IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[1967] SGHC 1

Suit 471/1966

Between

Turquand, Young & Co

… *Plaintiff*

And

Yat Yuen Hong Co Ltd

… *Defendant*

GROUNDS OF DECISION

Landlord and Tenant — Termination of leases — Surrender

Version No 1: 11 Sep 2026 (01:05 hrs)

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Turquand, Young & Co v Yat Yuen Hong Co Ltd

[1967] SGHC 1

Suit 471/1966
Ambrose J
25 February 1967

1 In this action the plaintiffs claim from the defendants the sum of $60,000 alleged to be due on 7 March 1966 under an agreement dated 17 February 1966 and interest at the rate of eight per cent per annum from the date of the writ, 22 March 1966 to the date of payment.

2 The agreement is alleged to be for the compensation of the plaintiffs by the defendants for vacating a rent controlled property known as No 1 Bishopsgate, Singapore. It reads as follows:

> *17 February 1966.*
>
> *No 1 Bishopsgate*
>
> *Heads of agreement*
>
> *1 Vacant Possession: 7 March 1966.*
>
> (2) Compensation: $110,000 payable
>
> (a) $60,000 on 7 March 1966 before possession.
>
> (b) $50,000 by five equal monthly instalments of $10,000 each payable on the last day of each succeeding month. First payment 7 April 1966.

> (c) Interest payable on balance from time to time due at 8% per annum at the end of each month at same time as the above-mentioned instalments.
>
> (d) Bankers` guarantee to be given on 7 March 1966 guaranteeing payment of (b) and (c).
>
> (e) Drew & Napier`s legal costs to be paid by Yat Yuen Hong Co Ltd.

3 The plaintiffs allege that the sum of $60,000 was due to be paid by the defendants under the agreement on 7 March 1966, before possession. They further allege that they are now and have at all material times been ready and willing to give up possession of the premises upon payment of the sum of $60,000 and upon compliance by the defendants with the remaining clauses of the agreement, but the defendants have failed so to pay or comply.

4 The defence admits the making of the agreement dated 17 February 1966 but raises two points of law.

5 On 13 May 1966 on an application made by the plaintiffs, it was ordered that the two points of law raised by the defence be set down for hearing and disposed of before the trial of the action pursuant to O XXVI r 2. The points of law set out in the order are these:

> (1) Whether the agreement dated 17 February 1966 is unlawful for non-compliance with s 2 of the Premiums on Leases Ordinance (Cap 253) by reason of non-presentation forthwith to the City Council or the successors thereof;
>
> (2) Whether the agreement is unenforceable, the premises being subject to the provisions of the Control of Rent Ordinance (Cap 242).

6 I will now consider the first point of law. Section 2(1) of the Premiums on Leases Ordinance provides as follows:

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> *It shall be unlawful for any landlord, or agent of a landlord as a condition of the grant, renewal or continuance of any lease or agreement for the tenancy of any building or part of a building, or for any person as a condition of giving up possession of any building or part of a building, to require the giving of any consideration whatsoever whether with or without reservation of rent unless -*
>
> *(a) particulars of such consideration and of such building or part of a building are furnished in a written document; and*
>
> (b) such document is forthwith presented for inspection by the landlord or his agent or any person giving up possession as aforesaid to the city council if the said building or part of a building is situated within the limits of the city or to the rural board if the said building or part of a building is situated within the rural board area.

7 It is not disputed that the original and a photostat of the agreement in question were sent by the plaintiffs` solicitors to the chief assessor, Planning Department, City Hall, Singapore, on 21 March 1966.

8 The material parts of s 2(1) of the Premiums on Leases Ordinance read as follows:

> *It shall be unlawful ... for any person as a condition of giving up possession of any building ... to require the giving of any consideration whatsoever ... unless -*
>
> *(a) particulars of such consideration and of such building ... are furnished in a written document; and*
>
> (b) such document is forthwith presented for inspection by any person giving up possession as aforesaid to the city council …

9 The dominant purpose in construing a statute is to ascertain the intention of the legislature as so expressed. This intention, and therefore the meaning of the statute, is primarily to be sought in the words used in the statute itself, which must, if they are plain and unambiguous, be applied as they stand: 36

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Halsbury`s Laws of England , 3rd Ed, para 578. As the words of the ordinance are clear and unambiguous, it is not open to the court to ascertain the intention of the legislature by considering how the law stood before the enactment of the ordinance and by looking at the objects and reasons set out in the original bill to discover the mischief which was intended to be suppressed. To require the giving of any consideration as a condition of giving up possession of any building is an unlawful act unless (a) particulars are furnished in a written document and (b) the document is forthwith presented for inspection by the person giving up possession to the city council. `Forthwith` means `as soon as practicable`: see ***Sameen*** v ***Abeyewickrema*** [1936] AC 597 at p 609. In the present case condition (a) was complied with. As regards condition (b) it is the person giving up possession who has to present the document to the city council as soon as practicable. In my opinion, condition (b) is to be complied with by the plaintiffs only on giving up possession. As possession has not yet been given up by the plaintiffs, the duty to present the document for inspection to the city council has not yet arisen.

10 Furthermore it is impossible for the plaintiffs to comply with condition (b) as there seems to be no statutory provision for the function of receiving and inspecting the document under s 2 (1) of the Premiums on Leases Ordinance to be exercised by anyone from 1 September 1963 when the Local Government Integration Ordinance 1963 came into operation. This I will now endeavour to show. City councillors were abolished by the City Council (Suspension and Transfer of Functions) Ordinance 1959. Section 6 of this Ordinance provided for the transfer of all the functions of the city council to the government. As from 1 January 1961 rates previously leviable by the city council and the rural board were replaced by a property tax upon the annual value of all immovable properties under the Property Tax Ordinance 1960. This ordinance created the

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offices of Comptroller of Property Tax and chief assessor and provided that the chief assessor shall be responsible for the assessment of the annual values of properties for the purposes of the ordinance. Section 3(2) of the Local Government Integration Ordinance 1963 provides:

> *In any written law and in any document whatsoever, unless the context otherwise requires any reference to a local authority or the city council or the rural board or any officer thereof, shall be construed as a reference to the government, minister or public officer for the time being, under and by virtue of this ordinance, discharging the functions performed by such local authority, the city council, rural board or any officer thereof, as the case may be, prior to the coming into operation of this ordinance.*

11 The function of receiving and inspecting documents presented under s 2(1) (b) of the Premiums on Leases Ordinance passed from the city council to the government in 1959. The Property Tax Ordinance 1960, did not confer this function on the chief assessor. Section 185 of the Local Government Integration Ordinance 1963, repealed the City Council (Suspension and Transfer of Functions) Ordinance, 1959. The Local Government Integration Ordinance 1963, did not assign the function of receiving and inspecting the documents referred to in s 2(1) of the Premiums on Leases Ordinance to the Government, Minister or any public officer. I accordingly come to the conclusion that there seems to be no statutory provision for the function of the city council under s 2(1) of the Premiums on Leases Ordinance to be exercised by anyone from 1 September 1963 when the Local Government Integration Ordinance 1963 came into operation. It is therefore impossible to comply with condition (b) in that subsection. In my view condition (b) must therefore be regarded as suspended until statutory provision is made for the function in question to be exercised by someone.

12 For the reasons given above, the plaintiffs, in my judgment, have not been guilty of any unlawful act under s 2 (1) of the Premiums on Leases

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Ordinance. In my view, the agreement dated 17 February 1966 was not unlawful when it was made. The agreement was not prohibited by law. Nor was it made for an unlawful purpose. In my opinion, it cannot be said that the agreement has become unlawful by reason of non-presentation forthwith to the city council or the successors thereof. In the first place, the obligation to present the document arises only on the giving up of possession by the plaintiffs. In the second place, no statutory provision has been made for the function of receiving and inspecting the document to be exercised by anyone from 1 September 1963.

13 I come now to the second point of law. It is not disputed that the premises known as No 1 Bishopsgate are subject to the Control of Rent Ordinance. It is not disputed that the defendants are the landlords of the premises and that the plaintiffs are the tenants. The question is whether the agreement of 17 February 1966 is unenforceable, the premises being subject to the provisions of the Control of Rent Ordinance. Section 4 of the ordinance provides:

> *No person shall as a condition of the grant, renewal, transfer or continuance of a tenancy require the payment of any fine, premium or other like sum or the giving of any other valuable consideration in addition to the rent and any sum or other valuable consideration paid or given in contravention of the provisions of this section shall be recoverable by the person by whom it was made or given.*

14 In my opinion in the present case the consideration required by the plaintiffs to be given by the defendants was not in addition to the rent. The consideration was required as a condition of the surrender of the tenancy to the landlords. The consideration was not required as a condition of the transfer of the tenancy. So in requiring the giving of the consideration as a condition of the surrender of the tenancy, the plaintiffs, in my view, did not contravene the provisions of s 4. Here I would refer to the case of ***Rajenbach*** v ***Mamon*** [1955] 1 QB 283 which was cited by counsel for the plaintiffs. There the facts were

these. The plaintiff was the tenant of a flat, of which the defendant was the landlord. The flat was subject to the Rent Restriction Acts. In May 1954, an oral agreement was made between the plaintiff and the defendant that the plaintiff would vacate the flat at the end of 1954 and that in the event of his so doing and in consideration thereof the defendant would pay to the plaintiff the sum of Â£300. The plaintiff always intended to vacate the flat at the end of the year. But the defendant denied the existence of the agreement and sought to repudiate it. The plaintiff brought an action claiming a declaration that in the event of his delivering up vacant possession on or before 1 January 1955 he should be entitled to payment from the landlord of Â£300. It was held that the plaintiff was entitled to the declaration sought, as the agreement was not void on the ground of public policy, or of want of mutuality, or as an attempt to contract out of the Rent Acts.

15 Counsel for the defendants in the present case argued on the authority of ***Barton*** v ***Fincham*** [1921] 2 KB 291 that the plaintiffs` promise to give up possession on 7 March 1966 was unenforceable by the defendants; that it could not be a valid consideration in law for the defendants` promise; that there was a clear lack of mutuality, and therefore no contract between the parties.

16 A similar argument was presented to the court by counsel for the defendants in ***Rajenbach*** v ***Mamon*** [1955] 1 QB 283 and was rejected by Wynn-Parry J who said:

> *Ordinarily in a contract there would be mutuality, but many examples (if necessary) can be given where parliament has stepped in and, to some extent, robbed a contract of some degree of mutuality without destroying it, and I think that this is one of those contracts.*

17 I accept the view of Wynn-Parry J and reject the argument presented by counsel for the defendants in the present case. I can find no reason for holding

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that the agreement of 17 February 1966 is in any degree vitiated by the effect of the Control of Rent Ordinance. I hold that the agreement is enforceable notwithstanding the provisions of that ordinance.

18 In my opinion, the decision of the two points of law disposes of the grounds of defence. I therefore give judgment for the plaintiffs against the defendants for the sum of $60,000 and interest thereon at the rate of eight per cent per annum from the date of the writ to the date of payment and costs.

19 ***Judgment for the plaintiffs***

Ambrose J

KA O'Connor (Drew & Napier) for the plaintiffs
AP Godwin (Donaldson & Burkinshaw) for the defendants

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