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Non-Reliance Clauses and Contractual Estoppel: Commercially Sensible or Anomalous?

Nelson Goh Under English law, a non-reliance clause raises a contractual estoppel to prevent contracting parties from contradicting an agreed state of affairs. In particular, the estoppel limits liability for pre-contractual statements where parties have agreed that neither has entered the contract in reliance on representations outside the contract. Recent Singapore Court of Appeal decisions have questioned the outworking of the doctrine and the non-applicability of the Unfair Contract Terms Act (UCTA) to clauses which raise the estoppel. This article examines the primary arguments against the contractual estoppel doctrine, namely the lack of juridical basis and non-applicability of the UCTA. On the first issue, it is submitted that the doctrine can be justified by analogy to the doctrine of estoppel by deed. On the second issue, however, it is submitted that the Singapore courts should depart from the English approach by subjecting all non-reliance clauses to the UCTA.

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