

BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT

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

STB No.38 of 2011

In the matter of an application under Section
101 of the Building Maintenance and Strata
Management Act in respect of the development
known as **Orchid Park Condominium** (MCST
Plan No. 1938)

Between

Anthony Koh Beng Kiok/Koh Swee Liang

... Applicants

And

Giam Cheek Tiat/Tye Boo Lan

... Respondents

Coram: Mr F G Remedios
Deputy President

Panel Members: Mr Lai Huen Poh
Mr Richard Tan Ming Kirk

Counsel: Mr Patrick Chow
(M/s Chow Ng Partnership for the Applicants)

GROUND OF DECISION (ON COSTS)

At the conclusion of the arbitration hearing the Respondents were ordered to pay the Applicants \$3868 and the parties were then informed that the Board would hear submissions with regard to the costs that should be awarded. Time was then allowed for the parties to submit written submissions in connection the amount of costs that should be awarded

It was the submission of the Applicants that the Board should order costs fixed at \$4500 plus \$188 for disbursements after considering the principle of proportionality and all the relevant factors including:

Estimated number of hours for the preparation of 3 affidavits filed in support of Applicants case (6 hours);

Estimated time for perusal of the Respondent's affidavit (1.5 hours);

Five attendances before the Board for mediation/arbitration hearing including the attendance before the Board in connection with costs

The skill and expertise of counsel for the Applicants and the time/labour expended on this case.

The Applicants acknowledged that there was no legal or factual complexity in this case and submitted that the Applicants had no alternative but to come before the Board because the Respondents had failed to cooperate and "resolve the dispute out of court"

It would not be out of order to record that from the outset, when the parties first appeared before the Board after the matter had been fixed for the Board to endeavour to mediate a settlement (pursuant to S 92 of the Building Maintenance and Strata Management Act 2004) the Respondent (Giam Cheok Tat) refused to accept that he was responsible for the damages and indicated that he was not willing to settle in any way.

It was the submission of the Respondents that the applicants "should bear all legal costs in the matter" ie no costs should be awarded against the Respondents

It was inter alia the stand of the Co Respondent: Tye Boo Lan in her written submission that the matter would not have proceeded to a full hearing and would have been resolved during mediation if she had been informed of the dispute earlier. It is not in dispute that Tye Boo Lan did not attend before the Board until the matter was fixed for the arbitration hearing. She was not named in STB 38/2011 when the application was

filed and the Respondent Giam Cheok Tat did not, when he appeared before the Board on two occasions for mediation inform the Board of her status.

Giam Cheok Tat informed that she was his wife when she appeared on the date when the matter was fixed for the arbitration hearing and informed that she was a co owner of unit # XXX. The record of the proceedings (verbatim record) records that she did not raise any objections when an application was made to include her as a co respondent and when counsel for the applicants proposed that the hearing be adjourned for her to file an affidavit with regard to the evidence that she wanted to give, the Respondents (after the two respondents had consulted with each other) decided that the arbitration hearing would proceed without an affidavit being filed by the co respondent. There was no indication from Tye Boo Lan that she wanted an opportunity to resolve the matter without an arbitration hearing.

After considering the submissions of the Applicants and Respondents, the Board is of the view that it would be in order that Respondents should pay costs (inclusive of disbursements)fixed at \$4500.00

Dated this 5th day of December 2011.

Mr F G Remedios
Deputy President

Mr Lai Huen Poh
Member

Mr Richard Tan Ming Kirk
Member