

BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT

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(STRATA TITLES BOARDS) REGULATIONS 2005

STB No. 32 of 2018

In the matter of an application under Sections 101(1)(a), 101(8)(a) and 101(8)(b) of the Building Maintenance and Strata Management Act in respect of the development known as LOYANG VALLEY (MCST Plan No. 1186)

Between

Poh Beng Swee

... Applicant

And

Teo Siew Yam

... Respondent

FOUNDATIONS OF DECISION

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Between

Poh Beng Swee

... Applicant

And

Teo Siew Yam

... Respondent

1 October 2018

13 December 2018

19 December 2018

Coram:	Mr Seng Kwang Boon	(Deputy President)
	Mr Tony Tay Chye Teck	(Member)
	Ms Elaine Chew	(Member)

INTRODUCTION

1. The Applicant Poh Beng Swee is the subsidiary proprietor of Block 202 Loyang Avenue, unit #XXX Loyang Valley, Singapore 509059.
2. The Respondent Teo Siew Yam is the subsidiary proprietor of unit #XXX in the same development.
3. The Respondent's unit is directly above the applicant's unit.

THE APPLICANT'S CASE

4. The Applicant had since 2015 complained to the Respondent that water had been leaking from the Respondent's unit into the Applicant's master bedroom toilet and the adjacent room.
5. The Applicant said that nothing had been done by the Respondent to correct the leakage and he had no choice but to engage his own contractor to repair the leakage into his unit at his own expense by grouting method. However, the leakage continued and he said the repairs ought to have been carried out at the Respondent's unit to be effective and the Respondent was not co-operating.
6. As the Respondent was disputing that the source of the leakage was not from his unit, the Applicant had engaged an expert Er Teoh Eng Giap to inspect both his and the Respondent's unit and to put up a report.
7. Er Teoh said that he inspected the Applicant's unit on the 17 September 2018 only as he had no access to unit #XXX above. He concluded that the source of the water seepage was from the Respondent's master bedroom toilet and the likely cause was the damaged /defective waterproofing especially around the outlet pipes on the floor and along its perimeter walls/kerbs inside the toilet room at unit #XXX. As the water seepage had occurred over a long duration of time, the water had spread to the adjacent bedroom in #XXX.
8. Er Teoh said that he inspected both the Applicant's unit and the Respondent's unit again on 26 September 2018 as he was allowed access into the Respondent's unit. He put up a second report. He found severe water seepage signs in the Respondent's master bedroom

toilet. The condition in the Applicant's unit remained the same. He again concluded that the water seepage was clearly from the Respondent's toilet into unit #XXX.

9. As the Respondent was still not convinced, a water ponding test was carried out with the consent of Respondent in her master bedroom toilet. This was done on the 1 October 2018 in his presence and the Respondent's expert's presence by a mutually agreed waterproofing specialist – Proof Tech Waterproofing and Maintenance Pte Ltd. Pink coloured dye was used. A joint inspection was conducted by both the experts on the 6 October 2018 together with the waterproofing specialist in both the units. Pink water in the Respondent's toilet disappeared, there was pink colour detected in the Applicant's toilet, master bedroom and the adjacent room.
10. Er Teoh concluded that the water ponding test reaffirms his previous findings.

THE RESPONDENT'S CASE

11. The Respondent denied that the source of the seepage was from her unit. The Respondent's husband Tan Eng Seng (RW1) said he had carried out waterproofing in his master bedroom toilet using chemical infusion and the Applicant still complained of the leakage. He therefore, engaged his own expert - an Architect called Tan Kheng Giap Leonard, to inspect both the Applicant's unit and the Respondent's unit to determine the source of the seepage and to put up a report.
12. Architect Tan said that he inspected both the units on the 26 September 2018, 1 October 2018 and on 6 October 2018. He put up a report dated November 2018. He concluded that the water seepage into unit #XXX could be due to a variety of causes. He listed the following as possible causes:
 - i. damaged waterproofing membrane caused by the previous grouting works.
 - ii. leakage from common property such as damaged service pipes and water-filled conduit pipes embedded in the concrete.
 - iii. roots of young plants growing on the flat roof.
 - iv. rainwater from some defective external walls.

13. He, however, said that “the only possible source of leakage that can possibly be attributed to #XXX is from the master bedroom ceiling and even then, these were caused by the Applicant’s grouting work at the underside of the slab”.

BOARD’S FINDINGS

14. It is not disputed that there was water seepage into the Applicant’s unit. The issue is where was the source of the seepage and whether the Respondent is responsible and therefore liable to repair the seepage and to make good the damages caused as a result.
15. The Board has examined the three reports put up by the Applicant’s expert Er Teoh and the report by the Respondent’s Architect Tan Kheng Giap Leonard.
16. Er Teoh’s conclusion in all his three reports were consistent and concise.
17. Architect Tan’s report was somewhat vague and contained many possibilities of the causes of the seepage with no tests conducted and no final conclusion as to the source. He accepted during the cross examination that all his conclusions were possibilities and not probabilities.
18. On a balance of probabilities, the Board accepts the three reports of Er Teoh and finds that the seepage into the Applicant’s master bedroom toilet, the master bedroom and adjacent room was from the master bedroom toilet of the Respondent’s unit.
19. The Board is of the view that the water ponding test clearly supports Er Teoh’s findings. There was no evidence adduced by the Respondent that the previous grouting works had caused damage to the water membrane as alleged by the Respondent’s expert.
20. The Board is satisfied on the evidence adduced by the Applicant that there was a loss of rental. The tenant terminated his lease due to the severe leakage. However, the Board is not satisfied that sufficient efforts have been made by the Applicant to rent out his premises after the tenant left.

BOARD’S ORDERS

21. The Board makes the following orders: -

- i. The Respondent is to carry out the repair works in her master bedroom toilet as recommended by Er Teoh in paragraph 3.5 of his report dated 17 September 2018 within two weeks of this order.
 - ii. The Respondent is to make good all the damages caused by the seepage in the Applicant's master bedroom toilet, master bedroom and the adjacent room within two weeks of this order.
 - iii. The Respondent shall compensate the Applicant on his loss of rental. The amount is to be determined.
 - iv. The Respondent shall pay the Applicant the cost of this application.
22. The Board will hear the parties on the cost and the quantum of damages to be awarded.

Dated this 19th day of December 2018

Mr Seng Kwang Boon
Deputy President

Mr Tony Tay Chye Teck
Member

Ms Elaine Chew
Member

Mr Lim Soo Peng (Lim Soo Peng & Co LLP) for the Applicant
Mr Walter Silvester (Silvester Legal LLC) for the Respondent