

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[1997] SGHC 192

Suit 1265/1995

Between

Teo Teck Guan
Teo Teck Guan (as
representative of the Estate of
Sin Yin Yong appointed under
Order of Court dated 31
January 1997)

... Plaintiff

And

Moulmein Development Pte
Ltd

... Defendant

GROUND OF DECISION

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Teo Teck Guan and Another v Moulmein Development Pte Ltd

[1997] SGHC 192

Suit 1265/1995
Choo Han Teck JC
16 July 1997

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Judgment:

2 1. This is a suit by one Teo Teck Guan ("Teo"), a

welder by profession, in his personal capacity, and also in his capacity as the

representative of his mother's estate. It is a claim, inter alia, for a declaration

that the Plaintiff in one of the two capacities was entitled, by way of adverse

possession, to a piece of land upon which a house known as

3 40A Crane Road stood. The Defendants are the present paper owners

of the land.

4 2. The facts are undisputed save for one matter which I shall refer to shortly. The property in question is a house that straddles parts of three lots

of land, namely, lot 28-27, lot 28-7 (which is State land and, thus was not included in

the Plaintiffs' claim), and lot 28-6. From the sketch attached to the Re-Amended

Statement of Claim it can be seen that the property is flanked on the left by a canal. It

is land-locked on the other three sides by the remainder of the land comprised in the

three said lots. There is an access road to the property through lot 28-6. This access

leads to Crane Road. On the right flank at the end of the land is Carpmael Road. Lot 28-27

was converted into registered land on 4 April 1991 and lot 28-6 was converted into

registered land on 23 February 1995, but these conversions are not relevant in the dispute

as the period of adverse possession in question spanned August 1978 to September 1990.

5 3. In June 1957 one Chng Tang Huat invited Teo's father to occupy the property. Teo's father, a carpenter by trade, thereupon entered the land

and built a single-storey house which he then occupied and raised his family of nine

children including Teo and an adopted daughter. Teo was only two years old in June 1957.

Sometime in the 1960's, Teo's father rebuilt the house into a two-storey house, and in 1966 they managed to obtain a bucket-system lavatory for the family's use. The

house was a wood-and-zinc house. It was then sharing the same address as that of Chng Tang

Huat's house, namely, 56 Carpmael Road. Teo's father died in 1968, and his mother Sin Yin Yong applied for water and electricity supplies to the house in her own

name. In the following year the house was given its own address of 40A Crane Road.

6 4. Prior to his death, Teo's father paid Chng Tang Huat \$25.00 a month as "rent" for the occupation of the land. The money was given to

Sin who then handed it over to Chng's wife. After the Teo patriarch's death, Teo

Teck Beng, one of his sons, took over the responsibility of giving the rental money to Sin

as she was a housewife with no income of her own. It was not known how Chng Tang Huat came

upon the land or on what authority he gave permission to the senior Teo to build a house

there. It was undisputed, however, that Chng Tang Huat was not the paper owner at any

time, nor was there any evidence that he was a lawful tenant or licensee. Chng Tang

Huat's wife died in 1977 and thereafter, Sin gave the monthly rent of \$25.00 to Chng

Peng Cheong, a son of Chng Tang Huat.

7 5. Sometime in 1978 the Teo's were asked by the government

authorities to construct a modern lavatory system so they approached Chng Peng Cheong but

he would not do so. Teo deposed in his affidavit of evidence-in-chief that the government

officers also asked Chng Peng Cheong to construct the modern system but he still declined

to do so. Eventually, the Teo's got together with some of their neighbours and

collectively appointed a plumber to install a modern sewage system. Teo paid for his

family's share which came to \$1,350. The documents such as the quotation and receipts

were signed by Sin. Teo explained that she was then the head of the household, and _____ would

be offended and suspicious if she were not allowed to do so.

8 6. In August 1978 Chng Peng Cheong refused to accept the monthly

payment of \$25.00. Teo deposed that Chng also "told us that he no longer accepted us

as tenants and our family should quit and vacate the house". This part of the

evidence was disputed by the Defendants on the ground of hearsay because Chng spoke only

to Sin and not Teo. The documentary evidence showed that Sin was sufficiently troubled to

seek advice from the Legal Aid Bureau on 7 September 1978. She was given a registration

card bearing her name and address, and the title "Notice To Quit". It transpired

that no further action was taken after the Bureau ascertained that the property was not on

the valuation list of the Comptroller of Property Tax. The file was closed. It also

transpired that nothing more was heard or said about Chng Peng Cheong thereafter save that

a registered letter by Sin containing a postal money order for the rent for August and

September 1978 and addressed to Chng Peng Cheong, was returned with the

notation

"Gone Away". That offer to pay rent was made on the advice of the Legal Aid

Bureau. Teo deposed that Chng moved out of 56 Carpmael Road in the late 1980's but

his family had not been in touch with the Teo's since 1978, presumably after the

lavatory system episode.

9 7. In 1979 the Inland Revenue Department requested for information from the Teo family concerning details of 40A Crane Road. Sin replied on 18

April 1979 together with a covering letter which stated as follows:

10 "I paid the house rent from June 1957 to January 1977 to Mr

Chng Peng Cheong['s] mother who died in January 1977. Thereafter, I continue[d]

paying the rent to Mrs Chng Peng Cheong who lately refused to accept the rent from 1

August 1978. (This was brought up to the Legal Aid Bureau on 7 September 1978 Registration

No 6666). I have possessed my own lavatory (bucket-system) since 1966. My kindest regard.

Address of Chng Peng Cheong 56 Carpmael Road, Singapore 15."

11 8. The replies to the queries by the Inland Revenue Department

were referred to extensively by counsel for the Defendants. The salient questions and

answers are as follows. In response to the request for the name and address of the

"owner, landlord or other person to whom you pay rent" Sin stated Chng Peng

Cheong's name and address and referred to her covering letter. In answer to the

question as to the amount of rent or other payment Sin replied, "House - Rent \$25

only". The third question related to other matters covered by the rent or payment,

such as, furniture, fittings or maintenance fees. To this Sin replied, "House - Rent

\$25 only excluding other charges". The date in which rent commenced was

stated as

June 1957. To the question as to who paid the property tax, repairs, maintenance and

upkeep and insurance Sin replied that she paid for "repair, maintenance and upkeep

only". In October 1980 a similar request for particulars was sent and Sin replied on

29 October 1980 in essentially the same terms as set out above. The two requests for

information were sent by the Property Tax Division of the Inland Revenue Department under

the cover of a letter addressed to "The Occupier".

12 9. Teo's four elder sisters married between 1968 and 1977

and moved out of the house to live with their respective husbands. His elder brother Teo

Teck Beng married in 1973 and moved out with his wife and two children in 1979. The

adopted sister returned to her natural mother in 1986. Teo's younger sister

married

and moved out in 1987 and his younger brother Teo Teck Lee married in 1983 and moved out

with his wife and son in 1991. From 1980 Teo paid the property tax on the house covering

the period January 1974 onwards. In 1981 Sin suffered a stroke and was cared for by Teo at

40A Crane Road until her death in 1994 at the age of 78 years. Teo still lives in this

house with his wife and children.

13 10. In December 1990 Teo received a letter from the law firm of

Lee Bon Leong & Co dated 28th, addressed to Sin, stating that they act for the owners

of the land and that their clients, having completed a survey for the purposes of

redeveloping the land discovered that "part of [Sin's] building structure had

intruded into [their] clients' land" and were therefore trespassing. The letter

required that the structure be removed within a week failing which their clients

would

remove the structure themselves and render Sin liable for the costs of removal.
Neither

Sin nor Teo responded to this letter. Subsequently, there was an attempt by the
owners to

refer the matter to the Tenants' Compensation Board but nothing came out of
that

application as the matter was not within the Board's purview.

14 11. There was no dispute that if time ran from 1 August 1978 when

Chng Peng Cheong refused to receive any more payment from Sin, or any date
before this,

the twelve years' requirement for a claim in adverse possession would have
been

satisfied as against the Defendants. The Defendants' case was that the Plaintiff
had

not acquired title by way of adverse possession because the *animus possidendi*
had

not been proved although the uninterrupted physical occupation of the property

by the Teo

family from June 1957 was not challenged. The Defendants' case was that the

Plaintiffs failed to establish their title because they had failed to prove the intention

of excluding the owner and other people from the disputed land.

15 12. Counsel for the Defendants, Mr Davinder Singh, submitted that

the act of Sin in tendering rent for the months of August and September 1978 to
Chng Peng

Cheong proves that neither she or Teo regarded themselves as owners. She also
acknowledged

in her replies to the Property Tax division of the Inland Revenue Department in
1979 and

1980 that Chng was the landlord. Thus, he argued, that these acknowledgments
of

Chng's position destroyed the Plaintiffs' assertion that they had

"completed 12 years of continuous, adverse, uninterrupted and exclusive
possession of

the land by 31 July 1990".

16 13. Mr Singh submitted that the "Plaintiffs initially occupied the [property] pursuant to an invitation from Chng Tang Huat and his family.

Their occupation of the [property] was clearly permissive. In the circumstances, to

successfully found a claim of adverse possession, the Plaintiffs had to adduce clear

evidence of acts constituting an ouster of the owner with the paper title. It is not

sufficient for the Plaintiffs to put an end to their permissive occupation of the

[property] by a secret intention in their minds". The main argument of the Defendants

was that there was no ouster of Chng Peng Cheong, and that the installation of the modern

lavatory system is not evidence of ouster, and, counsel submitted, neither did the

payments of property tax by Sin amount to an ouster.

17 14. No evidence was led as to whether Chng Tang Huat occupied the land with the permission of the paper owners although it appears that he did not and was

probably an adverse possessor himself. If that was the case, he would have dispossessed

the paper owners 12 years from June 1957. Thus, the matter would have been resolved in

that the present paper owners would have no right to dispute the Plaintiffs' title.

Since there was no evidence of the status of Chng Tang Huat I have only to find the effect

of the Teo's position after August 1978 vis--vis the paper owners.

18 15. Mr Singh submitted that the Teo's did nothing after 1 August 1978 to exclude the world at large. He said, for example, no new fence was erected

after that date. He submitted that it was crucial to the Plaintiffs to have evinced a

clear intention after 1 August 1978 to exclude the paper owners otherwise, the requirement

of an *animus possidendi* would not have been satisfied.

19 16. In the *Lee Martin* case the person claiming adverse

possession lived on the disputed property with her father, Buang, since 1958
when she was

born. Buang paid rent of \$2 to the owner, Lee. Buang stopped paying rent in
1965 but he

and the respondent continued staying on the property. But in that case the Court
of Appeal

found that on the evidence the respondent continued to stay on the property with
her

father even after he stopped paying rent with the licence and permission of the
true

owner. Therefore, in such cases, the occupier cannot put an end to the
permissive

occupation with a secret intention in his mind, and evidence of ouster must be
adduced.

20 17. In the present case, I find that Chng Peng Cheong had put an
end to the permissive occupation, not merely by his refusal to accept rent, but

by his

giving notice to quit. I accept that this evidence came from what Sin told Teo. Although

the person who wrote the registration card and the legal officer from the Legal Aid Bureau

were not called to testify as to the exact nature of what transpired at the Bureau, the

fact remained that about a month after she received the notice to quit she registered

herself at the Legal Aid Bureau for advice relating to the notice. The continued

occupation thereafter by Sin and her family cannot, after such notice be said to be

permissive any further. After the said notice to quit the Teo family remained as

trespassers. Even if Chng continued to live nearby after the notice was given, unless

evidence to the contrary is adduced, of which there was none, it cannot be inferred that

the continued occupation was permissive. The case where a landlord merely

declined to

accept rent is clearly different from one where he had expressly told the tenant to quit.

In all this time, the Teo's were not disturbed by the Chng family or the paper owners. Chng had sat on his rights and by s13 of the Limitation Act time ran against him

from 1 August 1978, but this does not concern the parties in this action.

21 18. So far as the paper owners were concerned, they had for all intent and purposes, been anonymous and non-existent to the Teo family all the way from

June 1957 until December 1990. The only person whom the Teo family recognised as having a

superior right to them to occupy 40A Crane Road was Chng Tang Huat, and later, Chng Peng

Cheong. The construction of the house in 1957 was a universal declaration that while the

wind and the rain may enter their house, ramshackle as it was, no person may do so. That

is sufficient ouster. The recognition of Chng was an exception and while that recognition

lasted the Teo's could not claim adverse possession against Chng. There was no

recognition of the paper owners. Thus, I find that the title of the paper owners had been

extinguished in September 1990 by way of adverse possession.

22 19. It only remains for me to determine whether the title now

vests with Teo in his personal capacity or in his capacity as the administrator of

Sin's estate. There is no doubt that Sin was only a housewife and had to rely, first

on her husband, and when he died, on her children. The evidence showed that Teo paid for

much of the upkeep of the house, including the installation of the modern toilet. However,

he himself acknowledged that Sin was the head of the household (after his father's

death in 1968), and all the official documents relating to the house, from the

receipts

for repairs and replies to the government authorities were in her name. I can only

conclude that Sin was the adverse possessor upon whom Teo and his own family were

dependent occupants.

23 20. For the reasons above I give judgment to the 2nd Plaintiff in

terms of prayer 10 (b) to (e) of the Re-Amended Statement of Claim. There is no need for

any order of costs in respect of the 1st Plaintiff one way or the other as the issues were

substantially merged in the claim of the 2nd Plaintiff.

24 - Sgd -

25 Choo Han Teck

26 Judicial Commissioner

27 Singapore, 16 July 1997.

Teo Teck Guan and Another v Moulmein Development Pte Ltd [1997] SGHC 192

Choo Han Teck JC

Khoo Boo Jin and Tan Hwee Leng [Wee Swee Teow & Co] for the
 plaintiffs
 Davinder Singh and Harpreet S Nehal [Drew & Napier] for the
 defendants