

BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT

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

STB No. 70 of 2016

In the matter of an application under Section 101 of
the Building Maintenance and Strata Management
Act in respect of the development known as
Summerdale Condominium (MCST Plan No. 2622)

Between

The MCST Plan No. 2622

... Applicant(s)

And

Yu Di Wei / Tong Jian Hua

... Respondent(s)

FOUNDATIONS OF DECISION

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21 March 2017

29 March 2017

Coram: Mr Seng Kwang Boon (Deputy President)
Er Tony Tay Chye Teck (Member)
Dr Lim Lan Yuan (Member)

The Applicants' case

1. The Applicants are the MCST Plan No. 2622 of a development called Summerdale Condominium along Boon Lay Drive. This development is approximately 17 years old, having obtained TOP in 2001. In the year 2015, the Applicants conducted a repainting exercise in the whole development. This was a second repainting of the estate since 2009.
2. In the course of the repainting in 2015, six top floor units were found to have water seeping from their unit terraces onto the external walls of their respective blocks. The Applicants asked all Subsidiary Proprietors (SPs) of the six units to re-waterproof their unit terraces so that the painting of the external walls could be completed. Five SPs complied with the request and repainting work was completed in their respective blocks.

The Respondents resisted the request and up to date the repainting to their block could not be completed as the paint applied kept running because of water seepage from their roof top terrace onto the external walls.

The Respondents' case

3. The Respondents said that the seepage of water onto the external walls was not from their roof top terrace as their water proofing membrane was intact before the painting works commenced in 2015. The Respondents alleged that if it was the failure of their water proofing membrane in their roof top terrace that caused the seepage, the failure was caused by the Applicants' painters who attached a rope system to their railing and the combined weights of the painters and the rope system on the external walls caused the water proofing membrane at the upturn at the kerb and slab to fail.

The Expert's Evidence

4. In view of the Respondents' position, the Applicants engaged a professional Engineer, one Er Wilson Goh, to investigate. In his report, the professional engineer found that the water seepage problem to the external wall is due to the failure of the waterproofing membrane upturn at the slab and the kerb. He also found another localized waterproofing membrane failure at the terrace which caused water seepage to the units below the Respondents' unit. He was of the view that the failure of the water proofing system is due to wear and tear. In his report he also stated that the rope system and the weight of the workers could not cause any damage to the existing structure as the kerb including the railing barrier were designed to cater for heavier loadings.
5. In his oral evidence, the professional engineer said that it was unlikely that the rope system and the weight of the workers could cause any damage to the water proofing system but he would not rule out the possibility that the external weights might cause the membrane to "stretch" and result in a failure at the upturn.
6. Respondents did not produce any expert evidence.

The Board's Findings:

7. The Board accepts the evidence of the professional engineer and finds his explanation and reasoning credible.
8. The Board finds that the water seepage onto the external walls was from the Respondents' unit and it was a result of the failure of the water proofing membrane in the Respondents' unit roof terrace due to wear and tear. However, the Board also finds that the external weights of the rope system and the workers had contributed to the water proofing membrane being stretched and failed as stated by the professional engineer.

9. The Board rejects Respondents' submissions that the water proofing system is a 'fixture' and therefore it is the responsibility of the Applicants to maintain it. The Board is of the view that the water proofing system which is within the Respondents' unit roof terrace is for the purpose of preventing water from the Respondents' unit from seeping into other Subsidiary Proprietors' units and the common property and it is the responsibility of the Respondents to maintain it in good condition.

The Board Orders

1. The Board orders the Respondents to re-do their water proofing membrane on their roof terrace and to prevent water seepage from their unit onto the external walls of the building.
2. The Board further orders that the Applicants will contribute 50 % of the cost for the redoing of the water proofing membrane as there were evidence to show that prior to the 2015 repainting the water proofing membrane was still in working order and it is possible from the professional engineer's point of view that the weights of the rope system and workers had contributed to the failure of the membrane at the upturn at the slab and kerb.

The Board will hear Parties on costs.

MR SENG KWANG BOON
Deputy President

ER TONY TAY CHYE TECK
Member

DR LIM LAN YUAN
Member

The Applicant/s in person
The Respondent/s in person