

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

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

STB NO 85 OF 2007

In the matter of an application under Section 84A of the Land Titles (Strata) Act in respect of the development known as **WATTEN ESTATE** (Strata Title Plan No. 214) comprised in Land Lot No. Mukim 17-3208A

Between

- 1 **Ng Wai Tuck John**
- 2 **Chua Yat Foo**
- 3 **Tan Kiat Joo**

(representing the Majority Owners of Watten Estate)

... Applicants

And

- 1 **Minako Hunt nee Yamamoto**

...Respondent

Coram: **MR ALFONSO ANG**
Deputy President

Panel Members: **MR CHUA KOON HOE**
 MR SENG KWANG BOON
 MR TANG TUCK KIM
 MR EDWARD D'SILVA

Counsel: **MS RITA CHEW**
(Lawhub LLC for the Applicants)

MS CHRISTINA GOH
(M/s Christina Goh & Co for Respondent)

GROUND OF DECISION

This is an application pursuant to Section 84A of the Land Titles (Strata) Act for the collective sale of Watten Estate.

The material facts are not in dispute. Watten Estate is a mixed residential and commercial development comprising 39 units of residential apartments and 13 units of shops. At the date of the hearing, 2 owners of the residential apartments had not agreed to the collective sale agreement but did not file any objections. 3 owners of the shop units did not sign the collective sale agreement but had since withdrawn their objections or had their objections struck out.

The sole remaining Respondent who objected before the Board is the owner of shop unit no 28. The only issue before the Board was whether the transaction is in good faith because the method of distributing the proceeds of sale "in respect of the shop unit is without basis, and not made in good faith".

At the conclusion of the hearing, the Board dismissed the Respondent's objection and approved the sale. The Board, in the oral judgment, said that the Respondent had failed to prove that the transaction is not in good faith and now give its decision in writing.

The method of distribution adopted by the Applicant categorised the 13 shop units into 4 broad bands according to the frontage of the shops. The 4 broad categories are found on page 60 of the Affidavit of Evidence in Chief of Ms Poh Kwee Eng and elaborated in her report on the method of distribution in Exhibit "D" of the AEIC. In arriving at the method of distribution, the Sales Committee adopted the "Valuation Method". The Sales Committee took into account that this was a residential and commercial development, with units having the same share value. They also took into account the existing value and interest of both the commercial and the residential units. The Sales Committee adopted the recommendation of Ms Poh Kwee Eng that where commercial units were concerned, the frontage of the units was an important consideration that had to be taken into account in the determination of its value.

The Respondent's unit, together with 4 other units, was classified as "poor frontage" with a value of \$720 per square foot. 6 units had a value of \$800 per square foot. The remaining 2 units had values of \$760 and \$780 per square foot.

In her evidence in chief, Ms Poh explained her basis as to why the 5 units had "poor frontage". In essence, she said that these units were less accessible compared to the other units. Of these 5 units, only the Respondent has objected to the method of distribution.

The Respondent argued that the method of distribution was incorrect and hence not in good faith. The Respondent relied on the evidence of Ms Tan Law Yong, a Valuation Director of Dennis Wee Realty Pte Ltd. In her Valuation Report, she suggested that for commercial units, a "standard valuation rate should apply as in the same case as the apportionment of residential units. The reason being that there are only 13 commercial shop units and these units cater mainly to the residents as well as the nearby residents' needs." The Applicants' reply to the Respondent's proposed method of distribution was that it was less equitable to ignore the frontage of shops, which is an important consideration for commercial properties.

The Respondent will receive a sum of \$1,643,311 under the proposed method of distribution by the Sales Committee. Under her proposed method, she will receive a sum of \$1,748,070.

The Board in dismissing the Respondent's objection was guided by the decision of the High Court in *Dynamic Investment Pte Ltd v Lee Chee Kian Silas and Others* [2007] SGHC 216 where the Honourable Justice Mr. Andrew Ang ruled on the issue of "good faith". It would be sufficient for the Board to state that there was no evidence adduced by the Respondent that the subsidiary proprietors and the members of the Sales Committee acted dishonestly or in bad faith.

The mere fact that the Respondent disagreed with the method of distribution or was disadvantaged did not mean that there was bad faith on the part of all the other subsidiary proprietors or the Sales Committee. The method of distribution was a matter for all subsidiary proprietors to decide and the Board's role is to ensure that there is no lack of good faith. Accordingly, the Respondent's objection was dismissed.

Dated this 9th day of April 2008

MR ALFONSO ANG

Deputy President
Strata Titles Boards

MR CHUA KOON HOE

Member
Strata Titles Boards

MR SENG KWANG BOON

Member
Strata Titles Boards

MR TANG TUCK KIM

Member
Strata Titles Boards

MR EDWARD D'SILVA

Member
Strata Titles Boards