

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

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

STB NO 33 OF 2008

In the matter of an application under **Section 84E** of the Land Titles (Strata) Act in respect of the development known as Nos. 134/ 134A/ B/ C/ D/ E/ F/ G/ H/ J/ K/ L & Nos. 136/ 136A/ B/ C/ D/ E/ F/ G/ H/ K/ L (known as Koon Seng House) & Nos. 124/ 126/ 128/ 130/ 132/ 138/ 140/ 142/ 144 Koon Seng Road comprised in Land Lot No 6329V of Mukim 26

Between

1. Lim Li Pheng Maria
 2. Liew Yeow Siang
 3. Gobindram s/o Ramchand Chandumal Thadhani
- (representing the Majority Owners)

... Applicants

And

1. Goh Teh Lee
2. Han Jung Kuang Lawrence/ Lee Woei Shyuan (Withdrawn)

... Respondents

Coram: **MR SENG KWANG BOON**
Deputy President

Panel Members: **MRS TAN SOOK YEE**
DR LIM LAN YUAN
MR TANG TUCK KIM
MR TAN EE PING

Counsel: **MR LEONG KWOK YAN**
(M/s Leong Kwok Yan for the Applicants)

MS CAROLYN TAN/ MR TONY AU
(Tan & Au LLP for the 1st Respondent)

GROUND OF DECISION

FACTS

1. This is an unusual enbloc sale in that the property consists of 24 apartments in a 4-storey block (Koon Seng House) and 9 terrace houses on one piece of freehold land, not subdivided. The terrace houses are owned by a single owner. The apartments are comprised in 999,999 year leases with no share in the land and is not a strata subdivision.
2. Koon Seng House Residents' Association looks after the maintenance of the apartments and the car parks. Its members are the owners of the 24 apartments.
3. At a meeting on 23 November 2006 convened by the Residents' Association to explore and discuss a possible collective sale of the terrace houses and the apartments, the owner of the 9 terrace houses and 18 owners of the apartments agreed to a collective sale of the property. A sale committee was formed and the sale process proceeded.
4. In October 2007, the majority owners realized they were unable to get 100% consensus among owners for the collective sale. They therefore needed to apply to the Strata Titles Boards ("STB") for an order. As there was no share value allocated to the units (houses and apartments), they began to prepare for an application for allotment of notional share values for each unit with the Singapore Land Authority ("SLA").
5. They engaged a surveyor to survey each unit. The survey took a long time to complete as the surveyor encountered difficulties in gaining access to some units, the unavailability of approved building plans and other physical problems.
6. They had then to deal with the Building and Construction Authority ("BCA") and SLA in regard to the formula to be used in the allocation and to answer and deal with the many queries from the 2 authorities.
7. Final approval to lodge the application was given on 7 March 2008. The allocation was 7 share values for each apartment and 6 for each terrace house.
8. The application to STB was lodged on 16 April 2008.

THE OBJECTIONS

9. The 1st Respondent (who co-owns a unit) objected to the sale on the following grounds:-
 - (i) the method of distribution was unfair;
 - (ii) 80% share value was not obtained;
 - (iii) the application to STB was out of time;
 - (iv) procedural irregularities;
 - (v) injunction against Respondent; and
 - (vi) the owner of terrace houses was not entitled to proceed as he cannot participate in the sale

FINDINGS & BOARD'S DECISION

10. On the evidence adduced and the documents and reports tendered at the hearing, the Board's findings are as follows:-

(i) On the 80 % objection

(a) We find that at the onset before the notional share values were allotted, more than 80% of the owners of the property (9 terrace houses and 18 apartments) had agreed to a collective sale of the property;

(b) After the notional share values were allotted, there was still more than 80% who wanted the sale;

(c) In fact when this case came up for hearing, except for the 1st Respondent, all owners, including the co-owner of the unit owned by the 1st Respondent, had agreed to the sale and had signed the documents; and

(d) We therefore find in substance that the 80% rule had been satisfied.

(ii) On the application to STB being out of time

We are of the view that it is not necessary to go into when the time for application to STB started to run – on 29 December 2006 (1st signature of the Collective Sale Agreement) or 24 March 2007 (1st signature of the Supplemental Collective Sale Agreement) or any other dates. The fact was that the delay (if any), was due to extraordinary circumstances of this case and there was no inordinate delay on the part of the majority. More importantly, we find that the delay (if any) did not prejudice or disadvantage the 1st Respondent in anyway. In fact, no one was prejudiced or disadvantaged by this.

(iii) Other procedural irregularities

The Board finds that all the owners were aware of the enbloc sale and were kept informed by the Sale Committee ("SC") on the progress of the sale. We find that meetings were held although the recording of the minutes could be improved. As we have stated above, the irregularities (if any) did not prejudice or disadvantage anyone

(iv) The injunction

The issue is not relevant in an application for an enbloc sale before the Board

(v) Owner of terrace houses not entitled to process

We disagree with 1st Respondent's Counsel's arguments, as the terrace houses and apartments sit on the same plot of land under a single title

(vi) Method of distribution was unfair

a) The crux of this whole exercise is the objection that the method of distribution was unfair;

b) There is no single method of distribution nor a combination of recognized methods that can be fair in every case. Whether the method employed is fair or not in a given case must depend on the facts of the particular case;

c) In this case, we have carefully considered the evidence of the 2 experts and their reports;

d) We find that the method of distribution – equally among the units (9 terrace houses and 24 units) - agreed to by the majority is fair in the circumstances of this case; and

11. Accordingly, the Board approves the sale.

Dated this 4th day of February 2009

MR SENG KWANG BOON

Deputy President
Strata Titles Boards

MRS TAN SOOK YEE

Member
Strata Titles Boards

DR LIM LAN YUAN

Member
Strata Titles Boards

MR TAN TUCK KIM

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