IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGSCT 5

Small Claims Tribunals — Claim No 19617 of 2024 and
Counterclaim No 1017 of 2025

Between

(1) JFT
(2) JFU

… *Claimants*

And

JFV

… *Respondent*

GROUNDS OF DECISION

[Contract — Illegality and public policy — Statutory illegality]
[Courts and Jurisdiction — Small Claims Tribunals — Jurisdiction]
[Courts and Jurisdiction — Small Claims Tribunals — Transfer]

JFT and another
v
JFV

[2026] SGSCT 5

Small Claims Tribunals — Claim No 19617 of 2024 and
Counterclaim No 1017 of 2025
Tribunal Magistrate Jared Kang Chern Wey
17 March 2025

2 April 2026

Tribunal Magistrate Jared Kang Chern Wey:

1 On 17 March 2025, the parties were before me for trial. After hearing from them and giving the matter due consideration, I ordered that both the claim and counterclaim be transferred to the Magistrates' Court. These are my reasons for so ordering.

Background

2 The first claimant is the second claimant's son. Sometime in March 2024, the first claimant entered a "room rental agreement" with the respondent. Both claimants were to be occupants of the room. The subject of the agreement was a room in a Housing and Development Board ("HDB") flat located at [*address redacted*] (the "Flat"), and the agreement was to run for 12 months.

The claimants moved into the Flat largely without issue but, after six months, they moved out.

3 After doing so, they made various complaints against the respondent and the property agent that he engaged to facilitate the agreement (I will refer to the agent as "Mr X"). The complaints were made to the Ministry for National Development, the HDB, the Police, the Council for Estate Agents, and the real estate agency through which Mr X operated. The claimants also filed the present claim (Claim No 19617 of 2024) against the respondent, by which they sought a money order for $16,325. This, on the claimants' case, represented a refund of everything they had paid to the respondent as "rent" during the six-month period of their stay in the Flat.

4 The claimants premised their case upon several allegations against the respondent and Mr X, chief amongst which were four.

(a) First, that the respondent had illegally partitioned the Flat.

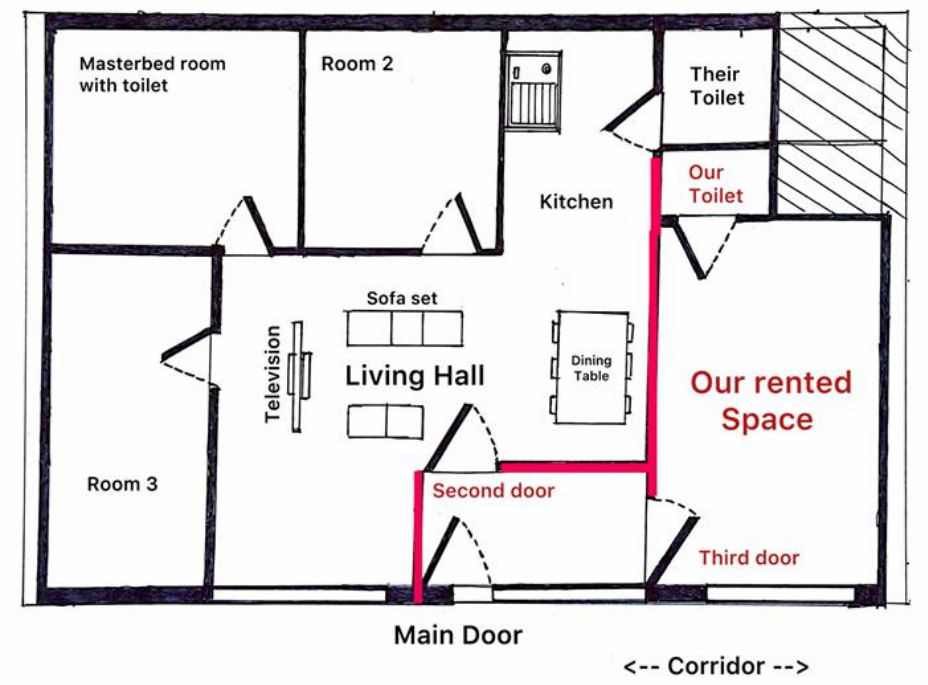
(b) Second, that he had not obtained approval from the HDB to lease the illegally partitioned room to them—or, indeed, *any* tenant seeing as how it had been illegally partitioned.

(c) Third, at the point which the written agreement had been signed, that Mr X had attempted to supplement that agreement with oral terms which sought to impose a financial penalty on the first claimant in the event of early termination.

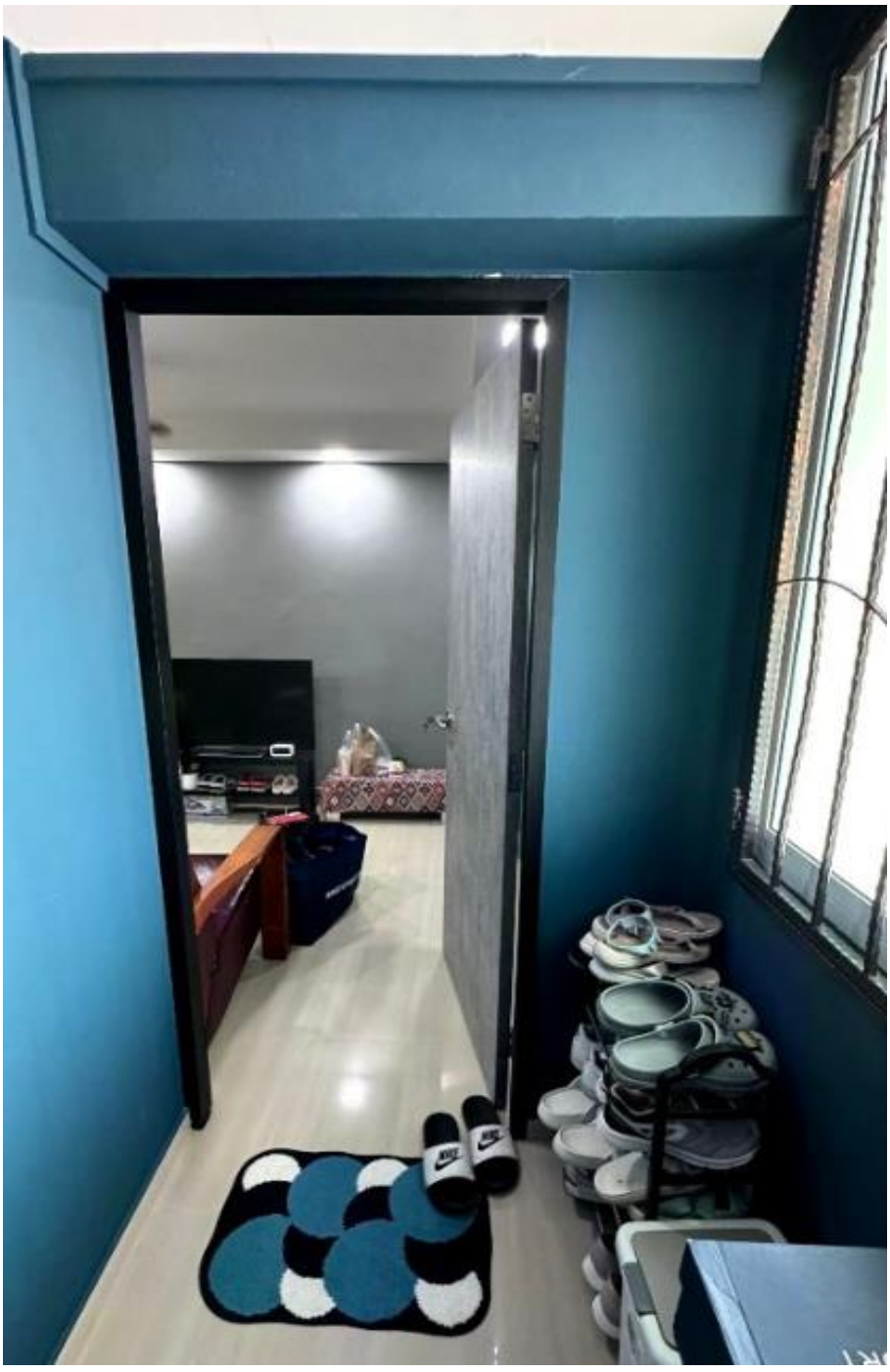
(d) Lastly, that the respondent and Mr X were engaged in a "rental scam". This "scam" was said to have been effected by representing to the claimants that the room could be leased to them legally and that the

living conditions would be peaceful. These representations were false as the respondent could not lawfully lease the room—whether because he had not obtained the HDB's prior approval or because the Flat had been illegally partitioned—and the respondent as well as his family were also very disruptive, seemingly intentionally, with a view to causing them to terminate the agreement early out of frustration. At which point, as the claimants understood, the respondent and Mr X would seek to enforce the financial penalty aforementioned.

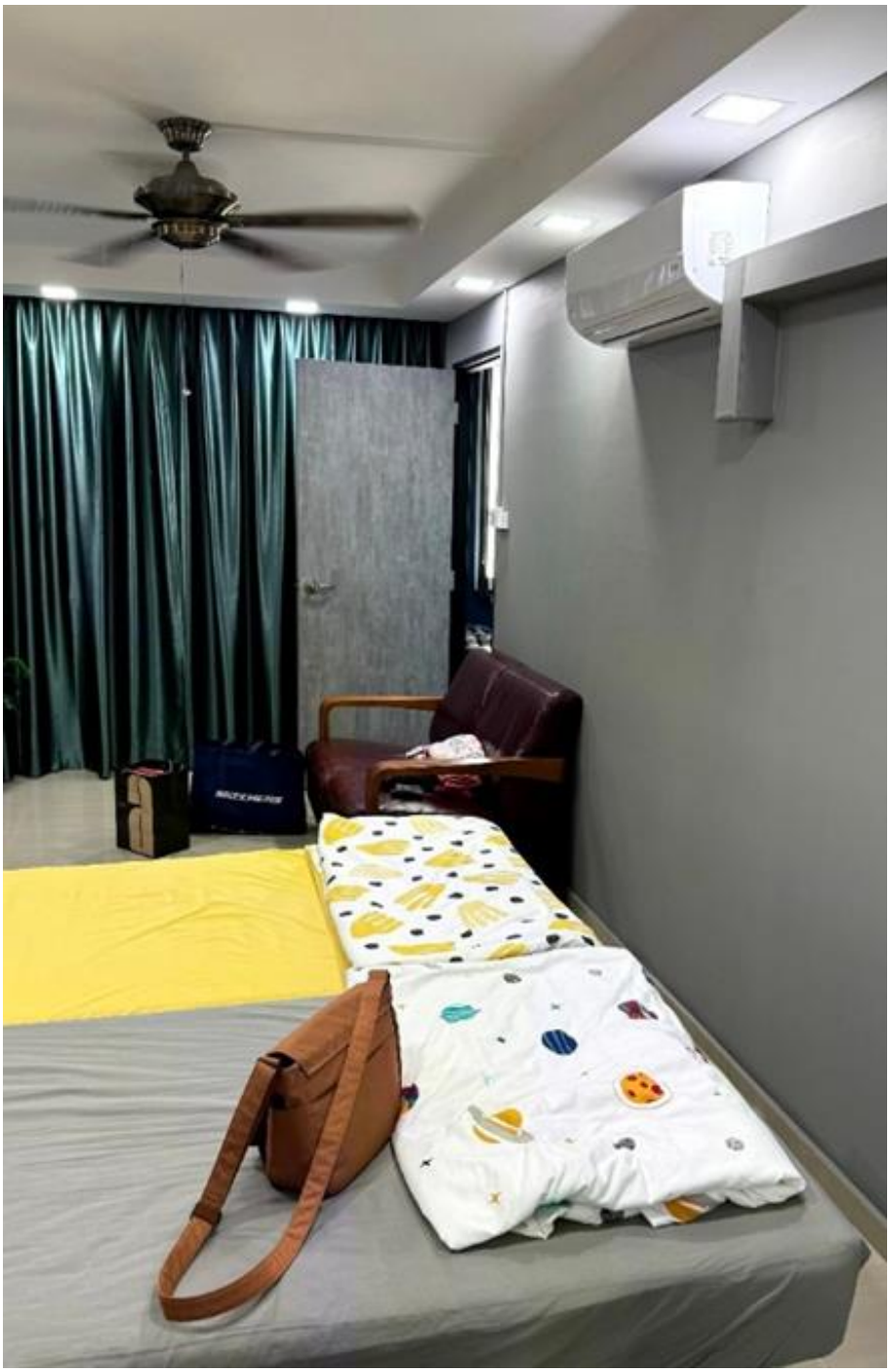
5 In support of the first allegation, the claimants adduced various pictures of the Flat and a hand-drawn illustration of its layout. It is helpful to reproduce at least a few of them to appreciate the basis of the claimants' belief. First, the hand-drawn layout of the whole Flat:



6 Next, a picture of the entrance to the rented room:



7 Finally, a picture taken from inside the rented room:



8 The respondent denied most of the allegations made, save that he accepted that he did not have prior approval from the HDB to lease the relevant room. His explanation was that he had left such matters to Mr X and did not know that such prior approval was needed. Further, in response to the claimants' primary claim, the respondent also brought a counterclaim (Counterclaim No 1017 of 2025) by which he sought to recover $12,000.10—this sum representing an alleged shortfall of rent for March, September, and October 2024 before the claimants moved out, as well as compensation for the first claimant's early and wrongful termination of the room rental agreement.

An important preliminary issue

9 Given the nature of the allegations being made against the respondent, there arose an important preliminary issue. That was whether a contract purporting to "lease" a room in an HDB flat—as the "room rental agreement" was—should even be recognised as a valid and legally enforceable lease, if it was entered into in violation of the governing regulatory framework; in particular, s 56(1) of the Housing and Development Act 1959 ("HDA"). This provision reads: "No flat, house or other building which has been sold by the Board under the provisions of this Part may be sold, leased, mortgaged or disposed of without the prior written consent of the Board". Given this, and the respondent's acceptance that the HDB's prior approval had not been obtained, the question was: did illegality taint the agreement and, if so, what was the consequence?

Analysis of the preliminary issue

10 As the potential illegality was premised on legislation, the principal task was to inquire how the principles pertaining to statutory illegality would affect

the agreement, if at all. Most will know that the law which informs this inquiry is troublesome at best and confusing at worst, despite admirable attempts by apex courts around the Commonwealth to both clarify and simplify the law (locally, the most valiant efforts were made in *Ting Siew May v Boon Lay Choo and another* [2014] 3 SLR 609 ("*Ting Siew May*") and *Ochroid Trading Ltd and another v Chua Siok Lui (trading as VIE Import & Export) and another* [2018] 1 SLR 363 ("*Ochroid Trading*")). However, notwithstanding the law's general complexity, and the consequential difficulty it tends to generate in application for many cases, it was at least obvious in *this* case that neither s 56(1), nor the remainder of s 56, nor the rest of the HDA *expressly* prohibits the formation of contracts which contravened s 56(1).

11 I dare say "obvious" because, unlike many pieces of legislation which prohibit specified conduct (*eg*, dumping waste in a protected lake) but say nothing of whether contracts which transact in the prohibited conduct are, themselves, also prohibited (*eg*, a contract to help another dump waste in a protected lake for a price), the HDA is no stranger to doing the latter. As a proximate example, s 55(1) prohibits owners from selling their flats during the minimum occupation period and s 55(3) explicitly states that any "contract, agreement or other document" made in contravention of s 55(1) is "void". As nothing in the HDA makes this point quite so clearly in respect of s 56(1), express prohibition can be comfortably ruled out.

12 Where statutory illegality is concerned, this leaves implied prohibition. For implied prohibition, the question to be asked—as our Court of Appeal has said—is "whether the statutory provision concerned is intended to prohibit only the conduct of the parties or whether it is, instead, intended to prohibit not only the conduct but also the contract" (*Ochroid Trading* at [26], citing *Ting Siew*

May at [106]). As a general proposition, the apex court has also said that, where no express prohibition is found, "the court will be slow to imply the statutory prohibition of contracts. Thus, it will not be held that any contract or class of contracts is impliedly prohibited by statute unless there is a 'clear implication' or 'necessary inference' that this was what the statute intended" (*Ochroid Trading* at [26], citing *Ting Siew May* at [110]).

13 Even bearing this high threshold firmly in mind, there is a strong case to be made that Parliament had intended, by the HDA, to prohibit contracts entered into in violation of s 56(1). There are at least three reasons I can see. First, as the "conduct" prohibited by s 56(1) is essentially synonymous with the entering of the listed contracts (or transactions), it seems quite meaningless to draw a distinction between the two. Indeed, what would it even mean for s 56(1) to prohibit the "conduct" of leasing without prior approval without also prohibiting the lease *contracts* which result from such conduct?

14 Second, the words and structure of s 56 also support the existence of an implied prohibition. In full, s 56 of the HDA reads:

> **Flat, house or other building not to be sold, mortgaged, etc., without consent of Board**
>
> **56.**—(1) No flat, house or other building which has been sold by the Board under the provisions of this Part may be sold, leased, mortgaged or disposed of without the prior written consent of the Board.
>
> (2) Where any assignment, mortgage, transfer, charge or lease of any such flat, house or other building which is executed by or on behalf of the owner thereof without the prior written consent of the Board is registered under the provisions of the Registration of Deeds Act 1988 or the Land Titles Act 1993, the Board may, by an instrument lodged with the Registrar of Deeds or the Registrar of Titles (as the case may be), declare the assignment, mortgage, transfer, charge or lease to be void.

> (3) The Registrar of Deeds or the Registrar of Titles (as the case may be) must register the instrument without being concerned to inquire into its regularity or validity, and upon registration of the instrument must cancel the registration of any such assignment, mortgage, transfer, charge or lease.
>
> (4) Any assignment, mortgage, transfer, charge or lease by an owner of a flat, house or other building sold subject to the provisions of this Part which would not be void but for this section, is deemed to be valid for the purposes of any legal proceedings instituted by the Board under sections 62 and 63.

15 As can be seen, the entirety of s 56 only contains one prohibition—that set out in s 56(1), which prohibits the sale, leasing, mortgaging, or disposition of HDB property without the HDB's prior written consent. Therefore, when s 56(4) then says that, "for the purposes of any legal proceedings instituted by the Board", it deems valid any assignment, mortgage, transfer, charge or lease which "*would not be void but for this section*", it seems—quite clearly—to be suggesting that assignments, mortgages, *etc*, which are effected in contravention of s 56(1) are void as a consequence.

16 Admittedly, this formulation is certainly not as explicit as that in s 55(3) referred to at [11] above—and, as such, one might fairly wonder why Parliament did not simply adopt the clearer language of s 55(3) if that was indeed what it intended to achieve with s 56(1). However, the strong implication is still hard to ignore. Section 56(4) makes a point of deeming assignments, mortgages, *etc*, "valid" for the *narrow* purpose of proceedings by the HDB under ss 62 and 63. Such deeming would have been entirely unnecessary—and s 56(4) essentially otiose—if the assignments, mortgages, *etc*, remained valid notwithstanding them being entered into in contravention of s 56(1). And, as between concluding that Parliament legislated s 56(4) in vain and Parliament—for some reason—choosing slightly less clear language when clearer language was available to it, I think common legal sense points against the former.

17 What then, is to be made of ss 56(2) and (3)? In my judgment, these subsections appear to be necessary because the types of transactions listed in s 56(1)—sales, leases, mortgages, and other dispositions—*may* be registrable. For example, a lease expressed to be for a term exceeding seven years may be registered pursuant to s 87 of the Land Titles Act 1993 ("LTA"). Given this, if the underlying transaction is registrable and is also registered, then it would not be sufficient for that transaction *alone* to be deemed void. This is because the act of registration generates legal consequences separate from and independent of the underlying transaction upon which the registration is based. This much is clear from at least Part 5, Division 1 of the LTA, though there is no need for me, for present purposes, to delve into the exact consequences of registration. Thus, given the separate and independent effects of registration when it has been effected, my view is that the powers conferred by ss 56(2) and (3) are needed to enable the HDB to undo the registration, even if s 56(1) automatically renders the underlying transaction in question void.

18 If s 56 as a whole is understood in this manner, its progression from subsection (1) to (4), too, is fairly logical. We begin with subsection (1) which not only prohibits flat owners from entering into the listed transactions without the prior approval of the HDB, it also renders void any such transactions which are entered. Supposing the transaction entered into without the HDB's prior approval was registrable and registered under the Registration of Deeds Act 1988 or the LTA (whichever is applicable), subsections (2) and (3) enable the HDB to take steps to void such registration. Upon doing so, *both* the underlying transaction *as well as* its registration would be void.

19 However, the consequence of deeming the prohibited transaction "void" may give rise to doubt as to whether the transaction should be—for *all*

purposes—treated as though it never took place, be it in law or as a matter of fact. If so, that might prejudice the HDB's right to take remedial action against the errant flat owner. To avoid such doubt and any consequential prejudice that might occasion against the HDB as a result, subsection (4) makes clear that, for the purposes of the HDB taking action under ss 62 and 63, the prohibited transaction is deemed "valid". By so deeming, the prohibited transaction is kept "alive", so to speak, specifically and only for the purposes of the HDB taking action against the errant flat owner for having entered into the prohibited transaction in the first place.

20 This brings me to my third reason to conclude that s 56(1) impliedly prohibits contracts entered into in violation thereof. That is the socioeconomic purpose of HDB flats. As the then-Senior Minister of State for National Development put it, in response to a question directly on the subletting of flats without the HDB's prior approval (*Singapore Parliamentary Debates, Official Report* (27 April 2010) vol 87, Oral Answers to Questions (Senior Minister of State for National Development, Ms Grace Fu Hai Yien)):

> Mr Speaker, Sir, subletting HDB flats without HDB's approval is an infringement of the lease conditions. *We take a serious view of this, as HDB flats are primarily meant for owner-occupation.* Flat owners caught subletting their flats without approval may have their flats compulsorily acquired by HDB or incur a financial penalty. … However, we recognise that some flat owners need to sublet their flats for supplementary income. They may obtain HDB's permission to do so if they meet the required Minimum Occupation Period (MOP). … HDB has stepped up enforcement on unauthorised subletting. Besides routine inspections and spot checks, HDB also seeks the assistance of residents to call its dedicated toll-free hotline to report suspected cases of unauthorised subletting. HDB lessees who have sublet their flats without authorisation should regularise it immediately by seeking HDB's approval.
>
> [emphasis added]

21 If HDB flats are primarily intended for owner-occupation, and, as a result of this "unique character", there exists "various restrictions and conditions on the rights that private individuals may acquire in HDB property" (see *Ong Chai Soon v Ong Chai Koon and others* [2022] 2 SLR 457 at [1])—including on the right to temporarily alienate the property in order to generate rental income—it seems to me questionable for the law to nevertheless recognise and give legal effect to leases, *etc*, entered into in violation of those restrictions and conditions. After all, doing so would indirectly allow errant flat owners to commoditise, for example, illegal subletting, so long as the owner assesses the risk-reward ratio to be worthwhile. Admittedly, if this had been the only reason for construing s 56(1) as impliedly prohibiting not only the stated conduct but also the resultant contracts, it probably would not have been a sufficient reason. However, it certainly lends a consequentialist reason to prefer the interpretation of s 56 offered above.

My decision to transfer the matter to the Magistrates' Court

22 All this brings me back to the questions posed at [9] above—whether illegality tainted the agreement and, if so, what was the consequence—as well as why I ordered that the claims be transferred. For the reasons given above at [10]–[21], there was a distinct possibility—had I heard the claims in full—that I would have come to the conclusion that the parties' "room rental agreement" was either entirely void and unenforceable or, at a minimum, ought not be recognised as a valid and enforceable *lease*. If I had arrived at that view, I would have been deprived of jurisdiction to substantively determine the parties' claims given that they would, as a natural consequence of that view, be taken outside the scope of s 5(1) read with para 1(*c*) of the Schedule to the Small Claims Tribunals Act 1984 ("SCTA").

23 Moreover, absent a valid and enforceable lease, there was no other head of subject-matter jurisdiction that the parties could have invoked to keep their claims within the Small Claims Tribunals. As such, had I arrived at that view, I would have been obliged by s 5(5) of the SCTA to discontinue the claims. However, in order to arrive at that view, I would have had to make findings on whether there was in fact illegality that tainted the room rental agreement. This would, in turn, have required me to fully investigate the allegations made by the claimants and come to conclusions on them.

24 I found that potential outcome unsatisfactory for at least three reasons. First, given the distinct possibility of my arriving at the view that the claims fell outside the tribunal's subject-matter jurisdiction, it would have been rather fruitless for the dispute to be heard—essentially in full—only for it to be discontinued. Time and cost-savings stood to be gained from the parties' claims being dealt with by a court with the jurisdiction to determine the parties' *alternative* causes of action (whatever those may be), in the event it comes to the conclusion that the parties' room rental agreement was indeed invalid and unenforceable because of s 56(1) of the HDA.

25 Second, quite apart from time and cost-savings, given the allegations being made by the claimants against the respondent—essentially, of fraud and of perpetuating a "rental scam"—I thought it undesirable to determine the issue of illegality without him at least having the option to engage counsel in order to advance a cogent defence. This was particularly undesirable given that the consequences of a finding of illegal subletting are potentially severe (the HDB may re-enter the flat or impose a financial penalty not exceeding $50,000: see s 62(1)(*b*) and s 63(1)(*h*) of the HDA, read with rr 3(2) and (3) of the Housing and Development (Financial Penalties) Rules 2015 and the comparative table of

the HDA). Indeed, it would have been especially unsatisfactory to make a finding of illegality without the aid of counsel *not even* to substantively resolve the dispute, but merely to arrive at the conclusion that the tribunal is not seised of jurisdiction to determine the dispute.

26 Third, as the claimants' allegations are made against both Mr X and the respondent, and, given the respondent's answer to why the HDB's prior approval had not been sought (see [8] above), Mr X's position as a professional estate agent could also be at stake (*eg*, see paras 4–6 of the First Schedule to the Estate Agents (Estate Agency Work) Regulations 2010). Therefore, transferring the claims to a court governed by the Rules of Court 2021 ("ROC 2021") would at least enable the court and parties to address *how* Mr X's position ought to be dealt with. That could, potentially, be by way of an application by the respondent under O 10 r 2 of the ROC 2021 to join Mr X as a third party, or by the claimants to add Mr X as the respondent's co-defendant. If Mr X is joined, then he too would benefit from the option of being represented by counsel, but, even if he is not, at the very least, the claims would have benefitted from the *potential* mechanisms to deal with Mr X's position (especially O 9 r 10). The Small Claims Tribunals' simplified procedures are not well-equipped to manage procedural issues like these.

27 For all these reasons, I found it appropriate to transfer the two claims to either the District Court or Magistrates' Courts. As to which of these two courts specifically ought to receive them—given the quantum of the claims, even accounting for some potential amendments and expansions—I found a transfer to a Magistrate's Court more appropriate.

28 As to the legal basis on which this transfer was effected, s 7 of the SCTA states: "Despite section 5, a tribunal may, at any time if it is of the opinion that a claim ought to be dealt with by any other court, transfer the proceedings to that court whereupon the practice and procedure of that court applies." Given the words "[d]espite section 5", I saw no issue with ordering a transfer without reaching a conclusion in the first place of whether the claims fell within the Small Claims Tribunals' jurisdiction. In other words, I did not think that the tribunal needed to be seised of jurisdiction *before* it was empowered by s 7 of the SCTA to order a transfer.

29 On the contrary, seeing as how—in cases like the present—important findings of fact are needed *just* to determine the jurisdictional issue, it would be strange for a Small Claims Tribunal to be confined to making transfers *only* in cases in respect of which it is seised of jurisdiction to determine. If a transfer can only be made in such situation, it places the receiving court in the slightly awkward position of deciding what to make of the tribunal's findings on important factual issues—such findings having been made in the context of simplified proceedings which are not subject to the usual rigour of procedural rules and principles of evidence—when such findings were not even made for the purpose of substantive resolution of the dispute, but just the *preliminary* issue of jurisdiction.

30 Given that the subject-matter jurisdiction of the tribunals *may* depend on findings of fact (*eg*, whether a contract is a contract for the provision of services; whether a series of renewed leases should be construed as a single long lease or as short sub-two-year leases, and so on), it would not even be that unusual for transferred cases to be caught in this situation. This, in my view, would be an odd view to take of s 7 of the SCTA, especially in light of the words "[d]espite

section 5". In my judgment, therefore, I was empowered in the circumstances to transfer the present claim and counterclaim.

Conclusion

31 For the avoidance of any doubt, I made no findings on any of the issues which—in my view—justified the transfer in the first place. Whether the parties' room rental agreement contravened s 56(1) was for the Magistrates' Court to determine, as was the question of what consequences would follow from that conclusion, *if* it is reached. Finally, I made no orders as to costs or disbursements; as far as the proceedings before the Small Claims Tribunals were concerned, the parties were to bear their own.

Jared Kang Chern Wey
Tribunal Magistrate

The claimants in person;
The respondent in person.