

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

STB No. 90 of 2014

In the matter of an application under Section 101
of the Building Maintenance and Strata
Management Act in respect of the development
known as Pandan Valley (MCST No. 581)

Between

Sebastian Ong Young Shei/Ong Li Na

... Applicants

And

Koh Lin Kee/Ong Siew Seo

... Respondents

Coram: Seng Kwang Boon
Deputy President

Panel Members: Lai Huen Poh
Tan Kian Hoon

Applicants: Sebastian Ong Young Shei
Ong Li Na

Respondents: Koh Lin Kee
Ong Siew Seo

GROUNDINGS OF DECISION

Applicants' Case :

1. Sebastian Ong Young Shei (AW1) and Ong Li Na are the subsidiary proprietors of Unit XXX Pandan Valley.
2. AW1 said that sometime in August 2014, he noticed water damage on the false ceiling of his study. He said the dampness on the false ceiling progressed into water dripping onto the floor.
3. He contacted a contractor, one Mr Lee in September to investigate. He said Mr Lee cut an opening in the false ceiling and confirmed that a discharge pipe beneath the ceiling slab was leaking. He said Mr Lee went up to the unit above and turned on the kitchen tap and more water could be seen dripping out of the pipe. The Respondents were notified.
4. It was confirmed that the drainage pipe served the Respondents' unit exclusively although a section of it protruded below the Respondent's floor slab into the false ceiling space of the Applicants' unit. It was that section of the pipe situated in his unit that was leaking.
5. AW1 said that the leaking pipe had since been replaced and his wall had been repainted by the Respondents. AW1 said Respondents did the repairs after he had filed his application with the Strata Titles Boards.
6. AW1 said he is claiming the costs of this application and the hearing and he is not prepared to pay the Respondents the \$1500 they are claiming from him.

Respondents' Case :

7. Koh Lin Kee and Ong Siew Seo (RW1) are the subsidiary proprietors of unit XXX Pandan Valley. Their unit is directly above the Applicants' unit.
8. RW1 agreed that the leaking drainage pipe served her unit exclusively. She, however, is of the view that as the leaking section of the pipe was not within her unit but situated in the Applicants' unit, it was the responsibility of the Applicants to repair and maintain that section of the pipe.
9. She took her case to her Member of Parliament.
10. She said the Building and Construction Authority (BCA) in response to her MP's query, wrote her a letter which supported her view.

11. BCA wrote :

“... we would like to clarify that the sewer pipes that serve the upper floor unit in carrying the discharge from their water closet and wash basin above to the common vertical stack pipe below as they are located at the ceiling of the lower floor unit are to be maintained by the lower floor unit owner as those pipes are situated within the lot of the lower floor unit. This responsibility is implied by virtue of Section 30(2)(c) of the Building Maintenance and Strata Management Act (BMSMA)”.

12. She said that she had spent a total of \$1500 replacing the leaking pipe in Applicants' unit and painting the study room wall which was stained by the leak. As the maintenance of that section of the pipe within Applicants' unit is not her responsibility as confirmed by BCA, she now wants to claim from the Applicants the sum of \$1500.

13. Further, she added that her view is also supported by Section 101 of the BMSMA.

Board's Finding :

14. The relevant facts are not disputed. The defective drainage pipe served only the Respondents' unit and no one else. A section of this protruded into the Applicants' unit before joining the vertical stack because of the nature of construction of that particular development.

15. It was this section of the pipe situated within the Applicants' unit that was leaking.

16. The drainage pipe in this case was by definition not a common property as it served only the Respondents' unit exclusively. We find that the whole pipe belonged to the Respondents notwithstanding that a section of it was situated within the unit of the Applicants and the Respondents were solely responsible to repair and maintain it.

17. In coming to the above finding, we are guided by Warren L.H Khoo J in the case of Tsui Sai Cheong and another v Management Corporation Strata Title Plan No 1186 and others [1995] 3SLR(R) 713. Khoo J held that the fact that part of a pipe belonging to the Appellants was embedded in the concrete slab which was common property did not turn that part into common property. What the Appellants had in relation to that part of the water pipe embedded in the common property was an easement through that part of the common property.

18. Similarly, in our case, a part of a drainage pipe belonging to the Respondents protruding into the Applicants' unit did not make that part of the pipe the Applicants' property. The Respondents, as owners of the pipe, must be solely responsible for its repair and maintenance.

19. With due respect to BCA, we are not able to agree with their view that the section of the pipe, because it was situated within the Applicants' lot, it was the responsibility of the Applicants to repair and maintain it. BCA stated that this responsibility was implied by section 30(2)(c) of the BMSMA.

Section 30 of the BMSMA provides as follows:-

Powers of Management Corporation to carry out work

30 (1) Where a notice has been served on the subsidiary proprietor of a lot by a public authority requiring that subsidiary proprietor to carry out any work on or in relation to that lot and the notice is not complied with, the management corporation may carry out the work.

(2) Where a subsidiary proprietor, mortgagee in possession, lessee or occupier of a lot fails or neglects to carry out any work —

(a) required to be carried out by him under a term or condition of a by-law referred to in section 33;

(b) necessary to remedy a breach of the duty imposed on him by section 63(a);

(c) to rectify any defect in any water pipe or sewer pipe within his lot or any cracks in the wall or floor within his lot; or

(d) necessary to rectify his contravention of section 37(1), the management corporation may carry out that work

(3)

(4)

(5)

(6)

20. In our view, S30(2)(c) of the BMSMA gives the MCST powers to rectify any defects in a lot where a subsidiary proprietor, etc, fails or neglects to do so.

21. There is nothing in S30(2)(c) to imply the change of responsibility from the owners of the defective pipes to another person.

22. We are also unable to see how S101 of the BMSMA could help the Respondents in their case.

23. For the above reasons, we dismissed the claim of the Respondents.

24. We order that the Respondents pay to the Applicants the application fee of \$500 and the hearing fees of \$600.

Dated this 8th day of May 2015

SENG KWANG BOON
Deputy President

LAI HUEN POH
Member

TAN KIAN HOON
Member