

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

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

STB NO 33 OF 2007

In the matter of an application under Section 84A of the Land Titles (Strata) Act in respect of the development known as **Minton Rise Condominium** (Strata Title Plan No. 2514) comprised in Land Lot Nos 8035k, 8036N and 8037X of Mukim 22

Between

1. Kwan Cheong Loong Chris
2. Chin Yong How
3. Bay Kim How

(representing the Majority Owners of Minton Rise Condominium)

... Applicants

And

1. Chin Pak Lim @ Jannatul Naim Chin Abdullah/ Suriati Bte Shaffii
2. Teo Chen Choon Patrick / Ee Ching Lien Elizabeth
3. Lim Boon Tee Desmond/ Wong Nyuk Khim Sabrina
4. Ho Chin Beng/ Tng Sok Chng
5. Chee Kheng Chye/ Lee Kwee Hiang Janet
6. Thiang Voon Tong/ Koi Sew Lang
7. Ang Mui Khoon
8. Tee Ah Heng/ Alice Ng
9. Daniel Wong Peng Kong/ Wong Siew Cheong/ Wong Siew Yong
10. Koh Chor Ngim
11. Lo Hon Kie@ Junus Sunardi
12. Loh Boon Leng David/ Chua Lee Kiang
13. Pan Wai Chung/ Sim Gim Luan/ Poon Kit Peng
14. Ho Poh Kee/ Ee Khoon Lian
15. Fong Kim Loong Raymond/ Annie Ee
16. Tan Aik Chua/ Mrs Tan Aik Chua Nee Chong Bee Lim
17. Tan Chit Say/ Chen Foon Lan
18. Lee Wu Ting Yi
19. Lam Ee Her/ Lam Ee Chien
20. Poon Yoke Sim/ Seet Lee Eng
21. Tay Song Huat/ Tay Seok Ngoh
22. Tay Song Chiew/ Tan Bee Geok
23. Tay Ah Chai/ Leng Lin Hoong

24. Seah Geok Phin/ Aw Guan Soo
25. Tan Mui Kheng
26. Tan Hun Lam/ Ho Lay Eng
27. Mui Chee Yeong Andrew/ Anita Singorahardjo
28. Tan Kee Whatt Freddie/ Wong Jock Lin Doris
29. Tan Yiu Guang/ Seet Chay Hiang
30. Lee Beng Hock/ Heng Bon Chen

...Respondents

Coram: **MR ALFONSO ANG**
Deputy President

Panel Members: **MR CHUA KOON HOE**
MR EDWIN CHOO
MR LEE KEH SAI
MR KONG MUN KWONG

Counsel: **MR RAYMOND WONG**
MS AUDREY WONG
(M/s Wong Thomas & Leong for the Applicants)

MR CHIA BOON TECK
MS WONG KAI YUN
MS JAMIE SEAH
(M/s Chia Wong LLP the 1st to 3rd, 6th to 8th, 10th to 11th, 14th to 16th Respondents)

MR RICHARD TAN
MS DIANA XIE
(M/s Tan Chin Hoe & Co for the 19th to 30th Respondents)

MR MUSTAFFA ABU BAKAR
(M/s Mustaffa & Co for the 13th Respondents)

GROUND OF DECISION

The Board has heard the evidence adduced at the hearings and read the submissions of all parties. It will now give a short decision and will write its full decision in due course, if required, which will cover all aspects of the decision in detail.

a. Section 84 A (1) (b) of the Act

The material factual matrix is not in dispute. The sole issue is for the Board to decide whether the Applicants have the required 80% or 90% of the share values to sell the lots and the common property of Minton Rise Condominium (MRC). The Board adopts the position in another Board's decision in the Gillman Heights' case which ruled that only 80% of the share values is required for the

sale of that former HUDC property. The Board also do not agree with the Respondents' submission that Parliament never intended the Act to apply to ex-HUDC estates until the new section 84A (1) (a) or (b) was amended. The Board notes that all parties have reserved their rights on this issue which is the subject matter of an appeal to the High Court in the Gillman Heights' case.

b. Sale price

The Board examined the issue of whether the transaction was not in good faith. Amongst the contentions raised, it was alleged that the sale price of \$209m obtained by the Sales Committee was not in good faith. Most of the Respondents relied on the valuation of HBA Group Consultancy Pte Ltd to support their claim that the sale price was below the fair valuation and the then current market value. It is the Respondents' contention that the value of the property was \$240,813,000 as at 1 February 2007.

The valuers for the Applicants and the Respondents made their reports after the sale price was agreed on 1 February 2007.

The Board examined all the witnesses and their testimonies together with the submission by all the parties to the proceedings. We also paid attention to the process that led to the commitment of the sale price by the Sales Committee. The Board is not satisfied that the Respondents had succeeded in showing the lack of good faith by the Sales Committee in arriving at the sale price of \$209m for the property.

c. Method of distribution

The method of distribution adopted by the Sales Committee and agreed to by the majority owners was based on 50% share value and 50% strata area.

The Board recognizes that there are various methods of distribution of the sales proceeds. The method adopted by the majority is one of the acceptable methods. We cannot find any evidence to conclude that this method that was adopted was not in good faith and we accordingly reject this objection.

d. Validity of the CSA

The Board is satisfied that the Sales Committee had acted in accordance with the 3rd Collective Sales Agreement (CSA) which was valid up to 18 July 2006. It was clear to us that the 3rd CSA had superseded the 2 earlier CSA. The application to the Board for approval of the sale of MRC was based on the 3rd CSA. We are unable to make a finding that the Sales Committee acted outside the ambit of the CSA.

e. Procedural requirements

Various issues as to procedural defects were also raised. These include whether Form 7 was in order, whether the majority owners complied with all the statutory requirement of putting up the 8- week notices in the 4 official languages

We have examined each and every of these issues that were raised. We do not accept that they were any breach of the statutory requirements. If indeed there were any breaches there was no evidence of any prejudice suffered by any party. In arriving at this decision we were bound by the principles laid down in the High Court's decision in the Horizon Tower's case and the Phoenix Court's case.

Having heard the oral evidence and having read the closing submissions by all counsel, the Board found no evidence to support the allegations made by the 13th Respondents for non-compliance with procedural requirements in respect of Form 7. The Sales and Purchase Agreements (SPA) are signed by the majority owners in their personal capacity and not by the authorized representatives. There was no requirement for the authorized representatives to sign the SPA on behalf of the majority flat owners.

Failure to comply with 8-weeks Notices

It was argued that there was a procedural defect in that the Applicants failed to affix on the notice boards in the conspicuous part of each building block comprised in the Strata Title Plan within MRC once every 8 weeks, a notice as required under Section Part 1(b) of the schedule of the Act. This notice in the 4 official languages shall specify the number of flat owners who, immediately before the date of the notice, had signed the CSA and the proportion in percentage of the total share value of all lots comprised in the strata title plan of MRC.

There was no dispute that the 8-weeks notices were affixed at all notice boards of MRC. However, the mere exclusion of one flat owner from the computation of the number of flat owner who had signed the CSA was a technical error or omission. This did not in any way prejudice the interest of the 13th Respondents or any other interested parties within MRC.

Missing Contact Telephone Number in the Notice

The applicants conceded they had mistakenly omitted Mr. Kwan's contact telephone number in the 8-weeks notice, but this omission had not resulted in any prejudice to the 13th Respondents or to any parties.

f. Financial Loss

The issue of financial loss has been dealt with extensively in the Applicants' solicitors' submission at pages 26 to 32, and we agree with the submission.

It would be sufficient for the Board to note that 2nd, 3rd, 5th and 10th Respondents have all agreed on the compensation that will be made to them to cover the financial loss that they claimed to have suffered. As regards the objections of the 18th Respondents, the Board accepts that she will not suffer any financial loss after the compensation of \$114,039.25 is paid to her from the funds set aside for such purpose. We do not accept her submission that her share of the proceeds of sale would be insufficient to find a replacement property as a valid objection.

The Board also rejects the claim by the 13th Respondents that they will suffer financial loss of \$57,147.63.

Dated this 23rd June 2008

MR ALFONSO ANG

Deputy President
Strata Titles Boards

MR CHUA KOON HOE

Member
Strata Titles Boards

MR KONG MUN KWONG

Member
Strata Titles Boards

MR LEE KEH SAI

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