

BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT

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

STB No. 10 of 2017

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 Condominium** (MCST Plan No. 581)

Between

Wong Rin Rin Christina

... Applicant(s)

And

Cao Vanneau Nathalie Marie Anne /
Cao Minh-Tam Patrick

... Respondent(s)

GROUNDS OF DECISION

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... Applicant(s)

And

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4th July 2017

19th July 2017

Coram: Mr Remedios Francis G. (Deputy President)
 Mr Lai Huen Poh (Member)
 Mr Kong Mun Kwong (Member)

BACKGROUND:

1. The Applicant, Wong Rin Rin Christina (WRR) is the subsidiary proprietor of #XXX, Pandan Valley Condominium at 5 Pandan Valley Singapore 597629 and the Respondents, Cao Vanneau Nathalie Marie Anne (NC) and Cao Minh-Tam Patrick (PC) are the subsidiary proprietors of the unit immediately above viz #XXX.
2. The facts are as follows: (When referring to the source of the water leakage parties, which according to the Applicant emanated from the Respondents' balcony, the area was at times referred to as the patio or terrace).

3. On 21 August 2016, the Applicant via email informed the Respondents that water was leaking from the Respondents' terrace into the living room and bedrooms of the Applicant's unit and asked when the Respondents would be available to view the damage. The Respondents were informed that the Applicant was getting her unit ready for her next tenant. Photos showing the leaks were attached.
4. Parties communicated with each other and on 4 September 2016, the Respondents informed that they had asked 4 waterproofing companies to inspect the seepage and confirmed that there was seepage from their patio. They would accordingly redo the waterproofing and tiling in their patio and would also waterproof the external wall inside their patio. On 14 September 2016, the Applicant thanked the Respondents for carrying out the rectification works and asked if the Respondents were agreeable to reimbursing the Applicant \$1,000.00 for rectification works necessitated by the seepage. The Respondents replied that they would get their contractor to do the necessary.
5. On 1 October 2016, the Applicant informed that work done (painting) by the Respondents' contractor was not satisfactory. She informed that rough patches on walls and ceiling had not been attended to and stalactites (referring to uneven patches) were not removed. She asked for work to be properly done by 7 October 2016 and if it was not done she would get her own contractor to do the necessary and look to the Respondents for reimbursement. The parties communicated with each other and on 16 October 2016, the Applicant informed that the unit will be handed over to her tenant and there was outstanding work to be completed by the Respondents' contractor.
6. On 8 November 2016 the Applicant informed that water stains and mould had started again and on 10 November 2016 the Applicant informed that the water seepage had not been resolved; that there is water dripping from the Respondents' unit; that her walls and ceiling have turned mouldy; that her tenant had reported that the Respondents had claimed that seepage is not from their unit. She asked if the Respondents would rectify and reimburse cost of repair and to reply by 14 November 2016. She further informed that if the Respondents were not prepared to take responsibility, she would be engaging an expert and would look to Respondents to pay the costs. She also informed that her tenants were upset and wanted a waiver of rent.
7. On 12 November 2016, the Respondents confirmed their willingness to rectify if seepage was from their unit and that their contractor had been asked to do another water ponding test.
8. According to the Respondents, water ponding was, because of weather conditions not carried out until the 23 November 2016. Flooding for the water ponding test was done by NC herself with tools provided by the water proofing specialist that Respondents had previously engaged. A colour dye was not used when the water ponding test was being carried out because the Respondents were concerned that a dye could damage their terrace. At 5.00 pm on that day NC sent an email to the Applicant and inter alia recorded:

We started today the water ponding test of our terrace. It has been entirely flooded since this morning. The management came to check. We first went to your unit and the management officer took photos of the active dripping in the living room along the sliding door as well as the stains and damp areas in the living room and two bedrooms. He will come back tomorrow morning to inspect again your premises. We will see if the situation has worsened or not over 24 hours....

9. On 23 November 2016 at 7.43 pm, the Applicant sent an email to NC and inter alia stated:

You yourself have stated in your email that after you flooded your patio, water has already started to drip through to our unit. Our tenant has reported that water has been leaking into our unit since you flooded your patio. They recorded it on video. Please see attached

10. On 24 November 2016, the Respondents, inter alia informed that it was raining between 1.45 am and 6.00 am on 23 November 2016 and the rain stopped before 9.30 am. Before flooding started the Applicant's unit was inspected and there was active water dripping in the living room, along the sliding door as well as damp areas and stains in the living room and bedrooms. Photos were taken before flooding started. On the same day, the Applicant informed that the video recording made by her tenant and forwarded to the Respondents on 23 November 2016 was recorded at 6.51 pm on 23 November 2016 (i.e. 9 hours after flooding commenced); that water was still dripping from the Respondents' balcony; and asked the Respondents to confirm that they were not accepting responsibility.
11. The water ponding test carried out by NC was witnessed by a representative from the management corporation (Sai Tong Hseng). Photos were taken before the tests commenced and 24 hours later. Sai Tong Hseng saw and the photos taken (at pages 276 to 281 of ABOD) showed water continually dripping at the *hall wall below and at the right side of the fcu (fan coil unit); at the hall window frame; at the bedroom ceiling; and continually flowing at the external wall.*
12. On 26 November 2016, after the Respondents had maintained that there was no evidence that seepage was from their terrace, the Applicant informed that she would be engaging a surveyor and proceeded to appoint Ms. CS Lee & Associates (CSL).
13. After CSL were appointed, the Respondents appointed Ms. CC Building Surveyors (CCBS) as their expert. The experts had access to the respective premises before they submitted their reports.
14. CSL inspected the Applicant's premises on 3 and 20 December 2016. Readings were made with a Protimeter Moisture Meter, a two function instrument designed to help in the diagnosis of dampness problems in buildings, and were repeated on 20 December

2016 to determine if there was an improvement of the conditions between the two inspections. CSL reported as follows:

Applicant's Living room

Fan coil area.

- i) Stain on right side of fan coil of the air conditioner – caused by holes left unplugged when brackets for the air con was installed on the external wall.
- ii) Stains on left side and the adjacent surface beneath the fan coil unit (water observed oozing out from the wall – probably originating due to poor workmanship at junction between wall and floor waterproofing works to open balcony of #XXX.

Sliding door between living room and terrace

- iii) The soffit of concrete beam above sliding door – four locations were saturated with water and two other locations were damp. Pelmet for sliding door visibly stained.

The wall opposite the fan coil

- iv) Water stains on the wall surface.

Entrance to Bedroom 1 and Master bedroom

- v) Above the false ceiling there were water stains and paint blisters on the concrete ceiling. Surface was damp.

Master bedroom

- vi) Ceiling at the entrance to the bedroom was saturated with water.
- vii) False ceiling at corner of bedroom next to sliding door was saturated with water
- viii) Stains on the wall between bedroom and living room. Also very damp.

Bedroom 1

- ix) Water stains on ceiling at left corner.
- x) Stains on the ceiling and the cornice of the wall that separated the two bedrooms
- xi) Stalactites on the concrete soffit (above false ceiling). There was water droplets on tips on some dripping at rate of one droplet every two minutes. There was evidence that pressure grouting was done.

15. CSL's view was that the stains, other than the stains caused by holes left unplugged when brackets for the air con was installed on the external wall and a leak at the corner of the false ceiling at the corner of the open terrace outside Bedroom 1 (probably caused by leaks in the corner of the terrace belonging to the Applicant) were probably caused by water seepage from #XXX (the water seepages are generally at the edges of the rooms corresponding to the location of the balcony parapet wall.); the leakage probably originated from poor workmanship at the junction of horizontal water proofing of the floor and vertical water proofing of part of the parapet wall. CSL was of the view that failure of the water proofing could be reinforced by making a triangular water fillet of water proofing material along the edge of the junction between floor and wall. The stalactites were due to water seepage that had travelled laterally.
16. On 10 February 2017, CSL provided a supplemental report after perusing two photographs provided by the Applicant showing stains on the ceiling and adjacent walls in one bedroom and the wall next to the air con fan coil unit in the other bedroom. He was of the view that the stain next to the air con fan coil did not emanate from the Respondents' balcony whilst the stains in the other bedroom (which he had not noted previously – due to the fact that the area was covered by the false ceiling) were similar to the stains that he had observed and commented upon in his earlier report and was due to failure of Respondents' waterproofing works.
17. CCBS after inspections on 8 December 2016, 18 and 19 January 2017 reported: (Applicant's unit)
 - i) on the side internal wall face of the living room there was staining and water damage – his explanation for this was rain water egress via adjacent external wall face rain *water egress via adjacent external wall face*.
 - ii) at the door head above the sliding doors at the rear of the living room there was staining – no opinion was expressed as to the cause.
 - iii) there was *active water dripping along a line perpendicular and then parallel to the rear elevation* of the rear bedroom. The staining *ceased in line with the attached bathroom* –his explanation was that this was due to a leaking water supply pipe because there was active dripping during dry weather.
 - iv) there was moisture present along a line perpendicular to the rear elevation of the further rear bedroom – this too was due *pipework leakage*.
 - v) A water ponding test (no colour dye was used) carried out at the Respondents' terrace on 18 and 19 January 2017. There was no evidence that water from the test had leaked into the Applicant's unit.
18. Accordingly, it can be noted that there was no agreement between the experts appointed by the parties. CSL was of the view that there is ongoing water seepage in the Applicant's unit emanating from the Respondents' unit. This is because the water proofing works that was carried out by the Respondents was not effective in stopping the leakage. Additional works are required and he has described the additional works as follows "*The*

failure of the water proofing can be reinforced by making a triangular water fillet of water proofing material along the edge of the junction between floor and wall.” CCBS is of the view it was due to a leaking water supply pipe in the Applicant’s unit.

19. An amicable resolution was not achieved during mediation and when the matter was fixed for an arbitration hearing, the Applicant indicated that she was also claiming for various sums of money in connection with the damages caused by the leakage from the Respondents’ unit. The various claims are itemized in AW-1(1).
20. After the date had been fixed for the arbitration hearing but before the date of the hearing the Applicant, on the 23 of June 2017 arranged for an engineer from a water intrusion specialist company viz Ms. IGM Engineers to check the water pipes in her premises. His findings were that the water stain marks on the top section of the wall was not due to concealed pipe leakage; it was not likely that there were water supply pipes in the wall; the stain marks on the concrete ceiling and side beam of the master bedroom are not due to water supply pipes; there was a water supply pipe above the false ceiling of bedroom 1 that ran towards the toilet of the master bedroom but there were no signs of water leakage from the walkway false ceiling/bedroom 1 temporary plywood ceiling i.e. there was no evidence that there was a defective water supply pipe in the Applicant’s premises.

FINDINGS

21. There is no doubt that before water proofing works were carried out by the Respondents in September/October 2016 there was, other than the leakage caused by the installation of the metal brackets for the air-con compressor and a leak at the corner of the false ceiling at the corner of the open terrace outside bedroom 1, water leakage emanating from the Respondents’ unit viz the open balcony that was directly above the Applicant’s living room, master bedroom, bedroom 1 and the entrance corridors to the bedrooms. Water leakage into the Applicant’s unit continued after the Respondents carried out water proofing works.
22. After considering the evidence of the Applicant and her witnesses viz WRR, her husband Koh Peng Chye, her tenant Amrita De La Pena, Sai Tong Hseng, and the findings and conclusions of CSL; the evidence of Respondents and their witnesses viz NC, PC and the findings and conclusions of CCBS we are satisfied that the works carried out by the Respondents had not effectively arrested the water leakage from the Respondents’ balcony into the Applicant’s unit. We do not accept the evidence and conclusion of CCBS that water leakage in the Applicant’s premises is due to a leaking water supply pipe.
23. Accordingly, it is ordered that the Respondents carry out effective and proper repairs and water-proofing works in the Respondents’ unit at 5 Pandan Valley #XXX Singapore 597629 to stop and prevent all water leakages into the Applicant’s unit at 5 Pandan Valley #XXX Singapore 597629 within a period of 8 weeks from today. It will be in

order that works be carried out in accordance with the recommendations made by CSL at paragraph 48 of his report (ABOD – page 93).

24. As a result of the water leakage from the Respondents' unit the Applicant has suffered damages and has made a claim as itemized in AW-1(1).
25. Other than a denial that the damages were caused by leakage from the Respondents' unit the Respondents did not, other than alleging that the Applicant had, since purchasing the unit not done any renovations; that the false ceilings were very old and in a poor condition; that the original electrical system was obsolete; and that the Applicant had not mitigated her losses; attempt to challenge the particulars itemized and the costs for rectification.
26. Due consideration was given as to what should be awarded to the Applicant and our conclusions are as follows:
27. Rent:
With regard to the claim for waiver and loss of rental, we considered the extent of the leakage, including the fact that there was a source not emanating from the Respondents' unit, the general inconvenience endured by the occupants, and the agreement between the Applicant and the tenants with regard to a 50% waiver. CSL had considered the cost of repairing a unit that is inhabited whilst repair works are being carried out and the savings if the unit was vacated. Rectification works can be carried out without a need for the premises to be vacated and we are of the view that it will not be in order to award an amount for 100% loss of rental when remedial works are being carried out. We are of the view that a waiver of 25% (\$1,450 x 10) from 1 December 2016 to the date when rectification works should be completed - we estimate that all works should be completed by end September 2017 - would be in order.
28. Expenses incurred and to be incurred:
With regard to the various sums expended in carrying out temporary electrical works we noted that whilst they were not unreasonable there would have been some degree of wear and tear to the wiring before any works were done. It will be in order that wear and tear be considered when determining awards for repairs and replacements. It was also noted that CSL had considered earlier works carried when assessing fair and reasonable costs for rectification. We are of the view that it will be in order to award a global amount in connection with costs for rectification which would include moneys expended and moneys for further necessary works. After noting the particulars of the various items and the views of CSL we are of the view that it would be in order to award \$30,000 as costs for rectification.
29. We are of the view that it will not be in order to award any reimbursement for restoration of the tenant's painting that was on the wall of the living room. It should not have been hung on a wall where there was evidence of water leakage.

30. Surveyor's and legal fees:

Whilst we are of the view that it will be in order for the Respondents to pay for the cost and expenses for CSL's services, we did not, in view of the nature of this case consider that any moneys should be awarded to the Applicant for consulting a lawyer.

31. STB fees and miscellaneous expenses:

We are of the view that it will be in order to award a sum of \$1,000.00 inclusive of all fees payable to Strata Titles Boards (filing and hearing fees) for costs and expenses for pursuing the claim.

32. Accordingly, it is ordered that the Respondents should pay the Applicant (\$14,500 + \$30,000 + \$3,000 + \$1,000) \$48,500 for loss and expenses resulting from the leakage.

Dated this 19th day of July 2017

REMEDIOS FRANCIS G.

Deputy President

LAI HUEN POH

Member

KONG MUN KWONG

Member

The Applicant in person
The Respondents in person