IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[1989] SGCA 4

CA 12/1986

Between

Tan See Tee

… *Appellant*

And

Ong Brothers Realty Pte Ltd

… *Respondent*

GROUNDS OF DECISION

Civil Procedure — Appeals

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

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Tan See Tee v Ong Brothers Realty Pte Ltd

[1989] SGCA 4

CA 12/1986
Chan Sek Keong J; Chua F A J; Wee Chong Jin CJ
22 March 1989

1 Cur Adv Vult

2 (delivering the judgment of the court):This appeal arises from a claim by the appellant/ plaintiff against the respondents/defendants in respect of a sum of $15,000 pertaining to the settlement of a dispute regarding the appellant`s tenancy. The settlement was allegedly evidenced by a memorandum dated 10 December 1980. The matter was tried before Lai J and the appellant`s claim was dismissed with costs.

3 It is clear from the outset that the outcome of this appeal hinges on whether the trial judge was justified in his finding that there was no agreement between the appellant and respondents for the sum of $15,000.

4 **Undisputed facts**

5 The undisputed facts of the case are as follows. The appellant was a monthly tenant of 121-A Upper Paya Lebar Road, Singapore since 1973. The premises were situated on the first floor of a two-storey building and, along with 17 other tenanted units in the vicinity, were owned by the respondents.

Sometime in June 1980, the respondents` shareholders offered to sell their entire shareholdings to the 18 tenants, including the appellant, at a price of $2.5m. That amount represented the total value of all the 18 units, there being no other asset or liability of the respondents. However, the offer contained a stipulation that all the 18 tenants had up to 11 July 1980 to purchase the shareholdings. On that day, a deposit of 5% of the purchase price had to be paid. Following the offer, all the tenants held a meeting in mid-June 1980 to consider the terms. At that meeting, the majority reached an agreement that every tenant would buy and that any tenant who refused to buy would be evicted. The appellant, however, intimated that he was unable to take up the offer. In any event, on 10 July 1980, each of the other 17 tenants promptly paid up the 5% deposit. When the appellant failed to make his payment, the other 17 collectively paid the 5% deposit for the appellant`s shares. On 16 September 1980, the sale of the shares to the 17 tenants were completed.

6 **Appellant`s evidence**

7 As regards the appellant`s flat, the events that transpired after the June meeting of the tenants are in dispute. According to the appellant, he intimated that he was unable to take up the shares in the respondents` shareholdings as he was not a Singapore citizen. He then advertised his rights for sale in the Chinese newspapers In response to the advertisement, one Heng Joon Cheng agreed to purchase his rights for $15,000 and promptly paid a deposit of $1,000. However, the agreement fell through when Heng failed to turn up to complete the transaction.

8 The appellant later found another prospective purchaser, one Goh Bak Siang, who agreed to buy the appellant`s rights for $15,000. According to the appellant, this sum of $15,000 was to be `tea money` or a sort of premium for

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giving up his tenancy rights. The appellant testified that both he and Goh met with representatives of the respondents on 11 July 1980. There, he informed the respondents` representatives that Goh was to be the new purchaser. After some discussion, one Sng Kok Boon informed the appellant that the respondents themselves would purchase his rights for $15,000 and that this sum would be paid over on 17 September 1980. However, on 26 September 1980, the appellant received a notice to quit. Upon receipt of this notice, the appellant approached Leong Chew Chin and SM Tang, a director and secretary respectively of the respondents, to clarify the situation. According to the appellant, both Leong and Tang agreed on behalf of the respondents to pay him $15,000 if he moved out by the end of November 1980. The appellant also undertook to carry out repairs to the premises to restore it to its original position.

9 **Respondents` evidence**

10 The respondents` main witnesses, Yong Heng Kin (Yong) and Yam Kok Chong (Yam), however, gave different versions of the events that transpired. Yam Kok Chong was then a tenant of the respondents, occupying the lower floor of the same unit as the appellant. Yam said that sometime after 16 September 1980 he was approached by Sng Kok Boon on behalf of the appellant with whom he was not on speaking terms and was told that the appellant would vacate the premises by March 1981 on payment of $15,000. His reply to Sng Kok Boon was that he would pay $15,000 if the appellant vacated the flat by the end of September 1980. He also told Yong of his willingness to pay as Yong had also spoken to him on this matter. His offer was refused by the appellant because he was unable to move out by the end of September 1980 as it was difficult for him to find alternative accommodation.

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11 Subsequently, on 3 December 1980, after legal proceedings to evict the appellant had been commenced, there was another meeting between the appellant and Yong. At that meeting, the payment of $15,000 was again raised. Yong told the appellant that he had to consult Yam. Yam subsequently conveyed through Yong that he would pay the $15,000 subject to certain specified deductions and after repairs to the flat had been carried out. The appellant then agreed to these terms.

12 **Our decision**

13 The principles of law governing an appellate court when deciding an appeal on questions of fact are well settled. The most often-cited statement of these principles is that of Lord Thankerton in ***Watt (Thomas) v Thomas*** [1947] AC 484 where he said (at pp 487-488):

> I Where a question of fact has been tried by a judge without a jury, and there is no question of misdirection of himself by the judge, an appellate court which is disposed to come to a different conclusion on the printed evidence should not do so unless it is satisfied that any advantage enjoyed by the trial judge by reason of having seen and heard the witnesses could not be sufficient to explain or justify the trial judge`s conclusion.
>
> II The appellate court may take the view that, without having seen or heard the witnesses, it is not in a position to come to any satisfactory conclusion on the printed evidence.
>
> III The appellate court, either because the reasons given by the trial judge are not satisfactory or because it unmistakably so appears from the evidence, may be satisfied that he has not taken proper advantage of his having seen and heard the witnesses, and the matter will then become at large for the appellate court.

14 These principles were expressly endorsed by this court in ***Arumugam & Anor v Lim Boon Neo*** [1988] 1 MLJ 80 .

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15 Having regard to his grounds of decision, we are in no doubt that the learned trial judge had reached his decision on the evidence before him. We see no reason to interfere with his rejection of the appellant`s evidence that he had met Leong Chew Chin and SM Tang in late September 1980 or early October 1980 who had agreed on behalf of the respondents that the respondents would pay him $15,000 if he vacated by the end of November 1980 after restoring the flat to its original condition. We agree with the trial judge that the evidence in support of this contention is riddled with discrepancies and inconsistencies. In his examination-in-chief, the appellant said that the terms of this purported agreement were that he had to move out by 30 November 1980 and had to carry out repairs to restore to its original condition. However, the appellant`s solicitors` letter dated 23 October 1980 relied upon by the appellant as confirmation Of the agreement made no mention of the date for delivery of possession. On the other hand, the same letter stated that the appellant was to vacate the premises `in the same condition as it is now in` which is clearly different from `restoring the flat to its original condition`.

16 The trial judge, found that Yam was the party with whom the appellant dealt and that the respondents were not a party to any agreement with regard to the payment of $15,000 as consideration for the appellant delivering up vacant possession.

17 In these circumstances, we are of the opinion that the trial judge was justified in finding that there was no agreement between the appellant and the respondents as regards the payment of $15,000. Accordingly, this appeal must be dismissed with costs.

18 ***Appeal dismissed.***

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Chan Sek Keong J
Chua F A J
Wee Chong Jin CJ

Lee Tow Kiat (Lee Brothers) for the appellant/plaintiff
Indarpal Singh Dhot (James CS Loh) for the respondents/defendants

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