IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[1993] SGHC 108

Suit No 1487 of 1987

Between

Peng Ann Realty Pte Ltd

… *Plaintiff*

And

Liu Cho Chit
Tan Geok Tee
Yip Ho Meng
Lee Tat Development Pte Ltd

… *Defendant*

GROUNDS OF DECISION

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

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Peng Ann Realty Pte Ltd v Liu Cho Chit and Others

[1993] SGHC 108

Suit No 1487 of 1987
Goh Joon Seng J
11 May 1993

1 **Judgment:**

2 Coram: The Honourable Justice GOH JOON SENG

3 JUDGMENT

4 The plaintiff was incorporated on 14 June 1972. The first defendant was one of the original directors. He was also the managing director at all material times. It is alleged by the plaintiff that while acting as managing director the first defendant was `the controlling mind' of the plaintiff.

5 A company, Collin Investment Pte Ltd (`CIP') now known as Lee Kai Investment Pte Ltd was incorporated on 14 August 1972 with the second defendant's wife, one Ching Mun Fong and his daughter Collin Tan as directors. Although the second defendant only became a director of CIP in or about August 1973, it is alleged that the second defendant was at all material times in effective control of CIP. The third defendant was one of the original directors of the plaintiff.

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

6 The fourth defendant formerly known as Collin Development Pte Ltd was incorporated on 1 February 1973. The second defendant was a director and in effective control of the fourth defendant.

7 In or about June 1972 the plaintiff entered into an agreement with the estate of Tan Chwee Boon, deceased, for the purchase of eight parcels of land with a total area of about 186.7 acres comprised in lots 21-26, 4-7, 4-4, 221, 120, 121, 122 and 123 of Mukim 28 which is off Kampong Chai Chee. The price was $1,090,000. The purchase was completed on 27 October 1972.

8 On 20 July 1972, two of the lots being 221 and 4-4 with a total area of about 5.8 acres were acquired by the Government. The sum of $228,000 or $0.89 per square foot was paid to the plaintiff by way of compensation.

9 On 27 October 1972, the purchase by the plaintiff was completed.

10 On 23 January 1973 the plaintiff entered into an agreement with CIP for the sale to CIP of three of the lots namely 21-26 (156 acres 2 roods and 20 poles), 4-7 (19 acres 1 rood and 6 poles), 123 (2 acres 3 roods and 11 poles)(`the three lots') for $2,050,000. The first defendant signed the agreement on behalf of the plaintiff. The second defendant signed on behalf of CIP.

11 On the same day, by another agreement (`the sub-sale agreement') between CIP of the one part and one Lim Siam Soi and the said Collin Tan of the other part, CIP agreed to sell to Lim Siam Soi and Collin Tan part of Lot 21-26 with an area of approximately 5 acres at the price of $50,000. Lim Siam Soi is the wife of the first defendant. The second defendant signed the sub-sale agreement on behalf of CIP and Collin Tan. The first defendant signed on behalf of his wife the said Lim Siam Soi.

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

12 As no subdivisional approval had been obtained for the excision of the five acres, on completion of the sale by the plaintiff to CIP, the three lots on the instructions of CIP were conveyed to the fourth defendant.

13 On 23 July 1976 the three lots except for the five acres the subject matter of the sub-sale agreement were acquired by the Government for public housing and infrastructure. The five acres following a title survey is now known as Lot 1606. On acquisition the sum of $2,500,000 was paid. This works out at $0.33 per square foot. The award was presumably based on the market value on 30 November 1973 pursuant to section 33 of the Land Acquisition Act.

14 Due to disputes arising out of the sub-sale agreement, Lim Siam Soi on 25 June 1984 commenced action in Suit 4149 of 1984 against the second and fourth defendants herein Lee Kai Investment Pte Ltd and Collin Tan.

15 The plaintiff now under the control of Benny Fang Kum Kwong say that they became aware of the sub-sale agreement as a result of the proceedings in Suit 4149 of 1984. In that suit the sub-sale agreement was disclosed. It is alleged therein by Lim Siam Soi that the second defendant herein Tan Geok Tee either on his own or on behalf of the fourth defendant herein Lee Tat Development Pte Ltd agreed to purchase Lim Siam Soi's one-half share in Lot 1606 for $3,800,000.

16 The plaintiff thereupon commenced these proceedings on 25 May 1987. Paragraphs 6 and 8 of the plaintiff's Re-amended Statement of Claim read:

17 "6. By a conspiracy to defraud the Plaintiffs which conspiracy was hatched between the 1st and the 2nd Defendants and of which conspiracy the 3rd Defendant was at all material times aware, the 1st Defendant as the

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

Managing Director or Director of and on behalf of the Plaintiffs conspired to sell and the 2nd Defendant on behalf of CIP conspired to purchase and to further this purpose entered into an agreement on or about 23rd January 1973 for the sale of the Lots 21-26, 4-7 and 123 comprising about 176 acres for an inordinately low price of $2,050,000-00 in spite of the large area involved. Subsequently the sale was registered in the name of the 4th Defendants.

18 8. The 1st, 2nd and 3rd defendants knew or ought to have known by reason of the fact that the said Lot 1606 (of about 5 acres) would not be acquired by the government and therefore was worth or would be worth several million dollars and hence the Plaintiffs have been defrauded by the 1st, 2nd and 3rd defendants, or any one or more of them.

19 Particulars of Fraud of the 1st, and 2nd and 3rd defendants or any one or more of them

20 (a) The 1st and 3rd defendants agreed to sell the said 21-26, 4-7 and 123 of Mukim XXVIII totalling approximately 176 acres for $2,050,000 only, and the 2nd defendant agreed to buy on behalf of CIP when the 1st, 2nd and 3rd defendants well knew or ought to have known that the price was inordinately low by reason of the fact that they were equipped with the knowledge that the said 5 acres would not be acquired by the government.

21 (b) Having entered into the said agreement for sale and purchase referred to in sub-paragraph (a) above, all or some of the defendants were a party to CIP selling on the same day the said Lot 1606 to Lim Siam Soi (wife of the 1st defendant) and the said Collin Tan (daughter of the 2nd defendant) when all or some of the defendants had an interest in and/or were connected with CIP.

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

22 (c) Entered into the said agreement in paragraph 7 above at a price of only $50,000-00 when all or some of the defendants and the said Lim Siam Soi and Collin Tan knew or ought to have known that the said Lot 1606 was likely to be unacquired by reason of the fact that the 1st and 2nd defendants signed the Agreements for and on behalf of their nominees and from the documents it would appear that the 1st and 2nd defendants wanted to retain the beneficial interest for themselves. Evidence will be adduced to show that the unacquired property was worth well over $1,000,000-00.

23 (d) Conspired with each other and their nominees namely the said Lim Siam Soi and Collin Tan to sell through their said nominees one half share of the said Lot 1606 in or about the month of April 1981 to the 2nd defendant at a price of $3,800,000-00.

24 (e) ... ...

25 (f) ... ..."

26 On 19 October 1989 the learned senior assistant registrar ordered that the issue whether the sale was concluded at an inordinately low price be tried before the trial of the other questions or issues arising from this action.

27 This preliminary issue, the determination of which does not dispose of the whole action in the light of the present pleadings, came up for hearing before me.

28 The three lots were within four zones under the Master Plan Zoning, about 50.13% under Water Catchment, 20.02% under Rural, 7.84% under Permanent Residential and 22.01% under Temporary Residential. The three lots

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

together with the rest of the land purchased from the estate of Tan Chwee Boon, deceased, were said in 1964 to have about 330 rent-controlled tenants paying a monthly rent of $410.90. There were also some other occupiers who did not pay any rent. Many of them grew vegetables on the land, reared pigs and poultry and some ran home handicraft.

29 According to PW1 Soh Kok Foo, a valuer testifying for the plaintiff, the market value of the three lots as at January 1973 should be $4,755,000. According to DW1 Y. S. Boey, a valuer who testified for the first defendant, the market value of the three lots as at 23 January 1973 was $2,050,000. In fact at page 34 of the Notes of Evidence he said:

30 "A: ... ... If you looked at the purchase in October the contract date would be July 1972, then the price of $2,050,000 paid by 4th defendant looks too high."

31 DW2 Low Ser Seah, a valuer who testified for the second defendant, said that the market value of the three lots as at December 1972/January 1973 was $1,950,000.

32 All the three valuers used sales of comparable properties in support of their valuation. I find none of the comparables really comparable with the three lots in terms of size, zoning, degree of encumbrance, location and development potential. Although the evidence suggests that property prices had been moving up from 1972, the restrictions against foreigners buying residential property that came into effect on 10 September 1973 would have caused a dip if not checked the rise. Against this background the three lots less an area of about 5 acres were acquired in 1976 based on the market value as at 30 November 1973 for $2,500,000. Bearing in mind that neighbouring lands had been acquired and hence strong likelihood of this land being acquired too, the sale price of

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

$2,050,000 in January 1973 though low was not inordinately low between a willing buyer and willing seller if both had no knowledge that part of Lot 21-26 measuring 4.2 acres would not be acquired.

33 However for someone who is alleged to have known that these 4.2 acres part of 21-26 and now being Lot 1606 would not be acquired and more so that after acquisition of the rest of the land, Lot 1606 would have access to an expressway and other public roads, then the price of $2,050,000 for the three lots was inordinately low. This is borne out according to the plaintiff by the claim by the first defendant's wife in Suit 4149/84 for $3,800,000 for her one half share in Lot 1606. In fact in the affidavit of Tan Eng Khuay filed on behalf of the fourth defendant on 13 November 1989 para 14 he deposed that the fourth defendant in July 1988 received an offer from one `Lay Kok Weng to buy Lot 1606 Mukim 28 for S$14,250,000-00.'

Goh Joon Seng J

H E Cashin with S Lalita (Murphy & Dunbar) for the plaintiff
Woo Tchi Chu with Pee Hwee Leng (Robert W H Wang & Woo) for the 1st defendant
Jimmy Yap (Donaldson & Burkinshaw) for the 2nd and 4th defendants
Khor Thiam Beng (Khor Thiam Beng & Partners) for the 3rd defendant

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