IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[1993] SGHC 110

OS 915/1992

Between

UMBC Finance Ltd
Another

… *Plaintiff*

And

Giffard Development Pte Ltd

… *Defendant*

GROUNDS OF DECISION

Credit and Security — Mortgage of real property — Mortgagee’s rights;
Credit and Security — Mortgage of real property — Mortgagee’s rights

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UMBC Finance Ltd and Another v Giffard Development Pte Ltd and Others

[1993] SGHC 110

OS 915/1992
Lim Teong Qwee JC
19 May 1993

1 ***Introduction***

2 This is an action by originating summons by mortgagees of land at Balestier Road Lot 2849 of Mk 17 (`the land`) on which a subdivided building has been erected against the mortgagor and the purchasers in possession of strata units in the building. The claim is for possession on the ground that the mortgagor has made default in the payment of moneys secured by the mortgage and the mortgagees are entitled to exercise the power of sale and to enter into possession, or alternatively on the ground that by reason of the default they are entitled to exercise their statutory powers to enter into possession. The eighteenth defendant is the purchaser of three strata units but the mortgagees are proceeding with the claim in respect of units #01-03 and #01-04 only and not unit #02-10. The mortgage was created in September 1983 and registered in the Registry of Deeds under the Registration of Deeds Act. In June 1984 the land was brought under the provisions of the Land Titles Act (`LTA`) and a qualified certificate of title (`CT`) was issued. In May 1991 subsidiary strata certificates of title (`SSCT`) were issued in respect of each of the strata units in

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the subdivided building. There is endorsed on the SSCTs a notification of the mortgage. The originating summons was fixed for hearing for two days and when it came before me there were no particulars in it or referred to in it to identify any cause or causes of action but no objection was taken at any time. The mortgagees claim possession and it appeared from the affidavits filed on their behalf that their case and the only case was that they had given notice under s 69(2) of the LTA. In the course of opening the case Mr Rai attempted to submit that such notice was unnecessary and I granted leave to amend the originating summons. The case on the amended originating summons is that the mortgage is a common law mortgage and in the events which have occurred the mortgagees are entitled to exercise the power of entry into possession under the mortgage without any notice under s 69(2) of the LTA or otherwise or alternatively having given the notice under s 69(2) they are entitled to exercise the powers of entry into possession under s 69(1).

3 At the conclusion of the hearing I dismissed the originating summons with costs and I indicated that I would deliver written grounds of decision.

4 **Facts**

5 The mortgagor is a housing developer licensed under the Housing Developers (Control and Licensing) Act. In 1983 it was given a development loan of $3m by the mortgagees to finance the development project involving the erection of the subdivided building on the land of which it was then seised for an estate in fee simple in possession free from encumbrances. The loan was repayable by 12 monthly instalments of $250,000 each commencing from the date of issue of the temporary occupation permit (`TOP`) and was secured by the mortgage dated 20 September 1983 (`the mortgage`) which was registered

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in the Registry of Deeds. In accordance with the provisions of the mortgage the mortgagor opened a project account with the second plaintiff.

6 The mortgagor proceeded with the development and sold all the strata units. Sales were effected in each case by giving to the purchaser an option in consideration of payment of 10% of the price and the exercise of the option by the purchaser by signing a sale and purchase agreement and returning it to the mortgagor (or its solicitors) with another 10% of the price. The option and the agreement are both required to be in the prescribed form under the Housing Developers Rules which allow 10% of the price to be paid for the option. In para 1 of the option in the prescribed form the vendor undertakes to deliver the draft agreement within 2 weeks. The option given by the mortgagor is not before me but there is no evidence to suggest that any purchaser was aware of the terms of the agreement at the time he paid for the option. Part of the amount paid for the option is refunded if the option is not exercised. The agreement in the prescribed form provides for payment of the price by instalments in stages. The agreement entered into by the mortgagor and each of the purchasers in this case (`the agreement`) is in fact not in the prescribed form but presumably the amendments have been approved by the Controller of Housing. More important is that under cl 12(e) of the mortgage the mortgagor should have submitted to the mortgagees a specimen of the agreement for their approval.

7 Clause 3(3) of the agreement provides:

> *The instalments referred to in para (1)(a) to (i) of this clause shall be paid to the [mortgagor] by way of cheques crossed `account payee only` drawn in favour of the [project account].*

8 The instalment under para (a) is the balance after deducting 10% paid for the option. The instalment under para (i) is paid on taking possession when

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the TOP has been issued by the building authority. TOP was issued in November 1990. With this instalment the purchaser will have paid 90% of the price, 10% to the mortgagor for the option and 80% to the project account. In the prescribed form the purchaser would have paid only 85% of the price. Under the agreement the remaining 10% is paid on completion but to the mortgagor and not to the project account. Under cl 12(e) of the mortgage the agreement should provide for payment of the price to the project account and not just 80% of it. Under cl 20 of the agreement the purchaser is entitled to recover certain expenses from the mortgagor for making good defects and under cl 3(1) para (j) these expenses may be deducted from part of the last 10% of the price. More significantly under cl 15 the mortgagor is liable for liquidated damages for delay in completion and the liquidated damages may be deducted from any instalment due to the mortgagor. The last day for giving notice to complete was 31 December 1990. It has still not been given yet. The liquidated damages are payable at 10% pa of the aggregate amount of instalments already paid to the mortgagor calculated from day to day until the sale is completed. The defendant purchasers are in possession and will have paid 90% of the price. For each year of delay they are entitled to deduct 9% of the price. The evidence is not all before me but unless there is an extension of time there may well be not only nothing more for the purchasers to pay under the agreement in each case but they may have a claim against the mortgagor.

9 Clause 12(d) of the mortgage provides:

> *... the [mortgagor] shall irrevocably authorize and direct the solicitors acting for the [mortgagor] in such sale to pay the entire proceeds of sale of each area of the development directly into the [project account].*

10 As has been noted above the agreement does not provide that the 10% payable for the option and the last 10% payable on completion are to be paid to the project account. Only 80% is payable to the project account and there is no evidence that the mortgagees have not approved a specimen of the agreement as they are entitled to under cl 12(e) of the mortgage.

11 Rule 11 of the Housing Developers (Project Account) Rules provides that upon payment of the instalment upon the issue of the TOP and taking possession of the strata unit the mortgagor shall redeem the mortgage in respect of the strata unit. In the prescribed form a purchaser will have paid in the aggregate 85% of the price, up to 10% to the vendor such as the mortgagor and the remainder to the project account. There is no provision imposing a corresponding obligation on the part of the mortgagees to allow partial redemption. However, there is a letter from the mortgagees to the mortgagor dated 25 March 1987 which is at exhibit FAK-12 and it says:

> *Mortgage of Lot 2849 Mukim 17 Balestier Road Singapore*
>
> *We refer to the above matter and wish to inform that we will execute partial discharge of mortgage in respect of the [land] upon receipt of 90% of the purchase price of any flat, shop unit and office unit.*

12 I pause here to observe that the mortgagees require receipt of 90% of the price to execute a partial discharge of mortgage while the Housing Developers (Project Account) Rules require the mortgagor having sold under the terms of the agreement to redeem the mortgage in respect of the strata unit upon payment of 90% of the price of the strata unit of which 10% is paid to the mortgagor for the option and 80% to the project account opened with the second plaintiff.

13 Although the letter at FAK-12 is addressed to the mortgagor it is not in dispute that it was intended that the mortgagor might show it to every purchaser.

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I do not have the evidence before me as to whether it was in fact seen by any of the purchasers (or their solicitors) and if so when and whether they relied on it. On the facts before me and in view of the decision I have arrived at it is not necessary to consider this. The letter requires `receipt` of 90% of the price and it is not in dispute that 90% of the price in respect of the strata units sold to the purchasers has not been received by the mortgagees in the form of cheques payable to the project account and the mortgagor has made default in payment of moneys secured by the mortgage.

14 **Mortgagees` power of entry into possession under the mortgage**

15 Clause 5 of the mortgage provides:

> *For the consideration aforesaid [ie the development loan] the [mortgagor] hereby conveys unto the [mortgagees] all and singular the [land] to hold the same unto the [mortgagees] their successors and assigns in fee simple subject to the proviso for redemption next hereinafter contained.*

16 This would undoubtedly entitle the mortgagees to enter into possession of the land immediately upon the mortgage being created without having to give any notice at all by virtue of the estate thereby vested in them. See ***Fisher & Lightwood`s Law of Mortgage*** (10th Ed, 1988) at p 331. However, cl 26 provides:

> *The [mortgagor] hereby attorns and becomes tenant at will to the [mortgagees] of the [land] or such part thereof as it (sic) now or shall hereafter be in the occupation of the [mortgagor] at a peppercorn rent during such time as moneys hereby secured shall remain owing on this security but nothing in this clause contained shall prevent the [mortgagees] from at any time entering into and taking possession of the [land] and so determining the tenancy hereby created ...*

17 In ***Jolly v Arbuthnot*** Lord Chelmsford LC said at pp 235-236:

> *A mortgagor who remains in possession after the execution of a mortgage, and continues to enjoy the profits of the land, is not considered as a tenant from year to year to the mortgagee, nor even as a tenant at will; he receives the profits for his own use, and not as agent or bailiff of the mortgagee, and when he has once received them he is absolutely entitled to keep them as his own: per Alderson B,* ***Trent v Hunt*** *(9 Exch 22). But he may at any time be treated as a trespasser by the mortgagee, who may maintain ejectment against him without any previous notice or demand of possession. Such being the precarious dependence of a mortgagor upon the will of the mortgagee, it is competent to them to enter into an agreement by which the mortgagor`s possession may be rendered more secure by the creation of a tenancy. This is sometimes effected by a stipulation in the mortgage deed itself. Thus in* ***West v Fritche*** *(3 Exch 216), a mortgage deed which was executed by the mortgagor, only contained a clause by which, for the more effectual recovery of the interest, the mortgagor attorned and became tenant to the mortgagee at the yearly rent of Â£40, payable half-yearly, so long as the principal sum remained secured.*

18 So in this case the effect of cl 26 was to create a tenancy between the mortgagees as landlords and the mortgagor as tenant. But the mortgagor is described as a tenant at will and the mortgagees, it may appear, can still enter into possession of the land at any time they wish regardless of any default on the part of the mortgagor. The tenancy is determined by mere entry into possession. An arrangement under such conditions would neither give the mortgagor any comfort nor be consistent with the purpose of the loan secured by the mortgage.

19 Clause 16 provides:

> *If and when the power of sale shall become exercisable by the [mortgagees] under the provisions referred to or contained in this mortgage it shall be lawful for the [first plaintiff] to enter upon and take possession of the [land] and the buildings or any part thereof (without being held liable as a mortgagee in possession) and if the buildings or any part thereof or any structure on the [land] shall remain unfinished to complete the same in accordance with the requirements of any approved plans and specifications ... and all moneys expended by the [mortgagees] ...*

> *shall on demand be repaid to the [mortgagees] with interest thereon at the prescribed rate ... and until so repaid shall be a charge on the [land] ...*

20 Under cl 25 the power of sale is exercisable upon the moneys secured by the mortgage becoming immediately payable and without any restriction imposed by s 25 of the Conveyancing and Law of Property Act (`CLPA`) and under cl 24 the whole of the moneys secured by the mortgage are immediately payable if an event of default occurs, for example, the mortgagor defaults in payment of interest or any other moneys payable under the mortgage. The mortgagor has defaulted.

21 Mr Rai submits that the bringing of the land under the provisions of the LTA and the issue of a qualified CT endorsed with a notification of the mortgage does not affect the power of the mortgagees under the common law mortgage of entry into possession without any notice or the notice required by s 69(2) of the LTA. He says that the land is held by the mortgagor subject to any interest which affected it at the date of issue of the qualified CT and such interest is protected by endorsement of the notification of the mortgage. While I appreciate the force of this argument I do not think it must necessarily follow that the power of entry into possession given by the mortgage continues in force upon issue of the qualified CT. A notification of the mortgage is different from a memorial of registration. See ***Baalman, The Singapore Torrens System*** (1961) at p 40 (`Effect of Notifications`). The power of entry into possession is derived from the estate in fee simple acquired by the mortgagees under cl 5 of the mortgage. After the creation of the mortgage the land was brought under the provisions of the LTA and a qualified CT was issued. In the qualified CT the mortgagor is named as the registered proprietor of an estate in fee simple. The estate is no longer vested in the mortgagees. In my judgment the mortgagees do not have

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any power of entry into possession of the land by reason only of the common law mortgage by conveyance in fee simple and notification of such mortgage endorsed on the CT after the land has been brought under the provisions of the LTA.

22 Mr Rai has not urged on me that cl 16 of the mortgage confers on the mortgagees a power of entry into possession independently of the conveyance in fee simple and I have not heard full argument of counsel on this but it is right that I should consider it.

23 The expression `it shall be lawful for the mortgagees to enter` is apt to confer a power of entry. It probably means the same as `the mortgagees shall be entitled to enter` which is the expression used in s 69(1) of the LTA. `The mortgagees may enter` is the expression used in more modern forms of mortgage. `It shall be lawful for the mortgagees to enter` are words which are equally apt to regulate the exercise of power conferred by some other provision when the expression is used in conjunction with words defining the fulfilment of a condition such as the occurrence of an event of default. The question whether cl 16 confers power or regulates the exercise of power conferred by some other provision `must be solved aliunde, and, in general, it is to be solved from the context, from the particular provisions, or from the general scope and objects, of the [mortgage] conferring [or regulating the exercise of] the power` if I may borrow the words of Lord Selborne in ***Julius v Lord Bishop of Oxford*** , at p 235 with suitable adaptations.

24 Clause 5 vests the estate in the mortgagees and they can immediately enter into possession, `before the ink is dry on the mortgage` as Harman J said in ***Four-Maids Ltd v Dudley Marshall (Properties) Ltd*** , at p 320. This most

certainly will not do. Clause 26 creates a tenancy between the mortgagees as landlords and the mortgagor as tenant. For the duration of the tenancy and until it is determined the mortgagor is lawfully in possession. This enables the mortgagor to carry out the development of the land and the sale of strata units in the subdivided building. That is the twin object of the development loan secured by the mortgage. The mortgage contains convenants on the part of the mortgagor and conditions in relation to this object a breach or non-fulfillment of any of which may result in the whole of the moneys secured by the mortgage becoming immediately payable. See cll 11, 12 and 24 which are set out in full in the appendix. Clause 11 contains covenants as to the development and cl 12 contains power for the mortgagor to sell and conditions for the exercise of such power. Clause 26 is so expressed that the mortgagor is only tenant at will and the mortgagees can at any time they wish determine the tenancy just by entry into possession. If the mortgagees were to do this the object of the development loan would be completely frustrated. To make the contractual arrangement between the mortgagor and the mortgagees as evidenced by the mortgage workable and to give it efficacy it is necessary and there must be implied a term that the tenancy created by the attornment in cl 26 cannot be determined by the mortgagees so long as an event of default under cl 24 has not occurred. On the occurrence of an event of default under cl 24 the whole of the moneys secured by the mortgage become immediately payable and under cl 25 the power of sale becomes immediately exercisable by the mortgagees. Upon the occurrence of an event of default under cl 24 (which results in the power of sale becoming immediately exercisable) the mortgagees may determine the tenancy created by attornment under cl 26. Upon the tenancy coming to an end and with it the mortgagor`s right to be in possession the mortgagees may exercise the power of entry into possession by virtue of the estate vested in them under cl 5. What cl 16 really means is that upon the power of sale becoming immediately

exercisable it shall be lawful for the mortgagees, ie the mortgagees shall be enabled and empowered to exercise the power of entry conferred by cl 5 and thereby determine the tenancy created by cl 26 `and if the buildings or any part thereof or any structure on the [land] shall remain unfinished to complete the same ... and all moneys expended ... shall on demand be repaid ... and until so repaid shall be a charge on the [land]`. In my opinion cl 16 confers no independent power of entry into possession. Such power that it shall be lawful for the mortgagees to exercise arises by virtue of the estate vested in the mortgagees and determination of the tenancy. Clause 16 regulates the exercise of the power and confers power on the mortgagees to complete the development. If the estate revests in the mortgagor the power of entry comes to an end. As noted above the estate has revested in the mortgagor.

25 **Exercise of power of entry into possession without notice**

26 If contrary to the view I take cl 16 confers on the mortgagees a power of entry into possession independently of cl 5, then I proceed to consider the mortgagees` case that they are entitled to exercise such power without any notice. The mortgage was created to secure repayment of the development loan. The mortgagor was to develop the land by erecting the subdivided building on it and to sell strata units in it. As noted above that was the twin object of the development loan. The sale and purchase agreements were required to be in the form prescribed under the Housing Developers Rules and there is no evidence that the mortgagees have not approved the agreement entered into by the mortgagor with its purchasers or are not aware of its terms or that they have not stood by and permitted the mortgagor to sell strata units on these terms. The mortgagor has proceeded with the development and TOP has been issued. Under the terms of the agreement, the purchasers took possession from the

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mortgagor upon payment of 10% of the price to the mortgagor and 80% of the price to the project account. The mortgagees have agreed with the mortgagor in terms of the letter at FAK-12 to execute a partial discharge of mortgage upon receipt of 90% of the price of the strata units. It could not have been within the contemplation of the mortgagor and the mortgagees that the mortgagees should be entitled to exercise the power of entry into possession of strata units sold by the mortgagor to purchasers who have taken possession in accordance with the terms of the sale and purchase agreement without notice being given to the mortgagor and the purchasers in possession of the intention to do so and allowing a reasonable time to effect payment of such money as will entitle the purchasers to a partial discharge of mortgage to release the strata units purchased by them. Not having heard argument of counsel on what would be a reasonable time I do not express any views on it but I should think that the fact that the last 10% of the price is not yet due and that deductions may be made against the price are matters to be taken into account. Further an account may have to be taken to determine the amount if any to be paid. In my judgment if cl 16 of the mortgage confers on the mortgagees any power of entry into possession independently of the estate vested in the mortgagees under cl 5 such power cannot be exercised without giving to the mortgagor and to the purchasers in possession of strata units under the terms of the agreement reasonable notice of their intention to do so.

27 **Notice under s 69(2) of the LTA**

28 Mr Rai says notice has been given to the mortgagor and to the purchasers. The notice to the purchasers is in these terms:

> *We write to inform you that on our clients` instructions, we have issued a notice against [the mortgagor] demanding that vacant*

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> *possession be given of the [land]. Enclosed herewith is a copy of the said notice for your attention.*

29 As you are the purchaser/sub-purchaser of the unit which is affected by the [mortgage], the aforesaid notice to [the mortgagor] is applicable to you. Consequently, you are required to vacate and deliver vacant possession of your unit within one (1) month from the date hereof.

30 The notice enclosed is in these terms:

> *We refer to the [mortgage] dated 20 September 1983 between yourself and our clients, [the mortgagees].*

31 Take notice that as you have defaulted on the mortgage sum as is reflected in the judgment of the High Court dated 27 March 1992, we hereby give you notice to deliver vacant possession of the [land] to our clients within one (1) month from the date hereof.

32 These are not notices of intention to exercise any power of entry into possession. They are notices of demand that the purchasers deliver possession and that they do so within one month. There is no notice of the amount payable in each case. There is no evidence as to when the notices were given to the purchasers in each case. In my judgment the mortgagees have not given any reasonable or proper notice and are not entitled to exercise the power of entry into possession under cl 16 of the mortgage if any such power still subsists.

33 I consider now s 69(1) and (2) of the LTA which provide:

> (1) If default is made in payment of the interest, principal or other money, secured by a mortgage or charge, or in payment of any part thereof, the mortgagee or chargee shall, as against the mortgagor or chargor and those claiming through or under

> him, be entitled to enter into possession of the mortgaged or charged land and to receive the rents and profits thereof.
>
> (2) The power of entry into possession conferred by this section shall not be exercised until one month`s notice has been given to the mortgagor or chargor.

34 Mr Rai submits that if s 69(2) is applicable in this case, then the mortgagees have complied with its requirements. Paragraph 22 of the first affidavit filed in support of the originating summons states:

> *On 12 August 1992, the [mortgagees] served a notice of possession to [the mortgagor] pursuant to s 69 of the Land Titles Act (Cap 157) for delivery up of possession of the [land] by [the mortgagor]. Annexed hereto and marked `FAK-8` is a copy of the said notice.*

35 Under cl 22 of the mortgage any notice shall be in writing and may be served by sending it by prepaid registered post addressed to the mortgagor and the provisions of s 72 of the CLPA shall apply to such notice. The notice is the one a copy of which was enclosed with the notice to the purchasers and the terms are set out above. It is dated 12 August 1992. It appears from the notice that it was probably sent by registered post. There is no evidence as to when it was delivered to the post office, whether it was properly addressed, whether it was sufficiently stamped, whether it was returned through the post office undelivered and when in the ordinary course of post it would have been delivered. Mr Rai later in the hearing informed me that the notice was received on 14 August 1992, ie two days after its date. His argument is that all that s 69(2) requires is that notice be given and that one month must elapse before the mortgagees commence an action for possession. Quite rightly he drew my attention to the unreported decision of Chan Sek Keong JC (as he then was) in OS No 484 of 1986. In that case it was held that notice of one month or not less than one month has to be given and it is not sufficient that notice is given and one month is allowed to elapse. I respectfully agree. The notice to be given

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under s 69(2) is notice of intention to exercise the power of entry into possession. I think this is the starting point in the construction of s 69(2). One month`s notice of intention to exercise the power of entry into possession must clearly mean notice that on the expiry of one month it is intended to exercise that power. What the mortgagor is entitled to be told is that after a stated period of time, in this case one month, the mortgagees intend to exercise the power. A notice of merely the intention to exercise the power without stating when it will be exercised does not afford to the mortgagor at the time the notice is received the certainty of one month within which to take remedial action whether or not in the event a month is allowed to elapse before the power of entry into possession is exercised. A notice that the mortgagor deliver vacant possession is not the notice required to be given under s 69(2). One that requires vacant possession to be given `within one month from the date hereof` is not a one month`s notice much less so when it is received two days after its date. In my judgment the mortgagees have not given any notice as required by s 69(2) of the LTA if it applies to them.

36 Section 69(2) requires that notice is given before the mortgagees are entitled to exercise any power of entry into possession conferred by s 69. Part VII of the LTA makes provisions for mortgages and charges. Section 63 provides that registered land may be mortgaged to secure payment of a debt and charged to secure payment of money other than a debt and s 63(3) provides:

> *A mortgage shall not operate as a transfer of the land mortgaged, but shall have effect as a security only.*

37 Since the mortgage does not operate as a transfer the mortgagee under a mortgage of registered land, unlike the mortgagee under a common law mortgage by conveyance in fee simple or by demise or sub-demise or by

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assignment of a term of years, does not acquire a power of entry into possession. And a charge cannot be understood to operate as a transfer of the land charged or any estate or interest in it sufficient to confer on the chargee any power of entry into possession. Section 64 provides that the provisions of Part IV of the CLPA apply mutatis mutandis to mortgages and charges registered under the provisions of the LTA. Part IV of the CLPA confers on the mortgagee powers of sale, insurance and appointment of a receiver and leasing powers while in possession but no power of entry into possession. Section 69(1) gives that power to the mortgagee and chargee. It seems to me that `mortgage or charge` in s 69(1) means a mortgage or a charge registered under the provisions of the LTA and does not include a common law mortgage such as the mortgage dated 20 September 1983 of which a notification is endorsed on the qualified CT issued upon the mortgaged land being subsequently brought under the provisions of the LTA. Section 69(2) applies to the power of entry into possession conferred by s 69(1) on a mortgagee or chargee under a registered mortgage or charge only and not the power which the mortgagees in this case claim to be entitled to exercise under the mortgage.

38 I notice that on the SSCT for each of the strata units there is endorsed a memorial of registration of `mortgage I/40504D` to the second plaintiff and I drew counsel`s attention to it but counsel were unable to tell me what that mortgage was or how the rights of the parties might be affected by it. It was not referred to in any affidavit filed in these proceedings nor was a copy of it exhibited. From my experience at the Bar I know that a mortgagee under a common law mortgage of land which is to be developed and on which a subdivided building is to be erected will be well advised to have the mortgagor execute a mortgage in the form prescribed under the LTA as an escrow and to complete and register it upon the qualified CT being issued. I would be surprised

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if mortgage I/40504D was not such a mortgage and if it did not affect the rights of the parties.

39 The purchasers take another point. They say that there was a collateral contract between them and the mortgagees. Under the collateral contract the mortgagees will execute a partial discharge of mortgage in respect of a strata unit upon receipt of 90% of its purchase price in terms of the letter at FAK-12. Mr Chia submits on behalf of all the purchasers that `receipt` means receipt by the mortgagor and since all the purchasers have paid to the mortgagor 90% of the price they are entitled to a partial discharge of mortgage to discharge the strata units purchased by them. There is a substantial question to be considered in this respect but the evidence before me is insufficient to enable me to come to any findings of fact relevant to the point now taken and I refrain from coming to any decision on this. Furthermore the circumstances in relation to each of the purchasers are different. Estoppel has also been raised in the alternative and for the same reasons I will not decide the question now.

40 Application dismissed.

Lim Teong Qwee JC

Devinder Rai (Harry Elias & Partners) for the plaintiffs
Lee Mun Hooi (Lee Bon Leong & Co) for the first defendant
Mok Ching Tee (Jing Quee Chin Joo & Teck Hui) for the second defendant
Geraldine Chia (Bee See & Tay) for the third/fourth defendants
George Lim (Wee Tay & Lim) for the fifth defendant

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Angela Lee (WK Tan & Co) for the sixth defendant
Ho Nee Min (Ng Ong & Chee) for the seventh defendant
Ng Wing Cheong (Ng & Ng) for the eighth defendant
Sim Teow Leng (Sim Teow Leng & Co) for the ninth defendant
Yeo Piah Chuan and Felicia Ng (Piah Tan & Partners) for the tenth defendant
Quek Yee Sian (Richard Kong & Partners) for the eleventh defendant
Chia Quee Khee (QK Chia & Co) for the twelfth defendant
Jeffrey Beh (YM Jumabhoy & Co) for the thirteenth defendant
Goh Yew Hock (Goh Yew Hock & Co) for the fourteenth defendant
Peter Low (Peter Low Seong Tang & Partners) for the fifteenth defendant
Serene Chan (Tan Lee & Choo) for the sixteenth defendant
John Ng (Tan Lee & Partners) for the seventeenth defendant
Joseph Chia (Robert KB Teo & Co) for the eighteenth defendant

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