

BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT

BUILDING MAINTENANCE AND STRATA MANAGEMENT
(STRATA TITLES BOARD) REGULATIONS 2005

STB No. 17 of 2009

In the matter of an application under section **101**
of the Building Maintenance and Strata
Management Act in respect of the development
known as **Bedok Court** (MCST Plan No. 1130)

Between

Alex Chan Kheng Chua/ Yeo Suan Neo Wendy

... Applicant(s)

And

Ong Puay Liew

... Respondent(s)

Coram: Mr Remedios F.G.
Deputy President

Panel Members: Mr Lee Coo
Mr Tang Tuck Kim

Counsel: Ms Sunita Sonya Parhar (S.S. Parhar & Co) for the Applicants

GROUND OF DECISION

INTRODUCTION

1. The Applicants, Alex Chan Kheng Chua and Yeo Suan Neo Wendy are the subsidiary proprietors of Blk 297 Bedok South Ave 3, #XXX Bedok Court (the premises) and the Respondent, Ong Puay Liew is the subsidiary proprietor of Blk 297 Bedok South Ave 3, #XXX Bedok Court. The Applicants' premises is situated immediately below the Respondent's.
2. Since sometime in March 2005, the Applicants noticed stains on the false ceiling of their premises. The stains were noted in the living room, kitchen, yard area, bedrooms No.1 and 2 and the bathrooms.

3. After unsuccessful attempts had been made to resolve the matter with the Respondent, the Applicants filed this application and sought the following orders against the Respondent:-

“rectify interfloor water seepage and make good all damages...Also charges involved in the filing with STB and any professional fees, legal fees incurred...”

4. The parties appeared before the Board and attempts were made to resolve the matter. Mediation was not successful.

THE EVIDENCE

5. In the course of mediation, the Respondent had engaged M/s CC Building Surveyors in connection with the interfloor leakage. In his report, Mr Crispin Casimir of M/s CC Building Surveyors, in connection with the Applicants' premises, inter alia reported as follows:-

- 5.1 **Entrance patio area** – slight moisture staining on the false ceiling below upper unit's walkway (possibly due to defect in common property side wall - there was a significant horizontal crack there)
(at Respondent's unit at this area there was evidence of water seeping out from underneath the tiling into the adjacent floor trap – indication of trapped water below the tiling - para 3.2 of report. Mr Crispin Casimir also reported that Respondent's main patio which was directly over Applicants' dining and seating area, the waterproofing was of questionable quality- tile skirting at one of the column was partially detached. The water proofing here was inadequate and incomplete)
- 5.2 **Living room** - one of the corners – corrosion around the light fitting (rain water trapped at the patio above was seeping down to the unit below)
- 5.3 **Kitchen** - staining at the ceiling at the door head and adjacent ceiling
- 5.4 **Yard** (outside the bathroom) - substantial staining at the soffit - active dripping of water (patio directly above ie respondent's unit, in relatively poor condition)
- 5.5 **Bedroom 1** – staining (photo shows blistering rather than staining) at the ceiling adjacent to central corridor. Immediately outside the bedroom at the ceiling at the corridor there was moisture staining
- 5.6 **Bedroom 2** – moisture staining at the ceiling adjacent to the corridor.
- 5.7 **Master Bedroom** - slight staining on ceiling (possibly due to moisture from bathroom area)
- 5.8 **Common bathroom** – staining at the ceiling.

6. Mr Crispin Casimir's conclusion after the inspection was as follows:-

“The overall summary was that there were two sources of leakage, being either from the tiled patio area at the twelfth floor unit or via the common property external walls. Both sources of leakage had to be rectified, concurrently, if the egress into the lower unit was to be rectified.”

7. A copy of Mr Crispin Casimir's report was forwarded to the MCST and the Applicants were on the 9th of October 2009 informed by the Managing Agent that rectification works in connection with the external walls had been completed.

8. It was the evidence of Alex Chan Kheng Chua that despite the works done by the MCST “...*there has been no respite from the water seepage...*” As at the date of the hearing of the Applicants, it was the evidence of Alex Chan Kheng Chua that the leakage has not stopped.
9. M/s Andes Appraisal Pte Ltd (AAP) was engaged by the Respondent after mediation had failed to resolve the dispute and Mr Tong Kum Fei of AAP after inspecting the Applicants’ and Respondent’s premises submitted a report dated the 20th of January 2010 wherein he detailed the defects that he saw. His report with regard to locations of evidence of water seepage whilst not exactly on all fours with that noted by Mr Crispin Casimir was generally not inconsistent with Mr Crispin Casimir’s.
He inter alia reported that:-
“..... *there was no clear symptom of failure at different levels of water proofing system.....*”
“.....*obvious that the symptoms of water seepage from the roof slab had not progressed for the last 24 months*”
“.....*water- related defects like blistering and staining are not active or growing in terms of severity and extensiveness.....*”
10. Mr Tong Kam Fei’s conclusion was as follows:-
“... *the cause of water seepage at (respondent’s premises) cannot be accurately diagnosed without further testing of the three layers of water proofing namely the exposed top or side surface, water proofing system, and the concrete slab itself.*”
Inter alia he recommended that a water ponding test be done to check on the integrity of the waterproofing.
11. Following Mr Tong Kam Fei’s inspection, Mr Kenneth Jones, a building surveyor with M/s Robinson Jones Associates Pte Ltd inspected the premises of the Applicants and Respondent on the 9th of December 2009. Mr Kenneth Jones’ findings were generally not inconsistent with Mr Crispin Casimir’s. Inter alia he reported that *water was dripping from head of window opening* in living room area even when there had not been any rain within the 12 hours preceding his inspection and agreed with Mr Crispin Casimir that this could be attributed to failure of water proofing system at Respondent’s roof terrace; the stain in the kitchen noted by Mr Crispin Casimir had clearly worsened between Mr Crispin Casimir’s inspection and his inspection; in the yard area there was active dripping of water and the source was either rainwater or from the watering of plants trapped below the (Respondent’s) waterproof membrane.
12. Mr Kenneth Jones also reported on some additional defects which had not been noted by Mr Crispin Casimir.
13. Mr Kenneth Jones conclusion was that the water proofing system at Respondent’s roof terrace has failed.
14. Recommendations were made by Mr Kenneth Jones with regard to work that had to be done to rectify the defective waterproofing at the Respondent’ premises and with regard to repairs that had to be done in the Applicants’ premises. He estimated the cost to be approximately \$7000.

15. From the evidence in the AEICs of the Respondent and her husband they accepted that *“as the owner of the unit above that of the Applicants (it was the Respondent’s) duty and responsibility to make good any seepage or leakage of water from our unit to that of the Applicants.”*
16. Whilst it was their wish to eradicate the problem once and for all, they said that they had been advised by professionals (M/s AAP) to *“locate the precise cause and origins of the problem.”* They asked for leave for their expert to conduct the necessary test and said that they would thereafter get down to carrying out the rectification works.
17. Other than submitting their AEICs for the purposes of the arbitration hearing, the Respondent and her husband chose not to give any oral evidence. Mr Ron Mahabir, the son in law of the Respondent, gave oral evidence which was not of any assistance to the Board.
18. A water ponding test was carried out by Mr Tong Kam Fei on the 23rd and 24th of February 2010. The Respondent did not submit any report with regard to the results of the test. There was however evidence from Mr Kenneth Jones that although the tests had generally complied with BCA guidelines, the results of the test (which did not confirm that the leakage responsible for the damage to the Applicants’ premises is not from the roof terrace of the Respondent’s unit of #XXX) had been compromised as inter alia: the rainwater outlet had been plugged by covering the outlet with sealant; *gaps between the tiles at the junction of the floor and walls had been sealed with grey sealant. A white sealant had also been applied to the surface of the tile joints at localized location...*; Mr Tong Kam Fei who had originally agreed to use an incandescent tracer dye did not do so, as the Respondent had objected to this, and instead used a *“weak solution of blue coloured dye”* which was *not appropriate or effective* in tracing leaks *where the water passes through cracks in the concrete.*
19. It was the evidence of Mr Kenneth Jones that *“the visible evidence on site is adequate to confirm that the waterproofing system to the roof terrace to unit #XXX has failed. There can be no doubt as to the need to replace the water proofing system to the roof terrace.”*
20. The Respondent submitted a report from Mr Tong Kam Fei dated the 17th of March 2010 wherein he disagreed with Mr Kenneth Jones’ comments that the results had been compromised. Inter alia he (Mr Tong Kam Fei) did not dispute that the Respondent had carried out some work at the affected area before the tests, which he described as *“maintenance work”*. He said that he did not advise the Respondent in connection with this work.

DECISION/ ORDER

21. After considering all of the above, the Board accepts the findings and the conclusions of Mr Crispin Casimir and Mr Kenneth Jones. Accordingly it is ordered as follows:-
 - a) The Respondent shall engage a contractor to carry out effective and proper repair to all the leakages to the Applicants’ unit.
 - b) In relation to (a) above, the Respondent shall within 5 days, engage and pay Mr. Kenneth Jones of Robinson Jones & Associates Pte Ltd or any other mutually

acceptable professional engineer / architect / building surveyor (“the Professional”) to:-

- (i) carry out an inspection of the water seepage into the Applicants’ unit, with a view towards establishing the cause thereof;
 - (ii) to identify and define the scope of remedial works to rectify the water seepage (“the Works”) in both the Applicants’ and the Respondent’s units;
 - (iii) To prepare a report for the perusal of the Applicants and the Respondent, which report and recommendations the Applicants and the Respondent agree to abide by;
 - (iv) To recommend to the Respondent an experienced contractor to carry out the Works;
 - (v) To supervise the execution of, and certify the completion of the Works and to inform both the Applicants on completion of the Works;
- c) The Respondent shall provide the Professional with a copy of this Order within 14 days hereof.
 - d) The Respondent shall employ and pay the recommended Contractor to execute and complete the Works under the direction and supervision of the Professional.
 - e) The Respondent shall ensure that the Works are completed within two months of the Order herein.
 - f) In the event the Respondent fails to fully comply with any of the terms of this Order, the Applicants may proceed to take all reasonable steps to give effect to the same, and recover all costs incurred as a debt from the Respondent.
 - g) The Respondent shall pay the Applicants damages to be determined.
 - h) The Respondent shall pay the Applicants the costs and disbursements of these proceedings, to be determined.
 - i) Hearing on damages, costs and disbursements be fixed on 22 April 2010 at 9:30am.

Dated this 1st day of April 2010

MR REMEDIOS F.G
Deputy President

MR LEE COO
Member

MR TANG TUCK KIM
Member