IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[1983] SGCA 3

CA 52/1982

Between

Bannerji HL

… *Appellant*

And

Chin Cheng Realty (Pte) Ltd

… *Respondent*

GROUNDS OF DECISION

Landlord and Tenant; Words and Phrases; Words and Phrases

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Bannerji HL v Chin Cheng Realty (Pte) Ltd

[1983] SGCA 3

CA 52/1982
A P Rajah J; Sinnathuray J; Wee Chong Jin CJ
15 April 1983

1 By a deed dated 30 July 1953 (the 1953 lease) Chin Cheng Realty (Pte) Ltd (the respondents), the owners of premises known as 322-F Changi Road, demised to one Hirendra Lal Bannerji (the appellant), a medical practitioner, the said premises for a term of four years from 1 August 1953 paying therefor monthly in advance during the said term the rent of $110 (cl 1). Under the 1953 lease the respondents, inter alia, covenanted with the appellant:

> (1) `To pay all rates taxes ***assessment*** and outgoings payable in law in respect of the demised premises other than all City Council charges for electricity, gas and water supplied to the demised premises(emphasis ours).` (Clause 3(b).) Assessment was levied under s 59 of the Municipal Ordinance (Cap 133, 1936 Ed).
>
> (2) `That on the written request of the tenant (appellant) made three months before the expiration of the said term hereby created and if there shall not at the time of such request be any existing breach or non-observance of any of the covenants on the part of the tenant (appellant) hereinbefore contained at the expense of the tenant (appellant) grant to him a lease of the demised premises for a further term of four years from the expiration of the said term at the same rent and containing the like covenants and provisoes as herein contained including the present covenant for renewal.` (Clause 3(c).)

2 Under the 1953 lease the, appellant was `to pay all City Council charges for electricity, gas and water supplied to the demised premises` (cl 2(c)) and to `have the right to assign his estate in the demised premises or to sublet the demised premises or any part thereof` (cl 4(a)). There was incorporated in the 1953 lease a forfeiture clause in the following terms:

> *4(b) If the rents hereby reserved or any part thereof shall be unpaid for 21 days after demand in writing or if any covenant on the tenant`s (appellant`s) part herein shall not be performed or observed of if the tenant (appellant) or other person in whom for the time being the term hereby created shall be vested shall become bankrupt or enter into any composition with his creditors then and in any of the said cases it shall be lawful for the landlords (respondents) at any time to re-enter upon the demised premises or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to the right of action of the landlords (respondents) in respect of any breach of the tenant`s (appellant`s) covenants herein contained.*

3 As appears from an endorsement thereon, the 1953 lease was registered in the Registry of Deeds on 4 August 1953 `in the exercise of the discretion conferred by rule dated 16 April 1934 under r 13 of the Registration of Deeds Rules 1934`. The said r 13 framed under the Registration of Deeds Ordinance (Cap 255, 1955 Ed) enabled the Registrar of Deeds to dispense with compliance with certain provisions relating to conditions precedent to registration of deeds (s 14).

4 At the time of the registration of the 1953 lease there was in force in Singapore the Singapore Improvement Ordinance (Cap 134, 1936 Ed) to provide for the improvement of the town and island of Singapore. Under s 58(1) of the said Ordinance it was provided that: `No person shall, without the written permission of the Board (The Singapore Improvement Trust) erect any building or ***layout*** any land or use any land or building in any manner which is not in

conformity with the General Improvement plan.`(Emphasis ours.) Under s 59(11):

> *Any person who ... lays out any land in lots for building purposes otherwise than in accordance with a plan approved by the Board under this section ... shall be liable to a fine not exceeding two hundred and fifty dollars ...*

5 Section 3, the definition section of the said Ordinance enacts, inter alia, that:

> *`Lay-out`, as applied to any area, means the utilisation or proposed utilisation of such area or any part thereof for any of the purposes for which a plan or scheme prepared under s 52 or s 69 may provide. A person is said to `lay out` land if by any deed or instrument he conveys, assigns, demises or otherwise disposes of any part of such land in such manner that the part so disposed of becomes a separate holding; provided that a lease for a period not exceeding three years without the option of renewal or purchase shall not be deemed to be a disposal within the meaning of this interpretation; and provided further that a conveyance, assignment, demise or other disposition of a portion of any area shall not be deemed to be a `layout` if the boundaries of such portion correspond with the ground plan of any existing building of a permanent nature erected thereon together with such area of land occupied therewith as the Board may having regard to the circumstances of each particular case allow.*
>
> *`Holding` means any piece or parcel of land held or possessed under an instrument of title, capable of being registered under the Registration of Deeds Ordinance (Cap 121) relating exclusively thereto, and `original holding` and `final holding` mean respectively, with reference to a scheme which provides for the redistribution of holdings, a holding prior to its amalgamation with other holdings for the purpose of redistribution and a holding allotted in pursuance of redistribution.*

6 Before the 1953 lease expired a new lease for a term of ten years commencing on 1 August 1957 was executed on 23 July 1957 (the 1957 lease) by the respondents and the appellant on the identical terms and conditions as those contained in the 1953 lease except for the additional proviso to cl 1 thereof which reads as follows:

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> *Provided however that if the* ***assessment*** *on the said premises shall at any time within the said period be increased or decreased then and in such event the said rent shall also be proportionately increased or decreased accordingly.(Emphasis ours.)*

7 The 1957 lease was similarly registered in the Registry of Deeds on 1 August 1957.

8 A little more than two years after the execution of the 1957 lease, the Planning Ordinance 1959 (12 of 1959) (Planning Ordinance) was passed to provide for the planning and improvement of Singapore and came into effect on 1 February 1960. The Planning Ordinance transferred the functions of the Board to the Competent Authority appointed under it and repealed Pts IV, V and VI of the said Singapore Improvement Ordinance. Under s 9(3)(a) of the Planning Ordinance `no person shall ***subdivide*** any land unless - (a) he has obtained the written permission of the Competent Authority ...(Emphasis ours).` Under s 9(4): `All applications for permission to develop or subdivide land shall be made to the Competent Authority in the form and manner prescribed by rules made under s 17 of this Ordinance.` Under s 9(8): `Any person who contravenes the provisions of sub-s (3) of this section, shall be guilty of an offence against this Ordinance and shall on conviction be liable to a fine ...`.

9 Section 2, the definition section of the Planning Ordinance, inter alia, enacts:

> *`land` includes buildings and any estate or interest in or right over land;*
>
> *`Subdivide` - A person is said to subdivide Land if, by any deed or instrument, he conveys, assigns, demises or otherwise disposes of any part of the land in such a manner that the part so disposed of becomes capable of being registered under the Registration of Deeds Ordinance or in the case of registered land being included in a separate folium of the land-register under the Land Titles Ordinance and `subdivision` shall be construed*

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> *accordingly: Provided that a lease for a period not exceeding seven years without the option of renewal or purchase shall not be deemed to be a disposal within the meaning of this definition;*
>
> *`Holding` means any piece of parcel of land held or possessed under an instrument of title capable of being registered under the Registration of Deeds Ordinance or where applicable under the Land Titles Ordinance, 1956, relating exclusively thereto;*

10 On 3 January 1967 the appellant, who was in occupation of the demised premises and not in any existing breach or non-observance of any of his covenants under the 1957 lease, made a written request as provided for therein for the grant to him of a lease for a term of ten years from 1 August 1967. As there was no response a further written request was made on 20 April 1967. However, the respondents took no action to execute such a lease.

11 On 15 March 1974 the respondents wrote to the appellant to the effect that the Comptroller of Property Tax acting under s 18(2) of the Property Tax Act (Cap 144, 1970 Ed) had increased the annual value of the demised premises from $1,320 to $2,880 with effect from 11 March 1974 and that the annual value thereof was based on a monthly rent of $240. The respondents cited the said proviso to cl 1 of the 1957 lease and claimed from the appellant an increased rental of $240 per mensum as from 11 March 1974.

12 In this connection it should be observed that the demand for an increased rent by the respondents was as a result of the Comptroller of Property Tax increasing the property tax on the demised premises. The Property Tax Ordinance 1960 came on to our Statute Book in January 1961 and by virtue of ss 6 and 7 thereof a tax known as property tax became payable as from January 1961 in respect of each year at the rate of 36% upon the annual value of every property included in the valuation last (previously known under the Municipal Ordinance as Assessment List). Section 64 of the said Ordinance repealed ss 59

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to 81A (rating provisions) of the Municipal Ordinance and ss 108 to 130 (rating provisions) of the Local Government Ordinance 1957.

13 The appellant however contended that under the 1957 lease he was only liable to pay them the increase in the assessment payable by the respondents and accepted liability for $46.80 per month and said that under the said proviso to cl 1 of the 1957 lease the new rental per month should be $110 plus $46.80 (being 1/12th of the increased property tax) = $156.80.

14 On 22 April 1977 the appellant made yet another written request under the 1957 lease this time for a renewal thereof for yet another period of ten years from 1 August 1977. On 13 July 1977 the appellant wrote to the respondents that he was prepared `to pay the increased rental of $240 per mensum under protest but subject to recovery in case of his construction of the said proviso being judicially determined as correct and on this basis sent them a cheque for $9,360, the arrears alleged to be due up till then. The respondents returned the cheque for $9,360 to the appellant on 22 July 1977.

15 On 27 July 1977 the appellant commenced Suit No 2187 of 1977 against the respondents claiming specific performance of the 1957 lease and to have leases granted to him accordingly for a term of ten years from 1 August 1967 to 31 July 1977 and for yet another term of ten years from 1 August 1977 to 31 July 1987 in respect of the demised premises. In their further amended defence the respondents contended that (i) the effect of the said cl 3(c) of the 1957 lease is not that of a perpetually renewable lease and (ii) it was never their intention to grant the appellant a perpetually renewable lease and pleaded:

> (1) That the appellant, despite repeated requests, had not paid and/or tendered the proper rental payments, namely, the

> increased rent of $240 per month, in accordance with the 1957 lease since March 1974 and in consequence thereof was in breach thereof and therefore not entitled to its renewal.
>
> (2) That, if the appellant were entitled to a renewal of the 1957 lease for a term of ten years on 1 August 1977, which was denied, he was only entitled to such renewal without the proviso for any further renewal inasmuch as the true and correct interpretation of cl 3(c) of the 1957 lease is that the respondents were only bound to include a renewal clause in the renewal lease after the expiry of the first ten years of the 1957 lease and not in any renewal lease thereafter.
>
> (3) That the appellant`s right of action, if any, accrued from 1 August 1967 when the respondents allegedly failed to grant the appellant the further first term of ten years and that, as more than six years had elapsed before action herein was commenced, the appellant`s alleged cause of action herein was barred by s 6(1)(a) of the Limitation Act (Cap 10).
>
> (4) That cl 3(c) of the 1957 lease is a `subdivision` within the meaning of s 2(1), s 9(3) and s 9(8) of the said Planning Ordinance, which came into force on the 1 February 1960, and that since February 1960, it is an offence for the respondents to grant a lease for a term exceeding seven years without proper subdivision under the said Planning Ordinance.
>
> (5) That it was never in the contemplation of the appellant and the respondents, the parties to the 1957 lease, that subdivision should be applied for in respect of the demised premises, and that requiring the respondents to apply for a subdivision of the demised premises would be a fundamental change to the conditions thereof.
>
> (6) That by reason of the foregoing the said cl 3(c) of the 1957 lease is unenforceable against the respondents and that therefore they are released from their obligations thereunder.

16 The respondents, having, through their solicitors by notice to quit date 3 August 1977 given the appellant notice to quit and vacate the demised premises by 31 August 1977, commenced an action in the district court on the 29 September 1977 in DC Summons No 4724 of 1977 against the appellant claiming possession of the demised premises and arrears of rent at $240 per month from 11 March 1974 and mesne profits from 1 September 1977 until delivery of possession of the demised premises. The appellant in his defence

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pleaded (i) that the proportionate increase in the rent of $110 per mensem, agreed to between the respondents and the appellant, was based on the amount of increase in the assessment of the demised premises and that the proportionate increase to be made on the said rent was $46.50 per month and not $130 per month and that the increased rent payable was therefore $156.80 per month and not $240 as claimed by the respondents and (ii) that on 13 July 1977 the appellant by letter of that date forwarded a cheque to the respondents for $9,360 and another cheque for $240 as requested but under protest and subject to the appellant`s right to recover the same, and (iii) that, in the premises, the appellant had always been ready and willing to pay the correct rent. The appellant counterclaimed for specific performances of the 1957 lease and to have leases granted to him accordingly for two ten-year terms, one from 1 August 1967 and the other from 1 August 1977 in respect of the demised premises.

17 By a High Court order dated 23 January 1978 it was ordered that the district court summons be transferred to the High Court and that it be consolidated with the Suit No 2187 of 1977.

18 The consolidated action and counterclaim came on for hearing and by judgment dated 3 August 1982 the learned trial judge made the following findings:

> (1) That the 1957 lease by virtue of cl 3(c) thereof is a perpetually renewable lease.
>
> (2) That on a true construction of the proviso to cl 1 of the 1957 lease the increased rental to be paid by the appellant to the respondents should be $240 per mensem, based on the increased annual value of the demised premises and not on the increased assessment (property tax) the respondents had been called upon to pay.

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> (3) That, on the evidence, the appellant despite repeated requests, had not paid or even tendered the proper rental payments in accordance with the 1957 lease since March 1974 and that in consequence thereof the appellant was in breach of the 1957 lease and therefore not entitled to renewal of the same.
>
> (4) That the 1957 lease comes within the provisions of s 6(1)(a) of the Limitation Act and that the right of action of the appellant had accrued by 22 December 1967 if not from 1 August 1967, and that more than six years had passed from the date on which the cause of action accrued.
>
> (5) That it was never in the contemplation of the parties that subdivision should be applied for in respect of the demised premises; that a requirement that the respondents apply for subdivision of the said premises would be a fundamental change in the conditions of the 1957 lease; that by virtue of the Planning Ordinance which came into effect on 1 February 1960 cl 3(c) of the 1957 lease is unenforceable as against the respondents and thus they are released from their obligations thereunder.

19 In the result the learned trial judge dismissed the appellant`s claim in the High Court and gave judgment for the respondents as prayed for by them in District Court Summons No 4724 of 1977.

20 The appellant is now appealing against the whole of the judgment of the learned trial judge. During the hearing of the appeal counsel for the respondents did not dispute the learned trial judge`s finding, and in our opinion, quite rightly so (see p 382 of ***Cheshire`s Modern Law of Real Property*** (12th Ed)), that the 1957 lease was a perpetually renewable lease and conceded that the provisions of the Limitation Act (Cap 10) could not be pleaded in respect of the renewal of the term 1 August 1977 to 31 July 1987, as proceedings had been commenced by the appellant in respect of this term well within the six year period.

21 The heart of the appeal, in our view, revolves around the question of what is the proper construction to be placed on the proviso to cl 1 of the 1957 lease, to wit, `Provided however that if the ***assessment*** of the said premises

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shall at any time within the said period be increased or decreased then and in such event the rent shall also be proportionately increased or decreased accordingly(emphasis ours)`. In this connection one should keep in mind that under cl 3(b) of the 1957 lease one of the landlords` (respondents`) covenants is `to pay all rates taxes ***assessments*** and outgoings payable by law in respect of the demised premises, other than those referred to in cl 2(c) above(emphasis ours)`, (ie charges for water, light and gas). In determining the meaning of the word `assessment` in cl 3(b) of the 1957 lease it is pertinent to note that under cl 3(b) of the 1953 lease there is the same landlords` (respondents`) covenant couched in exactly the same words.

22 In 1953 as previously mentioned assessments on the demised property were raised every half-year under s 59 of the Municipal Ordinance by the Municipal Commissioners and under s 61 of the said Ordinance:

> *The Commissioners shall cause an assessment list of all houses, buildings, lands and tenements liable to assessment to be prepared containing-*
>
> *(a) the name of the street or division in which the property is situated;*
>
> (b) the designation of the property either by name or by number, sufficient for identification;
>
> (c) the names of the owner and occupier, if known;
>
> (d) the ***annual value*** on which the property is ***assessed*** ;
>
> (e) The amount of the ***assessment*** thereon. [Emphasis ours.]

23 It is quite clear from a reading of the said two sections (1) that it was for the Commissioners to fix both the annual value (defined in s 3) of the property on which the said property is assessed and the amount of the assessment thereon to be paid by the owner and (2) that `annual value` and `assessment` do not mean one and the same thing and cannot be used interchangeably.

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24 Had these matters been brought to the attention of the learned trial judge we are of the view that he would not have come to the conclusion that `the rental should be increased based on the annual value` but would have come to the conclusion that the rental should be increased based on the increased property tax to be paid by the respondents.

25 Further, we are of the view that the proviso, to all intents and purposes, is in the nature of an indemnity clause. Under the 1957 lease the rental to be paid by the appellant for the fixed term of ten years is a fixed one of $110 per mensem; the obligation to pay the assessment on the demised premises is on the respondents. The assessment payable on a house or tenement in Singapore then depended on two factors - one on the question of `the gross amount at which the same can reasonably be expected to let from year to year` and the other on the amount of rates it would attract under s 51(1) of the Municipal Ordinance for rating purposes, that is to say, whether the house or tenement attracted the maximum consolidated rate of 30% on the annual value of the property rated and the maximum of 5% improvement rate on the annual value of the same. There was then the possibility of the assessment payable by the respondents going up either on the basis of an increased annual value of the property rated or an increase in the consolidated rate or improvement rate or both; so the proviso relating to an increase of assessment was introduced by the parties into the 1957 lease to reimburse the respondents for any increased assessment they might thereby have been called upon to pay. Similarly with regard to a decrease in the assessment so that in this unlikely event the appellant would get the benefit of such a reduction.

26 The appellant was always ready and willing to pay and did in fact pay the proper increased rental of $156.80 per mensum. At one stage he paid the increased rental as demanded by the respondents, albeit made under protest and

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subject to determination by the court as to what the proper rent was. In these circumstances we must hold that the appellant was never ever in breach of the 1957 lease. It follows from this that the respondents` claim for possession of the demised premises and arrears of rent and mesne profits must fail and be dismissed with costs here and below.

27 One of the defences raised by the respondents at the trial of the High Court suit was that cl 3(c) of the 1957 lease could not be performed for the reason that since 1 February 1960 it was an offence for the respondents to grant a lease for a term exceeding seven years without proper subdivision under the Planning Ordinance 1959. It seems to us that the argument that was put to the learned trial judge by counsel for the respondents, and not controverted in the manner in which, in our view, it should have been by counsel for the appellant, was that it was only since 1 February 1960 that no person could subdivide any land unless he had obtained the permission of the competent authority (s 9(3)) and that any person who contravened this provision was guilty of an offence and liable on conviction to a fine (s 9(8)). But was this really so? Did the Planning Ordinance enact something new regarding the division of land into lots or parcels for the first time?

28 Before February 1960 by virtue of the Singapore Improvement Ordinance `a person is said to ***lay-out***

29 ` land if by any deed or instrument he conveys, assigns, demises or otherwise disposes of any part of such land in such manner that the part so disposed of becomes a separate holding` and ` ***holding*** `means any piece or parcel of land held or possessed under an instrument of title capable of being registered under the Registration of Deeds Ordinance`; but as from 1 February 1960 `a person is said to ***subdivide*** land, if, by any deed or instrument, he

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conveys, assigns, demises or otherwise disposes of any part of such land in such manner that the part so disposed of becomes capable of being registered under the Registration of Deeds Ordinance`. In effect ***to*** ` ***lay-out*** `land under the Singapore Improvement Ordinance became to ` ***subdivide*** ` land under the Planning Ordinance. It was merely a change in nomenclature. Further under s 59(11) of the Singapore Improvement Ordinance any person who lays out land without the approval of the Board is liable to a fine not exceeding $250; similarly under s 9(8) of the Planning Ordinance any person who shall subdivide land without permission of the competent authority shall be liable to a fine not exceeding $1,000. Under the Singapore Improvement Ordinance it was an offence to grant a lease for a term exceeding three years without a proper lay-out; under the Planning Ordinance it is an offence to grant a lease for a term exceeding seven years without a proper subdivision. Yet it was possible under r 13 of the Registration of Deeds Rule 1934 for the Registrar of Deeds, exercising his discretion, to have such deeds registered as indeed was what happened both to the 1953 lease and the 1957 lease. If the learned trial judge`s attention had been drawn to the similar sections in the Singapore Improvement Ordinan ce we are of the view that he would not have found:

> *that it was never in the contemplation of the parties that subdivision should be applied for in respect of the said premises. The plaintiff (appellant) says that the defendants (respondent) are required to apply for subdivision of the said premises. That would be a fundamental change in the conditions of the said lease. I am of the view that by virtue of the Planning Ordinance, cl 3(c) is unenforceable as against the defendants (respondents) and that they are released from their obligations thereunder.*

30 The 1953 lease for four years and the 1957 lease for ten years were executed while the Singapore Improvement Ordinance was in force and yet it was possible to have the two deeds registered on 4 August 1953 and 1 August 1957 respectively under the Registration of Deeds Rules. The position in 1967

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with regard to the registration of a lease for ten years was in effect no more different than it was when the 1957 lease was registered on 1 August 1957. The respondents took no steps whatsoever in 1967 with the competent authority and/or the Registrar of Deeds with a view to register a further lease for ten years. It lies ill in the mouth of the respondents now to raise this defence when no such fears of criminal illegality assailed them when the appellant gave written notice to them in 1967 under the 1957 lease asking for an extension of ten years from 1 August 1967.

31 In any event this plea taken by the respondents on the sub-division issue becomes meaningless as the court in the course of the hearing of this appeal was informed that the property in question has now in fact been sub-divided and allowed registration.

32 The appellant`s claim against the respondents in the High Court suit (writ issued on 27 July 1977) was for specific performance of two leases in respect of the demised premises, one for the term 1 August 1967 to 31 July 1977 and the other for the succeeding term 1 August 1977 to 31 July 1987. The respondents in their defence had pleaded that the appellant`s cause of action therein was barred by s 6(i)(a) of the Limitation Act (Cap 10). Whatever the merits of the respondents` plea in this respect it is clear that the courts will not grant specific performance of an agreement to grant a lease for a term which expired a few days after the issue of the writ herein. This then leaves the appellant`s claim for specific performance for the second term, namely, 1 August 1977 to 31 July 1987 to be adjudicated upon. However, as previously stated, counsel for the respondents has, in our view quite properly, conceded that he cannot plead the Limitation Act in respect of the said second term.

> *A contract for a lease is a contract to which the equitable remedy of specific performance is peculiarly appropriate. If a party can*

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> *prove to the satisfaction of the court that such a contract has been entered into [which in the instant case the appellant has done], he can bring a suit for specific performance requiring the other party [in the instant case the respondents] to execute a deed in the manner required by statute [in the instant case the Registration of Deeds Act] so as to execute that legal term which the parties [in the instant case the appellant and the respondents] intended to create. One effect therefore of such a specifically performable contract is that the prospective tenant [in the instant case the appellant is more than a prospective tenant: he is a tenant in actual physical occupation of the premises] immediately acquires an equitable interest in the land [in the instant case No 322-F Changi Road] in the sense that he has an equitable right to a legal estate.*

33 (See ***Cheshire`s Modern Law of Real Property*** (12th Ed) at pp 392-393.) This being so and the equities in the instant case being with the appellant, it seems to us that the appellant`s appeal must be allowed with costs here and below for the following reasons:

> (1) There is no dispute between the parties to the appeal that in the instant case there is a perpetually renewable lease by virtue of cl 3(c) of the 1957 lease.
>
> (2) That the appellant had made written requests in conformity which cl 3(c) of the 1957 lease for renewal of the lease for two successive periods of ten years each.
>
> (3) That the appellant at the time of the said written requests in respect of the two terms was not in breach of the 1957 lease;
>
> (4) That the appellant from the date of the 1957 lease had always had an equitable right to have granted to him a written lease for successive terms of fixed ten years each and occupied the same position, vis-[agrave]-vis, the respondents, as regards both rights and liabilities, as he would have occupied had a formal lease under seal been executed - See ***Walsh v Lonsdale*** (1882) 21 Ch D 9
>
> (5) That at the time the 1957 lease was entered into, namely, 23 July 1957, similar provisions as in the Planning Ordinance 1959 relating to `subdivision` were present in the Singapore Improvement Ordinance under the nomenclature of `lay-out`. It seems to us therefore that the question of lay-out, as it then was, and which now equates to subdivision in the Planning Ordinance or Act, as the case may be, in respect of the demised

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> premises must have been in the contemplation of the parties herein and that, therefore the question of a fundamental change in the conditions of the 1957 lease does not arise.
>
> (6) That the respondents cannot avail themselves of the provisions of s 6(i)(a) of the Limitation Act to resist the claims of the appellant for specific performance in respect of a lease for the demised premises for the term 1 August 1977 to 31 July 1987 for the reason that the appellant always had an equitable right to a renewal of the lease and equity looks upon as done what ought to have been done.

34 There will therefore be an order for the specific performance of the agreement for a lease arising under the 1957 lease; the respondents are to execute a sealed lease in favour of the appellant in respect of 322-F Changi Road for a term of ten years from 1 August 1977 to 31 July 1987 on the same terms and conditions as in the 1957 lease. Liberty to apply.

35 ***Appeal allowed***

A P Rajah J
Sinnathuray J
Wee Chong Jin CJ

LAJ Smith (LAJ Smith) for the appellant
Giam Chin Toon (Wee Swee Teow & Co) for the respondents

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