

BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT

BUILDING MAINTENANCE AND STRATA MANAGEMENT
(STRATA TITLES BOARDS) REGULATIONS 2005

STB No.38 of 2011

In the matter of an application under Section
101 of the Building Maintenance and Strata
Management Act in respect of the development
known as **Orchid Park Condominium** (MCST
Plan No. 1938)

Between

Anthony Koh Beng Kiok/Koh Swee Liang

... Applicants

And

Giam Cheek Tiat/Tye Boo Lan

... Respondents

Coram: Mr F G Remedios
Deputy President

Panel Members: Mr Lai Huen Poh
Mr Richard Tan Ming Kirk

Counsel: Mr Patrick Chow
(M/s Chow Ng Partnership for the Applicants)

ORDER BY STRATA TITLES BOARD ON COST

The Applicants, Anthony Koh Beng Kiok and Koh Swee Liang are the subsidiary proprietors of #03-09 at 89 Yishun Street 81, Tower 7. Orchid Park Condominium. Singapore 768449.

The Respondents Giam Cheek Tiat and Tye Boo Lan are the subsidiary proprietors of #04-09 at 89 Yishun Street 81, Tower 7. Orchid Park Condominium. Singapore 768449. Although Tye Boo Lan was not named in the original application, she appeared at the hearing and was added as a Respondent before the hearing commenced, without any objections being raised.

The Applicants are in this application applying for an order :

“To reimburse and claim for the cost of the damage done and all other costs incurred including all fees incurred involving Strata Titles Board”

The total amount claimed in the application filed on the 19/05/2011 was \$3968.00 (repair and rectification by contractors, \$2568.00; transport and incidentals \$900.00; application fee payable to the Strata title Boards \$500.00).

The Respondents deny that they are in any way responsible for the costs and damages suffered by the Applicants.

Applicants' case

Maria Koh Leena managed the unit for the Applicants.

She gave evidence as follows:

The unit was tenanted to one Mdm Jiang Ying. On the 27 July 2007, following a complaint from the tenant that there was water dripping from the ceiling in the master bedroom toilet and the common toilet, she went and checked the unit and found that the ceiling boards in both toilets were stained with water marks. She then removed the access panel on the ceiling and found “icicle had formed on the piping. There were also icicles on the ceiling slabs”

Photographs were taken and tendered in evidence to the Board.

Maria Koh contacted the management corporation (MC) about the seepage and the MC then wrote to the Respondents.

Two letters were written on the 24/04/08 and 23/07/08 by the MC to Mr Giam Cheek Tiat informing him of the seepage in the Applicant's premises and that it was suspected

that the seepage emanated from his master toilet. There was no response from the Respondents to the MC's letters.

In Jan 2010 the Applicants engaged M/s General Waterproofing and Service Pte Ltd (GWS) to conduct an inspection and prepare an investigation report on the condition and state of the water seepage in the unit.

Loh Wee Sheng, the investigator with GWS prepared his report on the basis of inspections at the Applicant's unit. He was not able to access the Respondent's unit. His findings in the report tendered in evidence were consistent with the photographs exhibited

As there was no response to the MC's letters the Applicants then wrote to the Respondents on the 18/11/10.

The letter was inter alia as follows:

To date you have been ignoring to respond and give reply despite several reminder letters earlier to you... please be informed that I will take necessary action including both rectifying the problems as the existing drop ceiling gave way and posed hazard to the safety of the tenants...have obtained quotation for the repair works... shall be fully borne by you.

In Dec 2010 the Applicants engaged M/s Tong Nee Contractor Pte Ltd to carry out rectification works. M/s Tong Nee rendered a bill for \$2568.00 and this was paid by the Applicants.

In the course of the hearing it was revealed that the Applicant's (Anthony Koh) father, Koh Toh Nee and sister Maria Koh Leena were the shareholders of M/s Tong Nee. There was however no evidence whatsoever that the charges in the bill rendered were not in order

On the 15/08/11 Loh Wee Sheng inspected the Applicants' unit and noted that grouting had been done by M/s Tong Nee. It was the evidence of Loh that whilst this had stopped the seepage, it was only a temporary measure.

At the close of the hearing of the case for the Applicants' the amount claimed was increased to \$5268.00. A sum of \$1300.00 (costs for the attendance of Mr Loh) was added to the original claim.

The Case for the Respondents.

It was the evidence of Giam Cheok Tiat that the seepage in the Applicant's unit was due to "serious overloading" of his old air-conditioner. He did not dispute that there was stalactite formation in the Applicant's unit and said that this was due "sign of an aging building" He was of the view it was due to rain water seeping in from the external wall or

steam from a water heater condensing on a cold concrete ceiling that caused the formation of the stalactites in this case.

Other than the bare opinion of Mr Giam Cheok Tiat no evidence was adduced to support his opinion.

S 101(8) of the BMSMA provides as follows:

In any proceeding under this section with respect to any alleged defect in a lot or in any common property...**it shall be presumed in the absence of proof to the contrary that the defect is within that lot or common property...above** if there is any evidence of dampness, moisture or water penetration –

- (a) On the ceiling that forms part of the interior of the lot... immediately below
- (b) On any finishing material ...applied to the ceiling that forms part of the interior...of the lot...immediately below.

The Board was in this case satisfied that the Respondents had not proved that the seepage in the Applicants' ceiling was not due to a defect in the Respondents lot.

The Respondents had been given a reasonable opportunity to attend to the defect and had not done so.

The Board was satisfied that expenses had been incurred by the Applicants to rectify the seepage. Specifically, the Board was satisfied that the Applicants had engaged M/s Tong Nee to carry out rectification works in Dec 2010 and paid M/S Tong Nee \$2568.00 for the works done. The Board was of the view that the following expenses were not unreasonably incurred:

- (i) \$2568.00 paid to M/s Tong Nee Contractors Pte Ltd
- (ii) \$500.00. Application fee payable to the Strata Titles Boards.

The Board was not satisfied that the claim for \$900.00 for transport and incidentals had been proved. There was no doubt that some transport and other expenses would have been incurred before rectification works were done and the Board was of the view that it would be in order to allow for a sum of \$100 for transport and incidentals.

With regard to the claim for \$1300.00, for the attendance of Mr Loh Wee Sheng the Board considered the professional status of Mr Loh Wee Sheng - he was a graduate from the Singapore Polytechnic (graduated in March 2011); the attendance was to check on the renovation done; if water seepage was continuing and attendance before the Board to give evidence. The Board was of the view that a sum of \$700 would be reasonable.

The Respondents are accordingly ordered to pay the Applicants \$3868.00.

The Board will now hear parties with regards to costs.

Dated this 13th day of October 2011.

Mr F G Remedios
Deputy President

Mr Lai Huen Poh
Member

Mr Richard Tan Ming Kirk
Member