

**LAND TITLES (STRATA) ACT  
(CHAPTER 158)**

**LAND TITLES (STRATA TITLES BOARD)  
REGULATIONS 1999**

STB 1 OF 2005

In the matter of an application under section 103(1)(c) of the Land Titles (Strata) Act in respect of the development known as Robin Lane (Strata Title Plan No. 281) comprised in Land Lot Nos TS26-U219X, TS26-U220K, TS26-U217K & TS26-U218N

Between

- 1 DR SI-HOE KOK CHUN**
- 2 TAN CHOON LIAN (m.w)**

... Applicants

And

**RAMESH RAMCHANDANI**

...Respondent

Coram: **TAN LIAN KER**  
President

Panel Members: **Ms CHAN SWEE CHIN**  
**Prof LIM LAN YUAN**

Counsel: **Ms Felicia Ng for the Applicants**  
**Mr Ramesh Appoo for the Respondent**

**GROUND OF DECISION**

**Facts**

The dispute concerns two subsidiary proprietors in a small strata titled development known as Management Corporation Strata Title (MCST) Plan No. 281 comprising 4 lots at Robin Lane. The subsidiary proprietors of the development are as follows:

Unit	Name(s)	Date of ownership
4	Mr & Mrs Yeo Chin Hoo	6 March 1986

- |    |   |                  |
|----|---|------------------|
| 4A | Mdm Shanti Ramesh Ramchandani   | 26 October 1989  |
| 6  | Dr Si-Hoe Kok Chun<br>Mdm Tan Choon Lian<br>who bought from Toby Koh Fuwei (who in turn bought<br>from his father Koh Tiong Chwee on 21 March 2000) | 26 August 2002   |
| 6A | Dr Si-Hoe Kok Chun<br>Mdm Tan Choon Lian  | 28 February 1996 |

2. The applicants (first applicant Dr Si-Hoe Kok Chun and second applicant Mdm Tan Choon Lian, both co-subsiary proprietors of No. 6A) have applied under section 103(1)(c) of the Land Titles (Strata) Act (Cap. 158, 1999 Revised Edition) for various orders against the respondent (Mr Ramesh Ramchandani). Mr Ramesh is not a subsidiary proprietor but the husband of Mdm Shanti Ramesh Ramchandani (the sole subsidiary proprietor of No. 4A).

3. It should be noted that Dr Si-Hoe Kok Chun and Mdm Tan also bought another unit No. 6 as co-subsiary proprietors in 2002.

4. The provisions of the Building Maintenance and Strata Management Act 2004 (Act 47 of 2004) which came into effect on 1 April 2005 do not apply to these proceedings but the provisions of the Land Titles (Strata) Act apply.

#### **Orders sought by the applicants**

5. The orders sought by the applicants are as follows:
- i. That the respondent has not been properly authorised to represent Shanti Ramesh Ramchandani, sole subsidiary proprietor of No. 4A Robin Lane, Singapore, in the affairs of MCST Plan No. 281.
  - ii. That the respondent has not been properly elected as a member of the council of the MCST and therefore that all acts done by the respondent in his capacity as such council member from February 1996 to date or such other dates as the Strata Titles Board (Board) may order are void and of no effect.
  - iii. That the respondent wrongfully acted as a member of the Council of the MCST simultaneously with his wife, Shanti Ramesh Ramchandani, from February 1996 to date or such other dates as the Board may order and that consequently all acts done by the respondent in his capacity as a council member are void or of no effect.
  - iv. That the respondent wrongfully signed the cheques of MCST including but not limited to OCBC cheque number 137428 dated 13 January 2000 for \$2,181.50 and the respondent shall reimburse the MCST the sum of \$2,181.50, and

- v. That the respondent be restrained from further participating in the affairs of the MCST and its council.

#### **The issues**

6. The key contention of the applicants is that the respondent is not a subsidiary proprietor of the MCST, and as such has no business in the MCST. In addition, he has not been properly elected to the council to represent his wife who is the subsidiary proprietor. Counsel for the applicants argued that a proper election requires a nomination of council members to be given at the annual general meeting and then a voting to take place. Since there is no record whether such a procedure has been followed, the requirements of the Act have not been complied with. Consequently, all acts (including the signing of a cheque) performed by the respondent are illegal. The Board's decision on each of these issues are given below.

#### **Board's decision**

##### **a) Preliminary Issues**

7. Before the hearing, the Board considered two preliminary issues as follows:

- i. Whether the respondent (as opposed to the MCST) is the correct party to the application.
- ii. Whether the Board has the power or jurisdiction to make a declaratory order/judgement in respect of the orders sought.

8. On the first issue, counsel for applicants argued that applicants as subsidiary proprietors and respondent as occupier would fall within the persons stated under section 103 (1), and hence the respondent is the correct party to the application. Counsel for respondent submitted that section 103(1)(c) does not permit the applicants to seek an order that the respondent was not properly authorised to represent his wife in the MCST. Although section 103(1)(c) allows the Board to make an order for the settlement of the dispute or rectification of a complaint with respect to the exercise or performance of or failure to exercise or perform, a power, authority, duty, or function conferred or imposed by the Act or its by-laws, the respondent's wife's appointment of the respondent as her representative in the MCST does not involve an "exercise or performance or failure to exercise or perform, a power, authority or function conferred or imposed by the Act or its by-laws".

9. The Board concurs with the argument put forth by counsel for respondent. Since the order sought is whether there is authority for a person to represent a subsidiary proprietor in the MCST, then in the Board's opinion the proper party in the application should be the MCST and not the respondent as the authority to determine the rightful participation of the alleged person rests with the MCST.

10. On the second issue, counsel for applicants contended that the Board has the power to make a declaratory order giving examples in sections 94, 96, 97 and 98 including 103. As section 103(1) does not restrict the type or nature of the order that the Board may make, counsel argued that it empowers the Board to make an order for the settlement of a dispute or the rectification of a complaint. The section is broad enough to encompass a declaratory order. On the other hand, counsel for respondent submitted that the Board does not have the jurisdiction to make a declaratory judgment under the Act. In arriving at our decision, the Board considers the nature of the orders sought. As the order sought concerns the valid election of council members in the MCST, the Board is of the view that the appropriate order should be taken under section 97 and not section 103.

11. Despite the Board's views on the two preliminary issues, the Board did not dismiss the Application but reserved its judgement and allowed the proceedings to proceed.

b) Decision on various orders sought

12. A total of six days were spent to hear this case including a day for counsel's submissions. Two witnesses from the applicants (namely, the husband and wife) and three witnesses from the respondent (namely, the respondent himself and his wife, and Mr Yeo Chin Hoo who is another subsidiary proprietor), as well as an official, Mr Kuan Kong Kit, a principal technical officer from the Building and Construction Authority were called and examined.

13. The Board notes the informality in which the affairs of the small MCST were conducted since its first annual general meeting was held in 1981. The annual general meetings were informally carried out all these years except from 1999 onwards. The dispute apparently arose at a meeting on 14th June 1999 when the presence of Mdm Tan Choon Lian (the second applicant) was challenged by the respondent. This subsequently resulted in the applicants challenging the status of the respondent. The dispute worsens with the allegation of the non-approval of alteration works carried out by the applicants. As a result of this worsening relationship among the subsidiary proprietors, the applicants are challenging all wrong doings which do not comply with the provisions of the Act including the two annual general meetings in 1998 and 1999 which the first applicant was elected the secretary and himself recorded the minutes.

14. The Board's decision on each of the orders sought is given below:

1. 1st Order

Mdm Shanti Ramchandani testified that a power of attorney was granted to her husband Mr Ramchandani as early as 25 Sept 1986 to represent her and in her name and on her behalf "to do and execute all matters within and outside the Republic of Singapore particularly in connection with all moveable and immovable properties, estates and interests of whatever nature". A copy of the power of attorney was tendered as evidence.

Clause 39 of the power of attorney further provides for the power "to vote at the meetings of any Management Corporation appointed under the Land Tittles (Strata) Act or otherwise to act as my proxy or representative in respect of any shares now held or which may hereafter be acquired in my name therein and generally to exercise for me and in my name all rights and privileges and perform all duties which I may now or hereafter have as holder of such shares or as otherwise being interested in any Management Corporation".

15. The respondent also testified that such a power of attorney was shown to one or two council members sometime in 1992 or 1993 when he first represented his wife in MCST affairs. One of the difficulties encountered in this case is the lack of records kept by the MCST. However, the minutes of the annual general meetings held in 1993, 1994 and also 1996 when the respondent served as chairman and Mr Koh Tiong Chwee (another subsidiary proprietor who has since sold his unit) served as secretary, clearly stated that the respondent was participating in the MCST affairs as proxy for his wife. This was the period before applicants became co-subsiary proprietors of the MCST.

16. Witness Mr Yeo Chin Hoo who is the earliest subsidiary proprietor among the current four subsidiary proprietors of the MCST, and who became owner in 1986 before both the respondent and applicants, testified that he was aware of the fact that the respondent is not a subsidiary proprietor but represents his wife in the MCST.

17. In addition, in the 1998 and 1999 annual general meetings which were held in No. 4A Robin Lane, the house of Mdm Shanti Ramchandani, she was also present with her husband during the meetings. In view of the above reasons, the Board is of the view that the respondent has the authority to represent Mdm Shanti Ramchandani in the MCST by virtue of the power of attorney, or the proxy given and the presence of his wife at the meetings.

## 2. 2<sup>nd</sup> and 3<sup>rd</sup> Orders

18. The Act and regulations do not provide any details or procedures on how council members are to be elected short of saying that the members have to be elected at each annual general meeting. All witnesses testified that subsidiary proprietors were informally elected at general meetings. As mentioned by both witness Mr Yeo Chin Hoo and the respondent, in view of the small number of subsidiary proprietors, all four subsidiary proprietors are invited at each annual general meeting to be council members, and they take turn to serve as office-bearers, with a subsidiary proprietor sometimes taking on two positions.

19. In fact, for the two annual general meetings held in 1998 and 1999 which applicants claimed that no proper elections were held, it was clearly recorded by the first applicant Dr Si-Hoe Kok Chun as secretary of the MCST then that "current members are retained by consensus" in the 1998 meeting minutes, and "the following were elected: Chairman - Mr Koh Tiong Chwee, and Secretary - Mr R Ramesh" in the 1999 meeting minutes.

20. Paragraph 6 of the Second Schedule to the Act provides that council decisions or acts carried out in good faith are valid even if, at the time, there was a vacancy in the council, or there was a defect of any kind in the appointment or any disqualification of a council member.

21. Counsel for applicants argued that a formal nomination of council members has to be put forward and then an election to take place at every general meeting. The Board is of the view that, in large condominiums where there are many subsidiary proprietors, it is good practice to have a formal procedure for nomination and election to take place in order to ensure that the proper subsidiary proprietors are identified and elected. In a very small condominium with only 4 owners, all of whom are present, such a formality is not a necessity. As there are no provisions in the Act setting out the legal procedure for electing council members, the Board is of the view that the respondent was not incorrectly elected as a council member. In addition, as no allegation of bad faith is made by the applicants, all acts done or carried out by the respondent in his capacity as a council member are valid even if the election is not proper which is not in this case.

### 3. 4th Order

22. As provided in the affidavits of both witness Mr Yeo Chin Hoo and the respondent, the expenditure of \$2,181.50 was authorised by the MCST. Mr Yeo Chin Hoo was the chairman and Mr Toby Koh (the son of Mr Koh Tiong Chwee who has since sold his unit) was the secretary of the MCST. The respondent has been one of the authorised signatories for the issuance of cheques as early as 1994. Mr Yeo Chin Hoo is the other co-signatory for the cheque of \$2,181.50.

23. As the expenditure was authorised by the MCST, the Board is of the view that the respondent has not acted wrongly as a council member under the instruction of the Council.

24. Even if the respondent is not the designated treasurer, under section 62(6)(c) of the Act, the respondent may be required by order of the Council to exercise the powers and functions with the treasurer jointly. As there was no proper keeping of the MCST records and also no correct recording of the minutes of the council and general meetings, the Board is unable to determine the true state of affairs. However, it is of the view that such a decision might have been made as the MCST bank contains authorised signatures of the respondent and Mr Yeo Chin Hoo.

### 4. 5<sup>th</sup> Order

25. The respondent has every right to participate in the affairs of the MCST either as a power of attorney or as a proxy for his wife or as an immediate family member of his wife. The Board is of the view that it does not have the jurisdiction to make such an order to restrain the respondent from further participating in the MCST and its council.



### **Dismissal of Application**

26. Despite the allegations of lack of formality and irregularities arising from the conduct of the affairs of the MCST including the election of council members by the applicants, the Board is satisfied that at each annual general meeting, an attempt is made to allow all four subsidiary proprietors to be present and elected as council members. No subsidiary proprietor was being prejudiced in the process and each has every opportunity to manage and participate in the affairs of the MCST. In a very small development, this process has been an efficient one provided the legal requirements of a proper notice of the meeting and the quorum have been met. Based on the reasons provided above, the application is dismissed.

### **Costs**

27. On the issue of costs, the Board is of the view that the applicants should have instituted the proceedings against the MCST and not the respondent. In addition, the applicants have focused on procedural practices of council election without legal merit. In fact, the applicants themselves are equally at fault if the procedural propriety is to be argued forcibly. In very small developments, it is expected that such procedural propriety is likely to be lax, and subsidiary proprietors should attempt to live and work harmoniously to resolve any problems in an amicable manner. The Board is of the view that the proceedings should not have been brought up in the first place. Taking into the consideration the number of days of hearing and the arguments above, the Board orders that the applicants to pay a sum of \$15,000 to the respondent as costs.

Dated this 2nd day of August 2005.

**MR TAN LIAN KER**

President

Strata Titles Boards

**MS CHAN SWEE CHIN**

Member

Strata Titles Boards

**PROF LIM LAN YUAN**

Member

Strata Titles Boards