meant the entire RM1.2 million must be forfeited, the State would be expropriating RM863,179.84 of property without statutory justification, infringing upon the right to property under Article 13 of the Federal Constitution.
- Conversely, if the presence of untainted funds forced the court to return everything, criminals could immunize millions in stolen money simply by depositing it into active trading accounts containing clean funds, which is exactly what Act 613 prevents.

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(viii) Hence, the order by this Court cleanly severs the tainted tranche from the legitimate/unproven balance. There is therefore no conflict, between ordering a return and a forfeiture from the same account:

- Total seized in HLB – RM1,223,179.84.
- Proven proceeds of crime – two inflows on 4.8.2023 – RM360,000 – forfeited to the State.
- Unproven/non-nexus balance – RM863,179.84 – returned to the account holder.

V. Conclusion

[40] For the reasons stated above, we find that the appeal must be allowed in part. The High Court committed an appealable error of fact and law in failing to sever the proven tainted inflows from the balance of the funds seized.

[41] Accordingly, we unanimously order:

(i) The order of the High Court dated 7 November 2025 is varied;

(ii) The sum of RM360,000.00 from Hong Leong Bank Account No. 18300055795 belonging to the Appellant is forfeited to the Government of Malaysia pursuant to Section 56(2) of Act 613;

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(iii) The remaining balance of RM863,179.84 in Hong Leong Bank Account No. 18300055795 is ordered to be released and returned to the Appellant; and

(iv) The entire sum of RM139,329.24 in CIMB Bank Account No. 8605543430 belonging to the Appellant is ordered to be released and returned to the Appellant.

Dated 22 September 2026

Muniandy Kannyappan

Judge, Court of Appeal, Malaysia

Legal Representation

(for the Appellants):

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Legal Representation

(for the Respondent):

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