

BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT

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

STB No. 26 of 2016

In the matter of an application under **section 101(8)**
of the Building Maintenance and Strata Management
Act in respect of the development known as
HILLINGTON GREEN (MCST Plan No. 2683)

Between

Ng Kin Hong & Siew Ngin Ling

... Applicant(s)

And

Tan Tze Ming Clement Julien & Fong Shi-Ting Fay

... Respondent(s)

Coram: Mr Seng Kwang Boon (Deputy President)
Mr Chua Koon Hoe (Member)
Mr Loh Kwi Leong (Member)

Applicants: Ng Kin Hong & Siew Ngin Ling
In person

Respondents: Tan Tze Ming Clement Julien & Fong Shi-Ting Fay
Counsel: Mr Sanjiv Rajan
(M/s Allen & Gledhill LLP for the Respondents)

GROUNDINGS OF DECISION

Applicants' Case

1. Applicants are the subsidiary proprietors ("SPs") of unit #XXX in Hillington Green ("the Development") located at No. 53 Hillview Avenue Singapore.
2. Co-applicant, Ng Kin Hong ("NKH") testified that he has been living in unit #XXX since 2002 and had not encountered any water seepage problem in his unit

before. Sometime between November 2014 and March 2015, NKH noticed that the Respondents' unit, #XXX, which is directly above his unit, was carrying out some renovation works.

3. In April 2015, NKH realised that there were leaks in his master toilet's ceiling and informed the Respondents and MCST accordingly.
4. NKH mentioned that the Respondents conducted a water ponding test in their toilet using a red dye and during the test, water seeped through the concrete slab. NKH claimed that the water that seeped out was pink in color. Thereafter NKH said that the Respondents' contractor carried out numerous patch-work repairs to his toilet ceiling's slab, but these repairs were not effective and the leakages persisted.
5. NKH said that a chemical infusion was done to the Respondents' toilet floor and this was also not effective. When a subsequent ponding test was done with blue dye, water still seeped through the concrete slab.
6. NKH said that finally, sometime in September 2016, Respondents carried out a PU pressure grouting to his toilet's slab and this has effectively solved the seepage problem. There was no more water seepage into NKH's unit.
7. NKH provided photographs, whatsapp messages and various correspondences among themselves and the contractors, to support his case.

Respondents' Case

8. Respondents are the SPs of unit #XXX in the Development located at No. 53 Hillview Avenue Singapore. Their unit is directly above the Applicants'.
9. Respondents said that when they were first notified of the leakages in June 2015, they had immediately taken steps to determine the cause of the leakages.
10. Respondents conducted ponding tests and pipe pressure test as well as instructing their contractors to carry out repairs in the Applicants' unit, in good faith, to resolve the issues.
11. Respondents engaged an expert, Poh Cher Seng ("PCS"), a professional engineer from Grace Consultants, who submitted 2 reports. Respondents claimed that they have adequately rebutted the presumption under s101(8) of the Building Maintenance and Strata Management Act ("BMSMA") and that the leakages did not emanate from their unit, they asked that the application be dismissed with costs.

Board's Findings

12. The Board noted that PCS, in his reports and his oral evidence, did not conclude that the water did not emanate from the Respondents' unit. PCS simply said that *"it is very difficult to identify and pin point the source of water seepage..."*
13. PCS went on to conclude that the shower area and the water pipes were unlikely sources of the leakages. He suggested another possible source could be water

from the outside that penetrated through the wall, into the Respondents' unit and seeped into the Applicants' unit through the cracks in the flooring. He was not aware that there were condensate pipes from the air conditioners in Respondents' unit.

14. The Board has examined the many photographs exhibited and the various documents submitted and noted the fact that many attempts were made to stop water from seeping through the concrete slab of the Applicants' toilet ceiling. The Board also considered the oral evidence of the Applicants and Respondents.
15. The Board finds on the facts and evidence adduced that the water did seep from the Respondents' unit into the Applicants' unit. Respondents are therefore responsible.
16. As the seepages are now finally rectified by the Respondents' PU grouting, there is no need for the Board to make any orders in respect of the inter floor leakages.
17. The Board will hear parties on costs and damages (if any).

Dated this 21st day of October 2016.

MR SENG KWANG BOON
Deputy President

MR CHUA KOON HOE
Member

MR LOH KWI LEONG
Member