

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2025] SGHC 94

Originating Application No 1323 of 2024

Between

Sin Chiau Soon

... Applicant

And

Aitken Robert Bond

... Respondent

GROUND OF DECISION

[Land — Sale of land — Sale under court order]

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Sin Chiau Soon
v
Bond, Aitken Robert

[2025] SGHC 94

General Division of the High Court — Originating Application No 1323 of 2024

Chua Lee Ming J

1 April 2025

21 May 2025

Chua Lee Ming J:

Introduction

1 The applicant, Mr Sin Chiau Soon, and the respondent, Mr Aitken Robert Bond, held 421 Tagore Industrial Avenue #01-02, Tagore 8, Singapore 787805 (“the Property”) as tenants-in-common in equal shares.¹

2 In the present proceedings, the applicant sought an order for the sale of the Property on the following terms:

- (a) The minimum sale price was to be determined by an independent certified valuer. The costs of the valuation was to be shared between the parties equally and deducted from the sale proceeds.

¹ Applicant's 1st affidavit (“SCS-1”) at p 53.

- (b) The parties were to have joint conduct of the sale, unless the respondent agreed in writing for the applicant to have sole conduct.
- (c) The respondent was to cooperate with the applicant to facilitate the sale.
- (d) The sale proceeds were to be applied in the following order:
 - (i) First, to repay the outstanding loan on the Property.
 - (ii) Second, to pay the costs and expenses incidental and relating to the sale of the Property.
 - (iii) Third, to be divided equally between the applicant and the respondent.
 - (iv) Fourth, the applicant was to be reimbursed for expenses in relation to the Property that he had paid on behalf of the respondent, from the respondent's share of the proceeds.

3 By the time that the application was heard on 1 April 2025, the applicant had obtained an independent valuation of the Property. Before me, the applicant sought sole conduct of the sale instead. The respondent submitted that the court had no power to order a sale of the Property, and alternatively, that if a sale was ordered, he should be allowed to obtain a separate independent valuation. I allowed the application with the applicant having sole conduct of the sale, while providing the respondent an opportunity to obtain a separate independent valuation.

4 On 29 April 2025, the respondent filed AD/CA 26/2025 appealing against the whole of my decision, save for certain orders which both parties had consented to.

Facts

5 The applicant and respondent were former business partners. As part of their business relationship, they purchased the Property in 2018, with the intention to rent it to a company related to them, Transcal Pte Ltd (“the Company”).² At that time, both the applicant and respondent were directors of the Company.³ The Company was a subsidiary of Transcal Limited, a company in the UK of which the respondent was the founder and Chief Executive Officer. The applicant held 30% of the shares in the Company.

6 The Property was paid for with cash and a mortgage loan provided by Malayan Banking Berhad.⁴ The parties made almost equal cash contributions, in line with their understanding that the purchase price was to be borne by them equally.⁵ The applicant and respondent were joint borrowers under the mortgage loan.

7 The Property was then leased to the Company for an initial term of two years, commencing 1 January 2019, at a monthly rental greater than the monthly mortgage repayment amount.⁶ The monthly mortgage repayments were made using the rentals collected.

² SCS-1 at para 16; Respondent’s affidavit (“RAB”) at para 11.

³ SCS-1 at para 12; RAB at para 7.

⁴ SCS-1 at paras 23–28.

⁵ RAB at p 189.

⁶ SCS-1 at paras 32 and 34.

8 However, the business relationship between the parties soured some time in 2022. In May 2022, the Company began to make rental payments late.⁷ In February 2023, the Company terminated the applicant's employment.⁸ The Company then completely defaulted on paying rent from March 2023.⁹

9 From July 2023, the respondent failed to contribute his share of payments relating to the Property and the applicant had to bear the respondent's share of these expenses, which included the mortgage repayments, property tax, MCST fees and fire insurance premiums. The applicant's attempts to seek contribution from the respondent for his share of the mortgage repayment were fruitless.¹⁰

10 The applicant could not sell or lease out the Property to a third party without the respondent's agreement, which was not forthcoming.¹¹ Since the respondent was not co-operative, the applicant sought an order for the sale of the Property.

The court had the power to order the sale of the Property under the SCJA 2020

11 Before me, the respondent's primary objection was that I did not have the power to order the sale of the Property. I disagreed.

⁷ SCS-1 at p 104.

⁸ RAB at p 18.

⁹ SCS-1 at paras 38 and 42.

¹⁰ SCS-1 at paras 54–55.

¹¹ SCS-1 at para 57.

12 Section 18(2) read with paragraph 2 of the First Schedule to the Supreme Court of Judicature Act 1969 (2020 Rev Ed) (“SCJA 2020”) provides that the General Division of the High Court has the following powers:

Partition and sale in lieu of partition

2. Power to partition land and to direct a sale instead of partition in any action for partition of land; and in any cause or matter relating to land, where it appears necessary or expedient, to order the land or any part of it to be sold, and to give all necessary and consequential directions.

13 Order 13 rule 7(1) of the Rules of Court 2021 (“ROC 2021”) states:

7.—(1) Where any immovable property is in issue in any action, the Court may order the immovable property to be sold or dealt with in any manner that is appropriate before the trial or hearing.

14 It was implicit in the applicant’s submissions that his case was that it was necessary and expedient to order a sale of the Property in lieu of partition. The applicant relied on *Su Emmanuel v Emmanuel Priya Ethel Anne and another* [2016] 3 SLR 1222 (“*Su Emmanuel*”) in which the Court of Appeal discussed several authorities relating to paragraph 2 of the First Schedule to the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed) (“SCJA 2007”) and distilled the following principles (at [57]):¹²

(a) In deciding whether it is necessary or expedient for a *sale to be ordered in lieu of partition*, the court conducts a balancing exercise of various factors, including (i) the state of the relationship between the parties (which would be indicative of whether they are likely to be able to co-operate in the future); (ii) the state of the property; and (iii) the prospect of the relationship between the parties deteriorating if a sale was not granted such that a “clean-break” would be preferable.

(b) Regard should be had to the potential prejudice that the various co-owners might face in each of the possible scenarios, namely, if a sale is granted and if it is not granted.

¹² Applicant’s Submissions, at para 18.

(c) A sale would not generally be ordered if to do so would violate a prior agreement between the co-owners concerning the manner in which the land may be disposed of.

[emphasis added in italics]

Paragraph 2 of the First Schedule SCJA 2007 is identical to paragraph 2 of the First Schedule SCJA 2020.

15 On the other hand, the respondent relied on *Tan Poh Beng v Choo Lei Mei* [2014] 4 SLR 462 (“*Tan Poh Beng*”) as authority for the proposition that the court has no power under s 18 read with paragraph 2 of the First Schedule SCJA 2020 or O 13 r 7(1) ROC 2021 to order a sale of immoveable property unless there are existing court proceedings relating to the property in question and there is a substantive legal basis to justify the exercise of the court’s power.¹³ The respondent submitted that in the present case, there were no court proceedings that provided a substantive legal basis for the court to exercise its power pursuant to O 13 r 7(1) and/or s 18 SCJA (read with the First Schedule).

16 In *Tan Poh Beng*, the plaintiff and the defendant were divorced in Malaysia. A Malaysian High Court (the “Malaysian Court”) made certain ancillary orders including an order for the sale of a property in Singapore belonging to the parties. The Malaysian Court also directed a court officer or registrar to execute the sale and purchase agreement and related documents of transfer on the defendant’s behalf. The plaintiff found buyers for the property and an option to purchase was signed. The sale was completed and the Registrar of the Malaysian Court signed and executed the transfer instrument on the defendant’s behalf. This instrument was rejected by the Singapore Land Authority on the ground that under the Land Titles Act (Cap 157, 2004 Rev Ed)

¹³ Respondent’s Written Submissions, at paras 18–19 and 22.

(the “LTA”) the execution on behalf of the defendant had to be by an officer of a court of competent jurisdiction in Singapore.

17 The plaintiff then applied to the Singapore High Court for the following orders:

- (a) the property to be sold pursuant to the option to purchase that had been signed;
- (b) the Malaysian Court’s orders relating to the application of the proceeds of sale and the signing of the relevant documents were to stand; and
- (c) for purposes of the lodgement and registration of the transfer instrument, the documents signed by the Registrar of the Malaysian Court to be deemed to be in compliance with the requirements under the LTA, alternatively, the Registrar of the Supreme Court of Singapore to be empowered to execute the transfer instrument on behalf of the defendant.

18 Subsequently, the application was amended. As amended, the reliefs sought were orders for the property to be sold, and for the defendant to execute the transfer instrument, alternatively, for the Registrar of the Supreme Court of Singapore to be empowered to execute the same on behalf of the defendant.

19 The High Court dismissed the application. The court held that it did not have the power to order a sale of the property under paragraph 2 of the First Schedule SCJA 2007 or O 31 r 1 of the Rules of Court (2014 Rev Ed) (“ROC 2014”) for the following reasons:

19 ... The court’s power under both the SCJA and the [ROC 2014] to order the sale of a property is contingent on there being a *substantive legal basis* to justify the exercise of that power. Neither provision was intended to create an unfettered power on the court’s part to order the sale of a property simply because it is “necessary or expedient” to do so. In this regard, it bears noting that both para 2 of the First Schedule and O 31 r 1 refer to the need for a ‘cause or matter’ relating to any land or immovable property. In my view, ... that phrase signifies the need for there to be a cause of action, whether based on common law or statute, creating a substantive legal basis for ordering a sale of the property. An application seeking the sale of property under O 31 r 1 and/or para 2 of the First Schedule does not, without more, qualify as such a ‘cause or matter’.

...

21 In my judgment, therefore, neither para 2 of the First Schedule to the SCJA nor O 31 r 1 of the [ROC 2014] permits me to order a sale of the Property in the absence of some other legal basis for doing so.

[emphasis in original in italics]

20 As stated earlier, paragraph 2 of the First Schedule SCJA 2007 is identical to paragraph 2 of the First Schedule SCJA 2020. Order 31 rule 1 ROC 2014 was the predecessor, and is similar, to O 13 r 7(1) ROC 2021. Order 31 rule 1 ROC 2014 stated as follows:

1. Where in any cause or matter relating to any immovable property it appears necessary or expedient for the purposes of the cause or matter that the property or any part thereof should be sold, the Court may order that property or part to be sold ...

21 I respectfully disagree with the view in *Tan Poh Beng* that the court’s power under paragraph 2 of the First Schedule SCJA 2007 (or SCJA 2020) to order a sale of a property in lieu of partition is contingent on there being a substantive legal basis to justify the exercise of that power.

22 First, paragraph 2 of the First Schedule SCJA 2020 (see [12] above) grants the court statutory powers to order a sale of land in two different scenarios:

- (a) The first limb gives the court the power to direct a sale instead of partition in any action for partition of land.
- (b) The second limb gives the court the power, in any cause or matter relating to land, where it appears necessary or expedient, to order the land or any part of it to be sold.

It appears to be more common that cases coming before the court seek an order for sale in lieu of partition.

23 The fact that paragraph 2 of the First Schedule comprises two limbs dealing with two separate scenarios is borne out by the language in paragraph 2 itself. The two limbs are separated by a semi-colon and deal with different fact situations. This is also consistent with the fact that the two limbs existed as separate sections, in ss 1018 and 1026 respectively, in (a) the Civil Procedure Code 1907 (SS Ord No 31 of 1907), and (b) the Civil Procedure Code 1926 (SS Ord No 102 of 1926).

24 The court in *Tan Poh Beng* conflated the two separate limbs of paragraph 2 of the First Schedule when it said (at [19]) that paragraph 2 of the First Schedule referred to the need for a “cause or matter” relating to land. Only the second limb of paragraph 2 of the First Schedule refers to any cause or matter relating to land. The first limb merely refers to an action for partition.

25 A co-owner of land can apply for an order for the sale of the land in lieu of partition and the court has the power under the first limb of paragraph 2 of

the First Schedule to make such an order. In contrast, the second limb gives the court the power to make an order for the sale of land or part of it in pending proceedings for the purposes of those proceedings. See, also, R G van Someren & G S Carver, *Ordinance No. 101 (Courts), Ordinance No. 102 (Civil Procedure Code), Ordinance No. 111 (Civil Law) and Ordinance No. 123 (Divorce) of the Straits Settlements, Annotated* (Waterlow and Sons Ltd, 3rd Ed, 1926) at p 698, where s 1026 of the Civil Procedure Code 1926 was described as being “not limited to an action for partition, but applies to any action, or proceeding, which relates to land, and in which it is necessary or expedient to have such land, or a part thereof, sold”.

26 I note in passing that in paragraph 2 of the First Schedule, the phrase “necessary or expedient” applies only to the second limb. Nevertheless, the same test is applicable to the court’s exercise of its power under the first limb to direct a sale in lieu of partition, as a result of case law: *Abu Bakar v Jawahir and others* [1993] 1 SLR(R) 865 (“*Abu Bakar*”) at [17]; *Su Emmanuel* at [57(a)].

27 Second, there is nothing in paragraph 2 of the First Schedule SCJA 2020 that imposes any requirement for some other substantive legal basis. In *Tan Poh Beng*, the court relied (at [16]–[17]) on English cases which decided that rules of court (that were similar to O 31 r 1 ROC 2014) were procedural and did not give the court the power to order a sale of the property where it otherwise would not have the power to do so. However, paragraph 2 of the First Schedule SCJA 2020 is not a procedural provision. It grants the court statutory powers to order a sale of land (a) in lieu of partition, or (b) in any cause or matter relating to land. The only condition in either case is that the court must be satisfied that it is necessary or expedient to order the sale of the property. See, also, Timothy Chan, “Resulting and Constructive Trusts over Public Housing—Recent

Developments and the Way Forward” [2022] Sing JLS 1, in which the correctness of *Tan Poh Beng* was doubted (at pp 22–23).

28 In *Abu Bakar*, the High Court traced the history of the power to order partition or a sale in lieu of partition under s 18(2)(c) of the Supreme Court of Judicature Act (Cap 322, 1985 Rev Ed) (which is similar to paragraph 2 of the First Schedule SCJA 2020) to the English Partition Acts 1539 and 1540 and the English Partition Acts 1868 and 1876. As explained in *Abu Bakar* (at [7]–[8]), at common law there was no right to compel partition; the Partition Acts 1539 and 1540 allowed a co-owner to obtain partition as of right and the Partition Acts 1868 and 1876 gave the court the power to order a sale in lieu of partition. There is nothing that suggests that the exercise of the powers to order partition or a sale in lieu of partition under the Partition Acts were subject to a requirement for some other substantive legal basis.

29 Third, the court in *Tan Poh Beng* expressed the view (at [19]) that paragraph 2 of the First Schedule was not intended to create an unfettered power on the court’s part to order the sale of a property simply because it is “necessary or expedient” to do so. However, this view is inconsistent with the conclusion of the High Court in *Abu Bakar*. In *Abu Bakar*, the High Court concluded (at [17]) that the court is free to exercise its jurisdiction to order a sale in lieu of partition *whenever it appears necessary or expedient* for the court to do so. This conclusion was approved by the Court of Appeal in *Su Emmanuel* at [49]. *Abu Bakar* was not referred to in *Tan Poh Beng*.

30 The court’s view in *Tan Poh Beng* is also inconsistent with *Ooi Chhooi Ngoh Bibiana v Chee Yoh Chuang (care of RSM Corporate Advisory Pte Ltd, as joint and several private trustees in bankruptcy of the bankruptcy estate of*

Freddie Koh Sin Chong, a bankrupt) and another [2020] 2 SLR 1030. In that case, the Court of Appeal stated (at [21]) as follows:

21 Reading s 18(2) with para 2 of the First Schedule of the SCJA, the High Court has the power to direct a sale of land where it appears *necessary or expedient*. ... [W]e think it useful to emphasise that the court's power to direct a sale under s 18(2) read with para 2 of the First Schedule of the SCJA is a **general power**. ... The overarching directive is that the court may order a sale where it is "*necessary or expedient*" to do so ...

[emphasis in original]

31 In my respectful view, the decision in *Tan Poh Beng* should be confined to its facts. There was no issue or dispute between the parties relating to the property in question before the Singapore High Court. Although the application purported to seek an order that the property be sold, the Malaysian court had already ordered the sale of the property as well as given directions as to the application of the sale proceeds. Further, the sale had completed, the plaintiff and defendant had received the consideration for the sale and the buyers had taken possession of the property (*Tan Poh Beng* at [15]). In substance, the application in *Tan Poh Beng* sought to give effect to the orders made by the Malaysian court. As the Singapore High Court described it (at [1]), the issue before the court was "whether an ancillary order issued by a foreign court for the division of property situated in Singapore may be given legal effect in Singapore". It might be said that the facts in *Tan Poh Beng* did not engage paragraph 2 of the First Schedule SCJA 2007.

32 For completeness, I note that *Tan Poh Beng* was followed by the High Court in *BYX v BYY* [2020] 3 SLR 1074 at [22] and *Ong Chai Koon and others v Ong Chai Soon* [2021] SGHC 76 ("*Ong Chai Koon*") at [183]. However, in both cases, *Tan Poh Beng* was followed without any discussion as to its correctness or as to the scope of the court's power under paragraph 2 of the First

Schedule. *Ong Chai Koon* went on appeal (*Ong Chai Soon v Ong Chai Koon and others* [2022] 2 SLR 457) but the correctness of *Tan Poh Beng* and the scope of the court's power under paragraph 2 of the First Schedule were not issues before the Court of Appeal.

Order 13 rule 7(1) ROC 2021

33 In his submissions, the respondent also referred to O 13 r 7(1) ROC 2021. This rule is not relevant to an application for a sale in lieu of partition. It is a procedural provision for the making of an interim order for the sale of immovable property pending the trial or hearing. The court's power to make such an order is to be found in the second limb of paragraph 2 of the First Schedule (see [22] above).

The court should exercise its power to order a sale of the Property

34 In deciding whether it is necessary or expedient for a sale to be ordered in lieu of partition, the court conducts a balancing exercise of various factors: *Su Emmanuel* at [57] (see [14] above).

35 The respondent accepted that if the court had the power to order the sale of the Property, there was no reason why it should not be ordered. In any event, in my view, it was clearly necessary and expedient to order a sale of the Property in lieu of partition pursuant to the first limb of paragraph 2 of the First Schedule. There was a dispute between the parties, as co-owners, relating to the Property. The respondent refused to pay his share of the expenses relating to the Property and the applicant remained at risk as a joint borrower under the mortgage loan. The respondent refused to co-operate with the applicant to sell the Property. The Property was at risk of being foreclosed by the bank. An order for sale would not cause undue hardship or prejudice to the respondent.

36 I was also satisfied that an order to sell the Property could be made pursuant to the second limb of paragraph 2 of the First Schedule. There was a dispute between the parties over the respondent’s failure to contribute his share of the expenses relating to the Property. In the present application, the applicant also sought to enforce his right of contribution as between the respondent and himself. The right of contribution as between co-owners is the basis for the remedy of equitable accounting: *Su Emmanuel* at [100]–[103]. In my view, the present application was a “cause or matter relating to land” for the purposes of the second limb of paragraph 2 of the First Schedule SCJA 2020, and an “action” in which the Property was “in issue” for the purposes of O 13 r 7(1) ROC 2021. For the same reasons set out in [35] above, it was necessary and expedient to order that the Property be sold.

Directions relating to the order for sale

The applicant was to have sole conduct of the sale

37 I agreed with the applicant that he should have sole conduct of the sale. In *Tan Chor Hong v Ng Cheng Hock* [2020] 5 SLR 1298 (“*Tan Chor Hong*”), it was held that sole conduct of a sale may be appropriate where co-operation between co-owners could not be realistically expected. This was exactly the case between the parties here.

38 Contrary to the respondent’s submission, it did not matter that he did not live in or occupy the Property. Despite having no rational basis to oppose or obstruct the sale, it was evident from the respondent’s conduct that he had intentionally delayed resolution of the dispute – ostensibly to cause greater financial harm to the applicant, who was keeping up with the expenses of the Property by himself.

39 Prior to the commencement of these proceedings, the respondent either refused or ignored the applicant’s alternative proposals to rent out the Property to a new tenant or sell the Property, even in the face of potential foreclosure by the bank.¹⁴ Even after proceedings were commenced, the respondent intentionally made attempts to reach him difficult. He refused to accept service electronically, despite his *continued* use of e-mail as the main means of communication with the applicant.¹⁵ Co-operation was clearly not forthcoming from the respondent.

40 I therefore allowed the applicant to have sole conduct of the sale, subject to the following safeguards (in line with those employed by the court in *Tan Chor Hong*):

(a) The applicant shall keep the respondent updated within three working days on all issues of importance concerning the sale process, including the appointment of property agents for the conduct of the sale, the appointment of conveyancing lawyers for the conduct of the sale and all offers received for the purchase of the Property.

(b) The respondent shall be at liberty to apply.

The respondent was at liberty to obtain a fresh valuation

41 The respondent sought a fresh independent valuation, although the applicant had obtained one on 12 April 2024. The respondent sought a direction that the minimum sale price be fixed at the higher of the two valuations, and for the costs of this fresh valuation to be paid for equally by both parties. However,

¹⁴ SCS-1 at pp 213–214, 217.

¹⁵ Applicant’s 2nd affidavit (“SCS-2”) at pp 180–182.

I saw no reason for the costs of the fresh valuation to be split equally if it turned out that the new valuation was lower than the one *already* obtained by the applicant. The respondent did not suggest that there was any impropriety in the valuation obtained by the applicant. The applicant had no objections to the fresh valuation sought by the respondent on this basis.

42 Therefore, I granted the respondent liberty to obtain a fresh valuation within one month from my order. The minimum sale price was to be fixed at the higher market value provided in the valuations. If the valuation obtained by the respondent turned out to be higher than that obtained by the applicant, the costs of that valuation obtained by the respondent would be paid from the proceeds of the sale. If the valuation obtained by the respondent turned out to be lower than that obtained by the applicant, the respondent was to bear the costs of the valuation obtained by him.

Reimbursement and contribution by the respondent

43 In relation to the amount that the respondent was to reimburse the applicant, the undisputed evidence of the applicant was that he had been paying for all the expenses relating to the Property since July 2023. These expenses, including mortgage repayment and late payment charges, fire insurance premiums, and management corporation fees totalled \$196,333.17 as of the date of the hearing. The respondent's half-share was therefore \$98,166.59. I ordered that this amount be paid by the respondent to the applicant by 15 April 2025, failing which the amount with interest at 5.33% per annum thereon was to be deducted from the respondent's share of the sale proceeds.

44 Since expenses would continue to be incurred pending the sale of the Property, the applicant also sought an order that the respondent contribute his

share of those expenses. I ordered the parties to contribute equally towards payments in relation to the Property, such as mortgage repayments, property tax, payments to the management corporation, and maintenance fees. In default of payment, the unpaid amount was to be deducted from the defaulting party's share of the sale proceeds together with any penalties or interest incurred due to the default.

Conclusion

45 For the reasons set out above, I granted the applicant's application with the following modifications:

- (a) The applicant was to have sole conduct of the sale subject to the safeguards set out in [40] above.
- (b) The respondent was at liberty to obtain a separate valuation. The Property was to be sold at the higher of the valuations obtained by the applicant and the respondent. The costs of the valuation obtained by the respondent was to be paid from the proceeds of the sale if it was higher than that obtained by the applicant, but paid by the respondent if it was lower than that obtained by the applicant.
- (c) The respondent was to reimburse the applicant the amount of \$98,166.59 by 15 April 2025, failing which the amount with interest at 5.33% per annum thereon was to be deducted from the respondent's share of the sale proceeds.
- (d) The parties were to contribute equally towards payments in relation to the Property. In default of payment, the unpaid amount was to be deducted from the defaulting party's share of the sale proceeds together with any penalties or interest incurred due to the default.

46 Given my decision above, the respondent accepted that he had to pay costs. I ordered the respondent to pay costs of the application fixed at \$8,000 plus disbursements to be fixed by me if not agreed on between the parties.

Chua Lee Ming
Judge of the High Court

Lim Fung Peen, Chua Hong Hui, Kong Hui Xin, Annette and Lim
Huilin Cheryl (Yuen Law LLC) for the applicant;
Bazul Ashhab bin Abdul Kader, Chan Cong Yen, Lionel (Chen
Congren) and Chua Yi Ling, Ilene (Oon & Bazul LLP) for the
respondent.
