

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[1978] SGCA 28

CA 33/1977

Between

Collector of Land Revenue

... Appellant

And

Manilal & Sons (Pte) Ltd

... Respondent

GROUND OF DECISION

Land — Compulsory acquisitions — Compensation payable

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Collector of Land Revenue v Manilal & Sons (Pte) Ltd

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Chua F A J; D C D'Cotta J; Wee Chong Jin CJ

13 September 1978

1 (delivering the grounds of decision of the court): Manilal & Sons (Pte) Ltd the respondent in this appeal, owned a warehouse, No 22 Trafalgar Square, on land containing an area of 5,802 square feet and known as Lot 1685 of TS 23. The warehouse is a single storey brick wall, tile roofed warehouse with a height of 17 feet. It is a solidly built warehouse, owner occupied and is an intermediate unit in a row of about ten other similar warehouses. It is within the 'Warehouse' zone in the 1966 Master Plan and at all material times was used for warehousing purposes.

2 On 22 March 1973 the property was compulsorily acquired by virtue of a Gazette Notification published on that date. The collector of land revenue held an enquiry on 8 June 1973. On 22 October 1973 the collector issued his award of \$214,700 as compensation for the acquired property. This sum reflects a value of \$37 per sq ft. The respondent, being dissatisfied, gave notice of appeal on 30 October 1973. It took the collector almost one year after the notice of appeal to give his grounds of award. This seems to us to be inexcusable delay because no difficult issues had to be dealt with by him.

3 At the hearing before an appeals board consisting of the Commissioner of Appeals it was common ground that at the relevant date, 22 March 1973 the property market was very active. Land values had begun to improve in 1970 and prices rose gradually until the end of 1972 when the rise in prices accelerated and reached its peak in September 1973. After that there was a levelling off of prices.

4 It was also common ground that the Master Plan zoning of a property in Singapore is decisive in assessing its value, that there was at the material date a shortage of good warehouses and that in terms of property values `warehouses` zoning is superior to `residential` zoning.

5 The commissioner after hearing expert evidence from two qualified land valuers increased the award to \$348,120 which reflects a value of \$60 per sq ft. The expert, Mr Cheong Thiam Siew, who gave evidence on behalf of the owner relied on recent sales of comparable properties. One such sale was on 25 January 1973 of a piece of property with an area of 16,130 sq ft at the price of \$75 per sq ft on which were two pre-war single storey godowns used as warehouses and zoned in the Master Plan as `commercial`. Another sale relied on was on 29 January 1974 of No 10 Jiak Kim Street, a single storey pre-war building on land with an area of 28,117 sq ft at the price of \$85.35 per sq ft. This property is zoned `warehouse` in the Master Plan. Yet another sale relied on was on 11 May 1973 of No 410 Havelock Road, a single storey godown on land zoned `warehouse` with an area of 16,000 sq ft at the price of \$73.76 per sq ft. The last transaction relied on was of a warehouse on land zoned `residential` with an area of 6,572 sq ft which was valued by the Commissioner of Estate Duties for estate duty purposes at \$55 per sq ft as at 15 March 1974.

6 The other expert, Mr Yap Eng Bok, who gave evidence on behalf of the collector relied entirely on one comparable sale which was of a row of godowns with an area of 52,000 sq ft known as Nos 46 to 62 Palmer Road. This property was sold on 5 January 1973 at the price of \$34.60 per sq ft. One of the godowns was tenanted and subject to the Control of Rent Act (Cap 266, 1970 Ed). It was a sale by a subsidiary company to the parent company and at book value and not at the market price. It was clearly not an arms-length sale. Mr Yap disregarded the sales of No 410 Havelock Road on 11 May 1973 and of No 10 Jiak Kim Street on 29 January 1974 because they took place after 22 March 1973 the date of the acquisition.

7 The Commissioner of Appeals rejected the submission made on behalf of the collector that all sales which took place after the relevant date, 22 March 1973 could not be taken into consideration by the Appeals Board in arriving at the market value at the relevant date of the land acquired. He also rejected another submission that the Appeals Board could not in law take into consideration in arriving at the market value of the land acquired a valuation of the Commissioner of Estate Duties for estate duty purposes of a comparable piece of property.

8 The collector appealed to this court and during the argument before us similar submissions were advanced on behalf of the collector but counsel for the collector was unable to refer to any authority or give any reasons in support of these submissions. We rejected these submissions. In our judgment the Commissioner of Appeal's reasons for rejecting these submissions are correct. They are to be found at pp 9-10 of his written decision ([1977] 2 MLJ at 102) and read as follows:

Counsel for the respondent submits that all sales which took place after the relevant date should not be taken into

consideration by the Board in this Appeal; that the Board must place itself in the place of the Collector as at the material date and therefore the Board must disregard the comparables cited by Mr Cheong Thiam Siew because the sales of those properties on which he relies and the valuation of 27 Sibu Road by the Commissioner of Estate Duties, all took place after the relevant date, i.e. 22 March 1973. I am unable to accept this submission. There is no authority for it. Appeals to the Appeals Board under the Land Acquisition Act are by way of a re-hearing and ... the parties to the appeal are entitled to put before the Board any fresh evidence that may have come to light after the relevant date and which will assist the Board in determining the compensation to be paid to the land owner for the acquisition of his land by the Government. In my judgment any sale of comparable property taking place within a reasonable time of the relevant date, both before and after, can be considered after making the necessary adjustments for all the relevant factors. For example, in this appeal, the respondent's expert witness, Mr Yap relies on the sale of the Palmer Road property which took place on 5 January 1973 i.e. about two and a half months before the relevant date. I see no reason why this Board, in determining the proper compensation to be paid for the acquisition of the subject property, cannot take into consideration the sale of 410 Havelock Road which took place on 11 May 1973 i.e. 48 days after the relevant date, provided of course, the Board takes cognizance of all the distinguishing factors and makes the necessary adjustments. In my judgment it is entirely erroneous to suggest that the Board cannot consider any sale which took place after the relevant date.

9 Accordingly, we dismissed the appeal with costs.

10 ***Appeal dismissed.***

Chua F A J
D C D'Cotta J
Wee Chong Jin CJ

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P Selvadurai (Rodyk & Davidson) for the appellant
Sachi Saurajen (Drew & Napier) for the respondent
