IN THE PRIVY COUNCIL OF THE REPUBLIC OF SINGAPORE

[1985] SGPC 1

PCA 15/1983

Between

VM Peer Mohamed

… *Appellant*

And

Great Eastern Life Assurance Co Ltd

… *Respondent*

GROUNDS OF DECISION

Landlord and Tenant — Agreements for leases

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

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VM Peer Mohamed v Great Eastern Life Assurance Co Ltd

[1985] SGPC 1

PCA 15/1983
Lord Brandon of Oakbrook; Lord Elwyn-Jones; Lord Roskill; Lord Scarman; Lord Templeman
25 February 1985

1 This appeal, which has been well presented and argued on behalf of both protagonists, raises a short question of construction arising out of an agreement under seal dated 9 December 1953. The question is whether the agreement sufficed to assign to the appellant, Mr VM Peer Mohamed, a tenancy of the premises 449 East Coast Road, Singapore.

2 The premises were let by the landlord respondents, the Great Eastern Life Assurance Co Ltd, on an oral monthly tenancy at some time prior to 9 December 1953 and probably before 20 July 1953 to Mr D Abdullah. The terms of the monthly tenancy did not prohibit an assignment by the tenant. On 20 July 1953 there came into force the Control of Rent Ordinance 1953 which with amendments is now comprised in the Control of Rent Act (Cap 266). The 1953 Ordinance conferred security of tenure on tenants and by an express provision, now s 4 of the Act, prohibits the payment of any premium or like sum `... as a condition of the grant, renewal, transfer or continuance of a tenancy ...`.

3 The agreement under seal which falls to be construed was made therefore after it had become illegal to demand or receive a sum in consideration

of the assignment of a protected tenancy. It is common ground that the tenancy of 449 East Coast Road was protected. The agreement was made between the tenant, Mr Abdullah described as the vendor of the first part, Mr Murugaiyan described as the attorney of the second part and the appellant described as the purchaser of the third part. The agreement recited, inter alia, that the vendor was `the principal tenant` of the premises 449 East Coast Road, Singapore and that the attorney had been appointed to manage the premises. The agreement also recited that `the vendor and the attorney has ***(sic)*** agreed to sell to the purchaser all fixtures and furniture in the said premises and the purchaser has agreed to purchase the same for the sum of dollars three thousand three hundred ($3,300) and it is further agreed that the vendor shall cease to be the principal tenant of the said premises ...`.

4 By cl 1 of the deed, expressed to be in consideration of $3,300 then paid `the vendor and the attorney hereby assign unto the purchaser all furniture and fixtures contained in the said premises and to hold the same unto the purchaser absolutely`. The assignment only refers to the furniture and fixtures; no doubt the parties to the deed would have been anxious to avoid any appearance that the sum of $3,300 included any form of illegal payment for the assignment of a protected tenancy. By cll 2 and 3 the vendor and the attorney covenanted with the purchaser `that he has power to transfer the tenancy of the aforesaid premises into his name` and the purchaser undertook `on his own account to have the tenancy transferred into his name and all expenses incurred shall be borne by him`. These clauses are puzzling because only the vendor could transfer the tenancy to or into the name of the purchaser. These provisions may mean that the purchaser was to inform the landlords of the transaction and secure that the landlords enter his name in their books instead of the name of the vendor. Mr Godfrey on behalf of the landlords suggested that it was intended that the

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vendor`s tenancy would be surrendered and that the purchaser would request the landlords to grant him a new tenancy.

5 By cll 4 and 5 it was agreed that the purchaser had power to collect and retain the rents from the sub-tenants (if any) and that all City Council consolidated accounts (presumably municipal charges) should be paid by the purchaser. These clauses which may either state the obvious or negative the need for apportionment were said by Mr Godfrey to be inconsistent with an intention to assign the term. Finally by cl 6 the vendor and the attorney agreed with the purchaser `that they will have no right title or claim in the premises aforesaid as from the date of execution of these presents`. Their Lordships consider that this clause read in the light of the recitals and of the previous clauses of the deed is only consistent with an intention that the deed should forthwith effect an assignment of the tenancy to the appellant. The vendor was clearly not intended to take any further action; indeed he emigrated to India immediately after the deed had been executed. The vendor`s legal estate in the tenancy could not disappear. The vendor, in conforming with the recital to the deed ceased to be the tenant, the purchaser by cll 2 to 5 of the deed acquired absolute dominion over the tenancy and over the premises and by cl 6 the vendor admitted to the purchaser that the vendor no longer had any right, title or claim in the premises. The only possible inference is that the right, title or claim of the vendor vested in the purchaser. It is unusual for fixtures and fittings which are capable of passing by delivery to be assigned by deed. The usual course is to have an assignment by delivery accompanied by a simple receipt for the purchase price. A deed is necessary to assign a tenancy and the agreement was executed under seal. An assignment is usually made by the word `assign` but no particular words are necessary, provided the intention of the parties is

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sufficiently expressed. Their Lordships consider that the intention sufficiently appears from the deed in the present instance.

6 The appellant was in possession of the premises from 1953 onwards. In 1976 the landlords served on the premises, notice to quit addressed to the vendor Mr Abdullah and brought these present proceedings for possession against the appellant on the grounds that he was a trespasser. In the district court, Judge Dalip Singh dismissed the landlords` claim for possession on the grounds that the appellant was the tenant of the premises and was entitled to protection under the Control of Rent Act.

7 On appeal to the High Court of Singapore, Kulasekaram J allowed the landlords` appeal and granted them an order for possession against the appellant on the grounds that the agreement of 1953 was `merely an agreement evidencing the sale and transferring possession of the furniture and fittings on the premises ...`; but such a construction ignores the recitals to the deed and all its provisions savecl 1 and does not explain why it was thought necessary to transfer fixtures and fittings by deed.

8 The Court of Appeal of Singapore (Wee Chong Jin CJ, Lai Kew Chai and FA Chua JJ) dismissed the appellant`s appeal from the High Court on the grounds that the 1953 deed transferred `the property in the fixtures and fittings on the premises and nothing else to the appellant`. They concluded that cl 3 whereby the purchaser undertook on his own account to have the tenancy transferred into his own name was inconsistent with an assignment of the tenancy by the deed itself. But the appellant could not transfer a legal estate which remained vested in the vendor. It is to meet this difficulty that Mr Godfrey urged that the deed was only intended to enable the purchaser to produce it to the landlords as evidence that the vendor was content to allow the landlords to

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treat the original tenancy as though it had been surrendered and to enable the landlords at the request of the appellant to grant a new tenancy to him. This suggestion is ingenious but not credible. All that was required was a simple assignment by the vendor to the appellant. The parties would be anxious that any such assignment would not give the appearance of a transfer of a protected tenancy made in consideration of a sum of money. On the other hand the purchaser would be foolish to rely on the willingness of the landlords to grant him a new tenancy of premises which had become subject to the restrictive provisions of the Control of Rent Ordinance. In the result the parties executed the deed which made it quite clear that the vendor no longer had any interest whatsoever in the premises and that the purchaser had all the rights conferred by the original tenancy. In these circumstances the Board conclude that the 1953 deed effected an assignment of the tenancy to the appellant.

9 Their Lordships accordingly allow the appeal, discharge the order of Kulasekaram J and restore the order of Judge Dalip Singh in the district court. The respondent must pay the costs of the appellant in all the courts below and before their Lordships.

10 ***Appeal allowed***

Lord Brandon of Oakbrook
Lord Elwyn-Jones
Lord Roskill
Lord Scarman
Lord Templeman

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Ronald Bernstein QC and Kirk Reynods (Ward Bowie) for the appellant
Gerald Godfrey QC and Alan Sebestyen (Coward Chance) for the respondents

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