IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[1991] SGCA 41

CA 10/1988

Between

Singapura Developments (Pte) Ltd

… *Appellant*

And

Management Corp Strata Title No 446

… *Respondent*

GROUNDS OF DECISION

Land — Strata titles — Subsidiary proprietor; Words and Phrases

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

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Singapura Developments (Pte) Ltd v Management Corp Strata Title No 446

[1991] SGCA 41

CA 10/1988
Karthigesu J; L P Thean J; Yong Pung How CJ
25 October 1991

1 This appeal aroseout of a claim by the plaintiffs against the defendants for contributions to the management fund levied on the property known as 5001 Beach Road, #14-64, Golden Mile Shopping Centre, Singapore (`the property`) for the period between April 1983 and March 1987. The plaintiffs are the management corporation of the Golden Mile Shopping Centre and a body corporate constituted under s 30(1) of the Land Titles (Strata) Act (Cap 158) (`the Strata Act`), and the defendants were the developers of the Golden Mile Shopping Centre, of which the property is one of the units. By an agreement dated 20 April 1970, the defendants sold the property to one Ms Chua Eng Neo and possession of the property was given to her on 1 December 1973. Ms Chua subsequently sold the property to one Mr Tan Hua Cheng, and at her request, a fresh sale and purchase agreement was made between the defendants and Mr Tan on 2 July 1974 in substitution of the previous agreement made between the defendants and Ms Chua. The purchase price of the property was paid to the defendants in full some time after the date of the agreement made with Mr Tan. On 17 April 1975 Mr Tan died. The subsidiary strata certificate of title to the property was issued on or about 12 June 1979. However, the personal

representatives of the estate of the deceased did not take the necessary steps to cause or procure the property to be transferred to them, with the result that the defendants at all material times were and remained the registered subsidiary proprietors thereof.

2 The plaintiffs as the management corporation sought to recover from the defendants their contributions to the management fund which had been levied on the property, and on 16 January 1987 instituted legal proceedings against the defendants in the magistrate`s court and subsequently applied for summary judgment on the amounts claimed. The deputy registrar of the subordinate courts allowed the application, and against his decision the defendants appealed to the High Court, which dismissed the appeal. Against the decision of the High Court this appeal was brought, and at the conclusion of the hearing we dismissed it with costs. We now give our reasons.

3 There is only one issue before us, and that is whether the defendants in the circumstances of the case were liable to pay the contributions to the management fund levied on the property; there was no dispute on the quantum. Nor was there any dispute that at all material times the defendants were the registered subsidiary proprietors of the property. The plaintiffs` right of recovery was founded on s 36(3) and (5) of the Strata Act then in force, which provided as follows:

> (3) For the purpose of establishing and maintaining the management fund the management corporation may at a general meeting -
>
> (a) determine from time to time the amounts to be raised for the purposes mentioned in subsection (1);

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

> (b) raise the amounts so determined by levying contributions on the subsidiary proprietors in proportion to the share units of their respective lots; and
>
> (c) determine the amount of interest payable by a subsidiary proprietor in respect of late contributions which shall not exceed the rate of 10% per annum.
>
> (5) Any contribution levied under subsection (3) in respect of a lot is due and payable on the passing of a resolution to that effect by the management corporation, and in accordance with the terms of that resolution, and may be recovered as a civil debt from a subsidiary proprietor of, or his successor in title to, the lot.

4 It was also not disputed that the appropriate resolutions under sub-s (3) had been passed by the plaintiffs for establishing the management fund and levying contributions on the subsidiary proprietors of the units in the Golden Mile Shopping Centre for the purpose of controlling, managing and administering the common property, and that this action was taken by the plaintiffs under sub-s (5) of s 36 to recover the contributions from the defendants.

5 Counsel for the defendants argued that the defendants were not the subsidiary proprietors of the property on a proper construction of the term `subsidiary proprietor` in s 36(5) of the Strata Act, having regard to the following: firstly, the defendants had received the full purchase price of the property and had delivered possession thereof to the purchaser, and consequently had no further interest in the property at all material times; and secondly, the defendants had derived no benefit whatsoever from any of the services provided by the plaintiffs in respect of which the contributions were levied by the plaintiffs. The defendants were simpliciter bare trustees of the property. Reading the provisions of the Strata Act in their proper context, counsel submitted that the term `subsidiary proprietor` meant the beneficial

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

owner of the unit in question, and in this case the defendants were not the beneficial owners of the property. He also relied on s 36(7) of the Strata Act which provided:

> *For the purposes of subsections (5) and (6), `subsidiary proprietor` includes the person for the time being receiving the rent of the lot, whether as agent or trustee or as receiver, and who would receive the same if the lot were let to a tenant.*

6 This argument has no merit, and we rejected it. The term `subsidiary proprietor` has been defined in s 3 of the Strata Act to mean `the registered proprietor for the time being of a lot`, and the defendants were at all material times the registered proprietors of the property and fell squarely within the meaning of that term as defined in the Strata Act. The words are clear and unambiguous and, subject to s 36(7), do not admit of any other construction. We do not see how s 36(5) can be construed in the sense contended by counsel. If what counsel contended was correct, then the plaintiffs as the management corporation in seeking to collect and recover contributions from subsidiary proprietors of the units of the complex or shopping centre would have the onerous task of going behind the Register of Titles to investigate and determine who, in fact, are the subsidiary proprietors. Such an exercise would be highly inconvenient, if not impracticable; nor is it contemplated by the provisions of s 36. Indeed, such a contention is contrary to the object of the system of registration of titles on which the Strata Act is based.

7 It is true that s 36(7) extends the meaning of `subsidiary proprietor` to include a person for the time being receiving the rent of the property and who would receive the rent if the property were let out to a tenant. That provision certainly gives to the plaintiffs the option of recovering the contribution from a beneficial owner of the unit, for instance, in this case from the estate of Mr Tan

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

Hua Cheng, deceased. However, in our opinion, it does not preclude the plaintiffs from recovering the amount due from the defendants who were the registered subsidiary proprietors.

8 Counsel for the defendants also relied on ss 9 and 10 of the Buildings and Common Property (Maintenance and Management) Act (Cap 30). Section 9 requires a developer to establish a maintenance fund for the development undertaken by him upon issue by the competent authority of a temporary occupation licence in respect of any unit of the development for the purposes of, inter alia, maintaining the common property, and s 10 imposes on the developer, inter alia, the obligation to pay into the maintenance fund all the charges received by him from the purchasers and to hold all moneys in the maintenance fund on trust for the owners and purchasers of units of the development, and upon establishment of the management corporation, to transfer all surplus moneys in such fund to the corporation. There is nothing in the provisions or any other provisions of that Act which can remotely support the construction of s 36(5) of the Strata Act as contended on behalf of the defendants. The provisions have no relevance whatsoever to the issue before us.

9 The appeal was clearly unsustainable and we had no hesitation in dismissing it with costs, which we did.

10 **Outcome:**

Karthigesu J
L P Thean J
Yong Pung How CJ

George Pereira (Foo & Quek) for the appellants
Beh Eng Siew (YM Jumabhoy) for the respondents
