

IN THE PRIVY COUNCIL

Appeal No. 40 of 1983

O N A P P E A L

FROM THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

B E T W E E N :

MOH SENG REALTY (PRIVATE) LIMITED
(CHIN CHENG REALTY (PRIVATE) LIMITED)

Appellant
(Respondent)

- and -

HIRENDRA LAL BANNERJEE

Respondent
(Appellant)

RECORD OF PROCEEDINGS

Denton Hall & Burgin
Denning House
90 Chancery Lane
London WC2A 1EU.

Collyer Bristow
4 Bedford Row,
London WC1R 4DF.

Solicitors for the Appellant

Solicitors for the Respondent

INDEX OF RECORD OF PROCEEDINGS

PART I

<u>No.</u>	<u>Nature of Document</u>	<u>Dated</u>	<u>Page</u>
<u>In the High Court: Suit No. 2187 of 1977</u>			
1.	Writ of Summons with Statement of Claim	27th July 1977	1
2.	Further Amended Defence re-dated re-dated re-dated	11th August 1977 18th August 1977 20th February 1979 28th March 1980	5
3.	Further & Better Particulars of the Defence of the Defendant	25th August 1977	8
4.	Amended Reply to Further Amended Defence Re-dated	25th August 1977 21st April 1980	10
5.	Order of Court	14th October 1977	16
<u>IN THE SUBORDINATE COURTS: Suit No. 4724 of 1977</u>			
6.	Summons with Statement of Claim	29th September 1977	17
7.	Defence and Counterclaim	1st December 1977	20
<u>IN THE HIGH COURT</u>			
8.	Order of Court	23rd January 1978	26
9.	Notes of Evidence	12th November 1981 13th November 1981 10th February 1982	27 30 33
<u>Plaintiff's Evidence</u>			
10.	P.W.1. - Evidence of Hirendra Lal Bannerji. Examination Cross-Examination Re-Examination	10th February 1982 11th February 1982	35 42

<u>No.</u>	<u>Nature of Document</u>	<u>Dated</u>	<u>Page</u>
<u>Defendant's Evidence</u>			
11.	D.W.l. - Evidence of How Huai Hoon. Examination	11th February 1982	49
	Cross-Examination	12th February 1982	50
	Re-examination	12th February 1982	52
12.	Counsels Submissions - Giam	11th March 1982	53
	Smith	12th March 1982	64
13.	Judgment of Chua J.	3rd August 1982	68
14.	Order	3rd August 1982	79
<u>IN THE COURT OF APPEAL</u>			
15.	Notice of Appeal	1st September 1982	81
16.	Petition of Appeal	15th October 1982	82
17.	Certificate of Security for Costs	1st September 1982	85
18.	Written Submissions	14th March 1983	86
19.	Final Order	18th April 1983	110
20.	Judgment	15th April 1983	112
21.	Order of Court granting Leave to Appeal to the Judicial Committee of the Privy Council	18th April 1983	127
22.	Certificate for Security for Costs.	29th April 1983	129
23.	Order of Court amending title of Appeal	9th April 1984	129

E X H I B I T S

INDEX

Agreed bundle of documents containing:-

<u>Document</u>	<u>Date</u>	<u>Page No.</u>
Letter - Richard Chuan Hoe Lim & Co. to K.K. Bezboruah	27.6.1953.	131
Letter - Bezboruah to R.C.H. Lim & Co.	26.10.1953.	132
Letter - Bezboruah to Chin Cheng Realty Limited	1.2.54.	133
Letter - R.C.H. Lim & Co. to Bezboruah	10.2.54.	134
Letter - R.C.H. Lim & Co. to Bezboruah	18.2.54.	135
Letter - Bezboruah to R.C.H. Lim & Co.	24.2.54	136
Letter - Assistant Water Engineer (East), C.S. Bickerstaff, to Dr. H.L. Bannerji	6th July 1956	137
Letter - K.K. Bezboruah to Messrs. Chin Cheng Realty Limited	18th April 1957	138
Letter - Messrs. R.C.H. Lim & Co. to Dr. Bannerji	23rd April 1957	139
Letter - Bezboruah to Messrs. R.C.H. Lim & Co.	22nd May 1957	140
Letter - Messrs. R.C.H. Lim & Co. to Bezboruah	27th May 1957	141
Letter - Bezboruah to Messrs. R.C.H. Lim & Co.	29th May 1957	142
Letter - Messrs. R.C.H. Lim & Co. to Bezboruah	4th June 1957	143
Letter - Messrs. R.C.H. Lim & Co. to Bezboruah	17th June 1957	144

<u>Document</u>	<u>Date</u>	<u>Page No.</u>
Letter - Messrs. R.C.H. Lim & Co. to Bezboruah	19th June 1957	145
Letter - Messrs. Oehlers & Co. to Messrs. R.C.H. Lim & Co.	9th July 1957	146
Letter - Messrs. R.C.H. Lim & Co. to Messrs. Oehlers & Co.	11th July 1957	147
Letter - Messrs. Oehlers & Co. to Messrs. R.C.H. Lim & Co.	12th July 1957	148
Letter - Messrs. R.C.H. Lim & Co. to Messrs. Oehlers & Co.	15th July 1957	149
Letter - Messrs. Oehlers & Co. to Messrs. R.C.H. Lim & Co.	18th July 1957	150
Letter - Messrs. Oehlers & Co. to Messrs. R.C.H. Lim & Co.	22nd July 1957	151
Letter - Messrs. R.C.H. Lim & Co. to Messrs. Oehlers & Co.	23rd July 1957	152
Draft Lease between Chin Cheng Realty Limited and Hirendra Lal Bannerji		153
Letter - Messrs. Oehlers & Co. to Messrs. R.C.H. Lim & Co.	23rd September 1957	157
Dr. Bannerji's letters of Notice sent in 1967 to Chin Cheng Realty Limited		158 and 159
Letter - Messrs. Oehlers & Co. to Chin Cheng Realty Limited	1st June 1967	160
Letter - Messrs. Oehlers & Co. to Chin Cheng Realty Limited	15th August 1967	161
Letter - Messrs. Oehlers & Co. to Chin Cheng Realty Limited	27th September 1967	162
Letter - Messrs. Oehlers & Co. to Chin Cheng Realty Limited	5th December 1967	162
Letter - Messrs. Oehlers & Co. to Ko Seng Gie, Co Teck Siang & Chin Cheng Realty Limited	15th December 1967	163

<u>Document</u>	<u>Date</u>	<u>Page No.</u>
Letter - Messrs. Oehlers & Co. to Chin Cheng Realty Limited	19th December 1967	164
Letter - Messrs. R.C.H. Lim & Co. to Messrs. Murugason & Co.	22nd December 1967	165
Letter - Messrs. Murugason & Co. to Messrs. R.C.H. Lim & Co.	27th December 1967	167
Letter - Messrs. R.C.H. Lim & Co. to Messrs. Murugason & Co.	11th January 1968	168
Letter - Messrs. Murugason & Co. to Messrs. R.C.H. Lim & Co.	15th January 1968	169
Letter - Messrs. Murugason & Co. to Messrs. R.C.H. Lim & Co.	6th February 1968	170
Letter - Messrs. Murugason & Co. to Messrs. R.C.H. Lim & Co.	3rd June 1969	171
Letter - Messrs. R.C.H. Lim & Co. to Messrs. Murugason & Co.	6th June 1969	172
Letter - Messrs. Murugason & Co. to Messrs. R.C.H. Lim & Co.	1st July 1969	173
Letter - Dr. Bannerji to Chin Cheng Realty Limited	2nd November 1970	174
Letter - Chin Cheng Realty Limited to Dr. Bannerji	12th November 1970	175
Letter - Messrs. Chan Goh David See to Dr. Bannerji	26th January 1973	176
Letter - Messrs. Chan Goh & David See to Dr. Bannerji	26th January 1973	178
Letter - Dr. Bannerji to Messrs. Chan Goh & David See	1st February 1973	179
Letter - Messrs. L.A.J. Smith to Messrs. Chan Goh & David See	10th February 1973	181
Letter - Chin Cheng Realty Limited to Dr. Bannerji	15th March 1974	182
Letter - Messrs. L.A.J. Smith to Chin Cheng Realty Limited	23rd March 1974	183

<u>Document</u>	<u>Date</u>	<u>Page No.</u>
Letter - Messrs. Chan Goh & David See to Messrs. L.A.J. Smith	4th April 1974	185
Letter - Messrs. L.A.J. Smith to Messrs. Allen Yau	3rd April 1976	186
Letter - Messrs. Allen Yau to Messrs. L.A.J. Smith	9th April 1976	187
Letter - Messrs. L.A.J. Smith to Messrs. Allen Yau	14th April 1976	188
Letter - Messrs. Allen Yau to Messrs. L.A.J. Smith	20th April 1976	190
Letter - Messrs. Allen Yau to Messrs. L.A.J. Smith	21st May 1976	191
Letter - Dr. Bannerji to Chin Cheng Realty Limited	22nd April 1977	192
Letter - Messrs. Allen Yau to Dr. Bannerji	1st July 1977	193
Letter - Dr. Bannerji to Messrs. Allen Yau	4th July 1977	195
Letter - Messrs. Allen Yau to Dr. Bannerji	7th July 1977	196
Letter - Dr. Bannerji to Messrs. Allen Yau	13th July 1977	198
Letter - Messrs. Allen Yau to Dr. Bannerji	19th July 1977	199
Letter - Messrs. L.A.J. Smith to Messrs. Chin Cheng Realty Limited	21st July 1977	200
Letter - Messrs. Allen Yau to Dr. Bannerji	22nd July 1977	201
Two cheques payable to Messrs. Chin Cheng Realty. First for Singapore \$9,360 and second payable for Singapore \$240	13th July 1977	202

<u>Document</u>	<u>Date</u>	<u>Page No.</u>
Letter - Dr. Bannerji to Chin Cheng Realty Limited	1st August 1977	203
Notice to Quit - Messrs. Allen Yau to Dr. Bannerji	3rd August 1977	204
Letter - Messrs. Allen Yau to Dr. Bannerji and cheque payable Singapore \$240. to Chin Cheng Realty Limited from Dr. Bannerji	5th August 1977	205
Letter - Messrs. L.A.J. Smith to Messrs. Allen Yau	16th August 1977	206
Letter - Messrs. Allen Yau to Messrs. L.A.J. Smith	18th August 1977	207
Letter - Dr. Bannerji to Messrs. Allen Yau	2nd December 1977	208
Letter - Messrs. Allen Yau to Dr. Bannerji, plus cheque payable to Chin Cheng Realty Limited for \$10,800 and signed by Dr. Bannerji	3rd December 1977	209
Letter - Dr. Bannerji to Messrs. Allen Yau	2nd May 1978	210
Letter - Messrs. Allen Yau to Dr. Bannerji plus cheque to Chin Cheng Realty for Singapore \$12,000 signed by Bannerji	5th May 1978	211
Letter - Messrs. L.A.J. Smith to Prime Realty Property Limited	10th May 1978	212
Letter - Messrs. David See to Dr. Bannerji plus cheque payable to Chin Cheng Realty Limited for \$12,240 from Bannerji	28th June 1978	214
Letter - Messrs. L.A.J. Smith to Messrs. David See & Co.	4th July 1978	215
Letter - Messrs. L.A.J. Smith to Messrs. David See & Co.	10th July 1978	216

<u>Document</u>	<u>Date</u>	<u>Page No.</u>
Indenture made on and registered on 17th July 1978 between Chin Cheng Realty Limited, Prime Realty, and Moh Seng Realty	14th July 1978	217
Indenture made between Chin Cheng Realty, Prime Realty, and Moh Seng Realty	4th August 1978	223
Letter - Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co.	19th August 1978	229
Letter - Messrs. L.A.J. Smith to Messrs. David See & Co.	19th August 1978	231
Receipt of Chin Cheng Realty Limited of \$12,720 from Dr. Bannerji	31st August 1978	232
Letter - Messrs. Wee Swee Teow & Co. to Messrs. L.A.J. Smith	22nd August 1978	233
Letter - Messrs. L.A.J. Smith to Messrs. David See & Co.	23rd August 1978	234
Letter - Messrs. David See & Co. to Dr. Bannerji	28th August 1978	235
Letter - Messrs. David See & Co. to Messrs. L.A.J. Smith	28th August 1978	236
Letter - Messrs. L.A.J. Smith to Messrs. David See & Co.	30th August 1978	237
Letter - Messrs. L.A.J. Smith to Messrs. David See & Co.	31st August 1978	238
Letter - Dr. Bannerji to Messrs. David See & Co.	1st September 1978	239
Letter - Messrs. L.A.J. Smith to Messrs. David See & Co.	12th September 1978	240
Letter - Messrs. L.A.J. Smith to Messrs. David See & Co.	18th October 1978	241
Letter - Messrs. L.A.J. Smith to Messrs. David See & Co.	18th October 1978	242

<u>Document</u>	<u>Date</u>	<u>Page No.</u>
Letter - Dr. Bannerji to Messrs. David See & Co.	3rd January 1979	243
Letter - Dr. Bannerji to Messrs. David See & Co.	1st February 1979	244
Letter - Messrs. David See & Co. to Messrs. L.A.J. Smith	7th February 1979	245
Letter - Messrs. David See & Co. to Messrs. L.A.J. Smith	15th February 1979	247
Moh Seng Realty Limited receipt for Singapore \$1440 from Dr. Bannerji	13th February 1979	248
Letter - Chin Cheng Realty Limited to Messrs. Wee Swee Teow & Co.	5th May 1979	249
Letter - Messrs. Wee Swee Teow & Co. to Messrs. L.A.J. Smith	30th May 1979	250
Letter - Moh Seng Realty to Chin Cheng Realty Limited	31st May 1979	252
Letter - Messrs. Wee Swee Teow & Co. to Messrs. L.A.J. Smith	17th October 1979	253
Letter - Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co.	19th October 1979	254
Letter - Messrs. Wee Swee Teow & Co. to Messrs. L.A.J. Smith	20th December 1979	255
Letter - Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co.	9th January 1980	256
Letter - Messrs. Wee Swee Teow & Co. to Messrs. L.A.J. Smith	31st January 1981	257
Letter - Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co.	10th February 1981	258
Letter - Messrs. Wee Swee Teow & Co. to Messrs. L.A.J. Smith	12th February 1981	259
Letter - Land Titles Registry to Messrs. Wee Swee Teow & Co.	20th March 1981	260

<u>Document</u>	<u>Date</u>	<u>Page No.</u>
Letter - Messrs. Wee Swee & Co. to Messrs. L.A.J. Smith	27th March 1981	261
Letter - Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co.	30th March 1981	262
Letter - Land Titles Registry to Messrs. L.A.J. Smith	20th April 1981	263
Letter - Messrs. Wee Swee Teow & Co. to Dr Bannerji	10th April 1981	264
Letter - Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co	21st April 1981	266
Letter - Messrs. Wee Swee Teow & Co. to Messrs. L.A.J. Smith	7th May 1981	268
Letter - Messrs. Wee Swee Teow & Co to Messrs. L.A.J. Smith	8th May 1981	269
Letter - Messrs. L.A.J. Smith & Co to Messrs. Wee Swee Teow & Co.	5th June 1981	270
Letter - Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co.	21st July 1981	271
Letter - Messrs. Wee Swee Teow & Co to Messrs. L.A.J. Smith	24th July 1981	273
Letter - Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co.	30th July 1981	274
Letter - Comptroller of Property Tax to Messrs. Wee Swee Teow & Co.	28th April 1981	275
Letter - Comptroller of Property Tax to Messrs. Wee Swee Teow & Co.	7th August 1981	276
Letter - Messrs. Wee Swee Teow & Co. to Messrs. L.A.J. Smith	17th August 1981	277
Letter - Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co.	9th October 1981	278
Agreement between Prime Realty Limited and Hoon Moh Heng, Tan Ah Ying, Tay Ah Kiang, and Ng Kiat Seng.	4th April 1978	279

<u>Document</u>	<u>Date</u>	<u>Page No.</u>
Letter - Messrs. Wee Swee Teow & Co to Messrs. L.A.J. Smith	12th October 1981	282
Letter dated Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co.	14th October 1981	
Letter - Messrs. L.A.J. Smith to Messrs. Wee Swee Teow & Co.	20th October 1981	285
Letter - Messrs. L.A.J. Smith to Messrs. David See & Co.	20th October 1981	287
Letter - Dr Bannerji to Messrs. Wee Swee Teow & Co.	2nd October 1981	289
322-F Changi Road: Rent payable/paid by tenant Dr Bannerji from 1974 to 31st December 1981; differing interpretation of rent clause of the Lease by tenant and the Landlord		290
Lease between Chin Cheng Realty and Hirendra Lal Bannerji	30th July 1953	294
Lease between Chin Cheng Realty and Hirendra Lal Bannerji	23rd July 1957	297
Excerpt from the Straits Times	20th June 1957	300

<u>Exhibit Marking</u>	<u>Document</u>	<u>Page No.</u>
P.1.	Lease dated 23rd July 1957 between Chin Cheng Realty and Hirendra Lal Bannerji	302
P.2.	Letter dated 1st April 1976. Messrs. Allen Yao to Madam Ho Ging Ling	305
P.3.	Receipt of Chin Cheng Realty Limited, dated 3rd November 1970, for Singapore \$110 received from Dr Bannerji	306
P.4.	Receipt of Chin Cheng Realty Limited dated 7th December 1970, for Singapore \$110 from Dr Bannerji	307

<u>Exhibit Marking</u>	<u>Document</u>	<u>Page No.</u>
P.5.	Receipt of Chin Cheng Realty Limited, dated 8th February 1973, for Singapore \$110 from Dr Bannerji	308
P.6.	Receipt of Chin Cheng Realty Limited, dated 7th March 1973, for Singapore \$110 received from Dr Bannerji	309.
P.7.	Receipt of Chin Cheng Realty Limited, dated 6th March 1974, for Singapore \$110 received from Dr Bannerji	310
P.8.	Computations of rent	311
P.9.	Receipt of Chin Cheng Realty Limited, dated 8th February 1973, for Singapore \$90 received from Madam Ho Ging Ling.	314
P.10.	Receipt of Chin Cheng Realty Limited, dated 2nd April 1973, for Singapore \$341 received from Madam Ho Ging Ling	315
D.1.	Fees (Survey) Order 1951	316
D.2.	Fees (Survey) (Temporary Increase) Order 1951	319
D.3.	Fees (Surveys) Order 1970	320
D.4.	Fees (Surveys) Order 1971	322
D.5.	The Surveyors (Scale of Fees for Title Surveys and Payment) Rules 1972	324

IN THE PRIVY COUNCIL

O N A P P E A L

FROM THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

B E T W E E N :

MOH SENG REALTY (PRIVATE) LIMITED Appellant
(CHIN CHENG REALTY (PRIVATE) LIMITED) (Respondent)

- and -

HIRENDRA LAL BANNERJEE Respondent
(Appellant)

10

RECORD OF PROCEEDINGS

No. 1

Writ of Summons - 27th July
1977

In the
High Court

No. 1
Writ of
Summons
27th July
1977

WRIT OF SUMMONS

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

SUIT NO. 2187 of 1977

BETWEEN

HIRENDRA LAL BANNERJI Plaintiff

20

AND

4013 CHIN CHENG REALTY (PTE.) LIMITED
Defendant(s)

THE HONOURABLE MR. JUSTICE WEE CHONG JIN,
CHIEF JUSTICE OF SINGAPORE, IN THE NAME AND ON
BEHALF OF THE PRESIDENT OF THE REPUBLIC OF
SINGAPORE.

TO: CHIN CHENG REALTY (PTE.) LIMITED a company
incorporated according to the laws of the
Republic of Singapore and having its
registered office at Room 1705, 17th floor,
Orchard Towers, Orchard Road, Singapore, 9.

30

In the
High Court
No. 1
Writ of
Summons
27th July
1977
(cont'd)

We command you that within eight days after the service of this Writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in a cause at the suit of HIRENDRA LAL BANNERJI of No: 322-F, Changi Road, Singapore and take notice, that in default of your so doing the plaintiff may proceed therein to judgment and execution.

WITNESS Mr. Alfonso Ang Registrar of the
Supreme Court in Singapore the 27th day of July
1977.

10

Sgd. L.A.J. Smith
Solicitor for the Plaintiff

Sgd.
Registrar
Supreme Court,
Singapore

N.B. - This writ may not be served more than twelve calendar months after the above date unless renewed by order of court.

The defendant (or defendants) may appear hereto by entering an appearance (or appearances) either personally or by a solicitor at the Registry of the Supreme Court.

20

A defendant appearing personally may, if he desires, enter his appearance by post, and the appropriate forms maybe obtained by sending a Postal Order for \$5.00 with an addressed envelope to the Registrar of the Supreme Court, Singapore, 8.

STATEMENT OF CLAIM

1. By a Lease dated 23rd July, 1957, made between the parties the defendant demised to the Plaintiff all that the premises known as No: 322-F, Changi Road, situate in Singapore in a block of shop houses standing at the junction of Changi Road and Telok Kurau Road together with the land and a room at the back thereto belonging, hereinafter called the said premises, to the Plaintiff for a term of 10 years from 1st August 1957 at a rent of \$110/- per month subject to increase or decrease in proportion with the assessment on the said premises.

30

40

2. By Clause 3(c) of the said lease the Defendant covenanted on the written request of the tenant made 3 calendar months before the expiration of the term thereby created at the expense of the tenant to grant to him a lease of the demised premises for a further term of ten years from the

expiration of the said term at the same rent and containing the like covenants and provisos as are therein before contained including the present covenant for renewal.

In the
High Court

No. 1
Writ of
Summons
27th July
1977
(cont'd)

3. By letter dated 3rd January 1967 the Plaintiff requested the Defendant to grant to the Plaintiff a further term of 10 years from the expiration of the first term, namely on 31st July 1967, on the said terms.

10 4. The Plaintiff has since the expiration of the said term remained in possession of the said premises, paying the rent reserved under the said lease and still remains in possession thereof but the Defendant has failed to grant to the Plaintiff the said further lease pleaded in paragraph 3 above.

20 5. By letter to the Defendant dated 22nd April, 1977 the Plaintiff requested the Defendant to grant to the Plaintiff a further term of 10 years from the expiration of the term namely from 31st July 1977 pleaded in paragraph 3 above in accordance with the clause pleaded in paragraph 2 above as repeated in the lease that the Defendant was required to grant by the request pleaded in paragraph 3.

6. Notwithstanding the said request the Defendant has failed to grant the said further term referred to in paragraph 5 as requested or at all.

30 7. The Plaintiff was always ready and willing and hereby offers to perform the said agreements on his part.

And the Plaintiff claims to have the said agreements specifically performed by the Defendant and to have leases granted to him accordingly from 1st August 1967 and 1st August 1977.

Costs.

Sgd. L.A.J. Smith

40 Solicitor for the Plaintiff.

This writ is issued by L.A.J. SMITH, of No. 18-H, Battery Road, Singapore 1, Solicitor for the said plaintiff whose address is 322-F, Changi Road, Singapore.

In the
High Court

No. 1
Writ of
Summons
27th July
1977
(cont'd)

NOTICE OF SERVICE ON MANAGER OF PARTNERSHIP

Take notice that the writ ~~of~~ summons is served on you as the person having the control or management of ~~the~~ partnership business of the above-named ~~defendant~~ firm of (and also as ~~partner~~ in the said firm).

Solicitor for the Plaintiff(s)

This Writ was served by All Rami B. Hasnan on the deft. by leaving a copy of the same at their registered office
~~by-way-of-personal-service-(or-as-may-be) on-the defendant-(who-is-known-to-me)-(or-who-was-pointed out-to-me-by- (or-who-admitted-to-me-that-he was~~

10

at Rm. 1705, 17th floor, Orchard Towers, Orchard Road, Singapore on Thursday the 28th day of July 1977 @ 12.00 p.m.

Indorsed the 28th day of July 1977.

Sgd.

Process Server

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IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 2187 of 1977

Amended in red pursuant
to Order 20 Rule 3 of the
Rules of Supreme Court.

Between

HIRENDRA LAL BANNERJI
Plaintiff

Dated this 18th day of
August 1977.

And

Sd. Alfonso Ang
Asst. REGISTRAR

CHING CHENG REALTY
(PRIVATE) LIMITED
Defendants

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FURTHER AMENDED

D E F E N C E

1. The Defendants admit paragraphs 1 and 2 of
the Statement of Claim.

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2. No admission is made as to the contents of
paragraph 3 thereof.

3. Save that the Plaintiff is in possession and
still remains in possession of the said premises,
paragraph 4 of the Statement of Claim is denied.

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4. By letter dated the 15th day of March, 1974,
the Defendants informed the Plaintiff that rent
would be increased from \$110.00 per month to
\$240.00 per month, with effect from 11th day of
March, 1974 in accordance with Clause 1 of the
said Lease. The Defendants will refer to the
said Lease at the trial of its full terms and
effects.

5. Despite repeated requests the Plaintiff has
not duly paid and/or tendered the proper rental
payments in accordance with the said Lease since
March, 1974. In consequence thereof the Plaintiff
was in breach of the said Lease and therefore not
entitled to renewal of the same.

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6. The Defendants through their Solicitors by
letter dated the 3rd day of ~~April~~, August 1977 gave
the Plaintiff Notice to quit and vacate the premises
by the 31st day of August, 1977.

In the
High Court

No. 2
Further
Amended
Defence
28th March
1980
(cont'd)

7. Paragraphs 5 and 6 of the Statement of Claim are admitted but the Defendants state that at the material time of his request the Plaintiff was not entitled to renewal of the said Lease in view of his breach thereof as pleaded under paragraph 5 hereof.

8. The Defendants further plead that if the Plaintiff is entitled to a renewal of the Lease on the 1st August, 1977, which is denied, he is entitled to such renewal without the proviso for any further renewal inasmuch as the true and correct interpretation of Clause 3(c) of the said Lease is that the Defendants are only bound to include a renewal clause in the renewal after the expiry of the first ten years of the Lease and not in any renewal after the second ten years. The Defendants contend that the effect of the said Clause 3(c) is not that of a perpetually renewable lease and that it was never their intention to grant the Plaintiff a perpetually renewable lease.

9. The Defendants deny paragraph 7 of the Statement of Claim and maintain that the Plaintiff was in breach of the said Lease for the reasons stated hereinbefore under paragraph 5.

10. The Defendants say that the Plaintiff's right of action, if any, accrue from the 1st August, 1967 when the Defendants allegedly failed to grant the Plaintiff the said further term of ten years and that more than six years have elapsed before action herein was commenced. In the premises, the Plaintiff's alleged cause of action herein is barred by s.6 of the Limitation Act.

11. Further and in the alternative, the Defendants say that Clause 3(c) of the Lease is "subdivision" within the meaning of s.2(1), s.9(3) and s.9(9) of the Planning Act, Chapter 279 which came into force in 1960, and that since 1960, it is an offence for the Defendants to grant a Lease for a term exceeding seven years without proper subdivision under the said Planning Act.

12. In the further alternative, the Defendants say it was never in the contemplation of the Plaintiff and the Defendants who are parties to the Lease that subdivision should be applied for in respect of the said premises. The Defendants contend that requiring the Defendants to apply for subdivision of the said premises would be a fundamental change to the conditions of the said Lease.

13. By reason of the premises and by virtue of the said Planning Act, the said Clause 3(c) of the Lease is unenforceable as against the Defendants and the Defendants are released from their obligations thereunder.

In the
High Court
No. 2
Further
Amended
Defence
28th March
1980
(cont'd)

14. Save as hereinbefore expressly admitted, the Defendants deny each and every allegation contained in the Statement of Claim as if the same were set forth herein and specifically traversed.

10

Dated and Delivered this 11th day of August, 1977.

Sd. Messrs. Allen Yau
SOLICITORS for the Defendants

Re-dated and re-delivered this 18th day of August, 1977.

Sd. Messrs. Allen Yau
SOLICITORS for the Defendants

20 Re-dated and re-delivered this 20th day of February 1979.

Sd. M/s David See & Co.
SOLICITORS for the Defendants

Further amended as underlined in Green pursuant to an Order of Court dated the 12th day of February, 1979.

Dated the 20th day of February, 1979.

Sd.
ASST. REGISTRAR.

30 Further amended as underlined in Yellow pursuant to an Order of Court dated the 28th day of March 1980.

Sd. Tan Seck Sam
ASST. REGISTRAR.

In the
High Court
No. 3
Further and
Better
Particulars
of the
Defence
25th August
1977

No. 3

Further and Better Particulars
of the Defence -25th August 1977

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE
SUIT NO. 2187 OF 1977

B E T W E E N

HIRENDRA LAL BANNERJI PLAINTIFF

AND

CHIN CHENG REALTY (PRIVATE)
LIMITED DEFENDANTS

10

FURTHER AND BETTER PARTICULARS
OF THE DEFENCE OF THE DEFENDANTS

Served pursuant to request of the Plaintiff
made by letter dated the 16th day of August 1977.

UNDER PARAGRAPH 5:

Of the allegation that "despite repeated
requests the Plaintiff has not duly paid and/or
tendered the proper rental payments in accordance
with the said Lease since March 1974", kindly
state:-

20

1. The date or dates on which the said requests were made;
2. Whether the said requests were in writing or verbal;
3. If in writing identify the letters concerned or other documents.

The said requests were made in writing viz.

- (1) Letter dated the 15th day of March 1974 from Ching Cheng Realty (Pte) Ltd. to Dr. H.L. Bannerji.
- (2) Letter dated the 1st day of July 1977 from Chin Cheng Realty (Pte) Ltd.'s Solicitors to Dr. H.L. Bannerji.
- (3) Letter dated the 7th day of July 1977 from Chin Cheng Realty (Pte) Ltd.'s Solicitors to Dr. H.L. Bannerji.

30

(4) Letter dated the 22nd day of July 1977 from
Chin Cheng Realty (Pte) Ltd.'s Solicitors
to Dr. H.L. Bannerji.

Dated this 25th day of August, 1977.

Sgd. Allen Yau

Solicitors for the Defendants.

To the abovenamed Plaintiff and his
Solicitor L.A.J. Smith, Esq., Singapore

In the
High Court

No. 3
Further and
Better
Particulars
of the
Defence
25th August
1977
(cont'd)

In the
High Court

No. 4

No. 4
Amended Reply
to Further
Amended
Defence
21st April
1980

Amended Reply to Further Amended
Defence - 21st April, 1980

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 2187 of 1977

Amended as underlined
in Red pursuant to an
Order of Court dated
the 14th day of March,
1980.
Dated this 21st day of
April, 1984.
Sgd.
ASST. REGISTRAR.

B E T W E E N

HIRENDRA LAL BANNERJI
Plaintiff

AND

CHIN CHENG REALTY (PTE)
LIMITED
Defendants

10

AMENDED REPLY TO
FURTHER AMENDED DEFENCE

The Plaintiff join issue with the Defendants
in their Defence and in further answer thereto will
say:-

1. By letter dated the 15th day of March, 1974
the Defendants notified the Plaintiff that the
annual value of the premises had been raised from
\$1,320.00 per annum to \$2,880.00 per annum and by
virtue of the proviso to Clause 1 of the Lease dated
the 23rd day of July, 1957 that the said rent should
be increased from \$110.00 per month to \$240.00 per
month. The said proviso provided "that if the
assessment on the said premises shall at any time
within the said period be increased or decreased then
and in such event the said rent shall also be
proportionately increased or decreased accordingly.

20

30

2. By letter dated 23rd March, 1974 the Plaintiff
notified the Defendants that on a proper construction
of the aforesaid formula the rent was increased in
proportion to the increase in assessment and that the
said increase should be the sum of \$46.80 per month
which said sum represented the proportionate increase
of rent due to the increase of assessment and
forwarded a cheque for the proportionate increase
for the period 11th March, 1974 to the 31st March,
1974 namely the sum of \$31.70. The rent of \$110.00
being the rent due from the 1st March having been
paid.

40

3. Further by the terms of the said letter the
Plaintiff requested confirmation that the new monthly
rental thereafter would be \$156.80.

4. By letter dated 4th April, 1974 the Solicitors acting for the Defendants, namely Messrs. Chan, Goh & David See stated they were looking into the question of increase of rental and were holding the cheque for \$31.70 tendered.

In the
High Court
No. 4
Amended Reply
to Further
Amended
Defence
21st April
1980
(cont'd)

10 5. Subsequently rent of \$156.80 was tendered monthly by cheques but the said cheques were not cashed and the Defendants did not claim that the payment of \$156.80 was not the correct rent nor did they again demand a rent of \$240.00 per month until the 1st day of July, 1977.

6. By letter dated 9th April, 1976 the Defendants through their Solicitors Allen Yau returned the cheques which had been tendered by the Plaintiff in respect of 322-G Changi Road, premises let to Dr. Bannerji's wife Madam Ho Ging Ling and 322-F Changi Road which said rentals were combined in a monthly cheque.

20 7. By letter dated 14th April, 1976 the Plaintiff issued a fresh cheque in respect of 322-F Changi Road for the sum of \$3,951.70 being rent from April 1974 to April 1976 together with additional rent from the 11th March, 1974 to the 31st March, 1974.

8. The Defendants accepted the said cheques but on the 21st May, 1976 returned the cheque for \$3,951.70 and the further cheque for \$156.80 being rent tendered in respect of 322-F Changi Road without demanding or claiming any further sum was due.

30 9. By letter dated 22nd May, 1976 the Plaintiff requested an explanation for the return of the cheques and in particular if the Defendants wanted payment in cash or Cashier's Order.

10. The Defendants did not reply to the said letter and the Plaintiff continued to tender the rent at \$156.80 per month.

40 11. On the 1st day of July, 1977 the Defendants demanded a sum of \$9,360.00 by way of rent alleging that the said sum was due as arrears of rental from the month of March 1974 up to June 1977 at \$240.00 per month.

12. On the 4th day of July, 1977 the Plaintiff replied to the said letter stating that the rent payable upon a correct interpretation of the Lease was \$156.80 per month and not \$240.00 and that a cheque for the said amount had been forwarded monthly from the month of March 1974 up to June 1977 but the said cheques had not been cashed by the Defendants.

In the
High Court

No. 4
Amended Reply
to Further
Amended
Defence
21st April
1980
(cont'd)

13. By a further letter dated 7th July, 1977 the Defendants claimed that the sum of \$240.00 a month should be paid to them from the 11th March, 1974 and in consequence demanded the sum of \$9,360.00 alleging the said sum was due as arrears of rental from March 1974 to June 1977 and demanding a further cheque for the sum of \$240.00 for payment of the rent for July.

14. By the same letter dated 7th July, 1977 the Defendants returned the Plaintiff's cheques each for \$156.80 for the rent from the 2nd June 1976 to the 2nd July, 1977.

10

15. On the 13th day of July, 1977 the Plaintiff by letter of that date forwarded by cheque to the Defendants the sum of \$9,360.00 and \$240.00 as requested but under protest and subject to the Plaintiff's right to recover the same.

16. By letter dated 22nd July, 1977 the said cheques were returned by the Defendants stating that the Defendants were not prepared to accept the said payment with any pre-conditions and that unless the said payments were made without pre-conditions the Defendants would be compelled to terminate the tenancy.

20

17. By letter dated 3rd August, 1977 the Defendants purported to determine the tenancy as at the 31st August, 1977.

18. By letter dated 5th August, 1977 the Defendants refused to accept the rent for the month of August, 1977 tendered by the Plaintiff under protest and subject to recovery.

30

19. In the premises the Plaintiff has always been ready and willing to pay the correct rent and the Plaintiff will contend that the correct rent was \$156.80 per month and not \$240.00 per month as demanded by the Defendants but if on a proper construction of the Lease the correct rent should be held to be as claimed by the Defendants the Plaintiff is ready and willing to pay the rent as claimed and if which is denied the Plaintiff--
Defendants is are entitled to forfeit the Lease the Plaintiff claims relief from the said forfeiture.

40

20. **The Plaintiff denies that the or any right of action accrued as from the 1st August, 1967 as alleged in paragraph 10 of the Further Amended Defence. The right of action if any would and could only have accrued if the Defendants denied the rights of the Plaintiff to a Lease in breach of contract or covenant on the exercise of the option or otherwise which the Defendants did not.**

50

20. The Plaintiff denies that the or any right of action accrued as from the 1st August, 1967 as alleged in paragraph 10 of the Further Amended Defence. The right of action if any would and could only have accrued if the Defendants denied the rights of the Plaintiff to a Lease in breach of contract or covenant on the exercise of the option or otherwise which the Defendants did not.

10 21. Further the Plaintiff remained in possession of the premises after the expiration of the first term of the Lease on the 31st July, 1967 and after the 1st August, 1973 upon the same terms and conditions as in the said Lease paying the stipulated rent and the landlord accepted payment of rent as such up to the 11th March, 1974 when the Defendants demanded an increase of rent under the terms of the Lease the quantum of which the Defendants disputed.

20 22. Further the Defendants by their acts and conduct have affirmed the existence of the Lease which has been duly performed by the landlord and the tenant and if otherwise the statute of limitations applies which is denied the Plaintiff will contend that the Defendants are now estopped from relying on the said defence if it exists which is denied and by their acts and conduct elected to grant a Lease to the Plaintiff for a second term.

23. Particulars of the acts and conduct relied upon are as follows:-

- 30 (i) By purporting to increase the rent payable by the Plaintiff to the Defendants under the terms of the Lease with effect from the 11th March, 1974.
- (ii) By purporting to re-enter under the terms of the Lease for failing to pay the rent as stipulated by the Defendants by Notice dated the 3rd day of August, 1977 demanding delivery up of possession on the 31st August 1977.
- 40 (iii) By commencing proceedings in District Court Summons No. 4724 of 1977 against the Defendants on the 12th November, 1977, claiming forfeiture of the Lease, arrears of rent at \$240/- a month from the 11th March, 1974 payable under the Lease and mesne profits for holding over under the Lease from the 1st day of September, 1977 until delivery up of possession of the said premises.
- (iv) Averring in D.C. Summons No. 4724 of 1977

In the
High Court

No. 4
Amended Reply
to Further
Amended
Defence
21st April
1980
(cont'd)

that the Plaintiff was entitled to a renewal of the Lease for a further ten years from its expiration, namely, the 31st day of July, 1967 at the same rent and containing the like covenants and provisos and that while a fresh Lease had not been executed the Plaintiff had remained in possession paying the same rent and upon the same terms and conditions of the said Lease.

24. Further the Defendants are not precluded from granting a Lease by virtue of the provisions of Section 2(1), Section 9(3) and Section 9(9) of the Planning Act Cap. 279. 10

25. The Lease of the premises when originally granted having been capable of and having been registered under the Registration of Deeds Act was not a Lease which "becomes" capable of being registered as a result of the disposal within the meaning of the Act the Lease having been registered. 20

26. If contrary to the contention of the Plaintiff written permission for sub-division of the premises was a pre-requisite to the grant of a new Lease pursuant to the exercise of the option the Planning Act by its terms did not forbid the grant of such a Lease but only the grant of such a Lease without such written permission for sub-division which said written permission and sub-division the landlord could and should have applied for but did not and which the Plaintiff will contend could and would have been granted if applied for. 30

27. The Plaintiff denies that in executing the Lease neither party contemplated that sub-division was not necessary. At the date of the execution of the Lease on the 23rd July, 1957 the premises so demised required to be sub-divided unless the Registrar of Deeds exercised his discretion under Rule 13 of the Registration of Deeds Rules dispensing with sub-division. The Registrar so exercised his discretion and registered the Lease against Lot 340.23 pt. on the 1st August, 1957 and the said Lease was by its terms renewable every ten years at the option of the lessee. In the premises the intention of the parties was to obtain sub-division if necessary. 40

28. Further the Defendants having agreed to grant a Lease which was renewable every ten years at the lessee's option are now estopped from denying the rights of a tenant in possession paying rent and observing the terms and conditions 50

of the Lease from claiming that the Plaintiff is not entitled to remain in possession for the full term and any renewals thereof as agreed and could and should if sub-division for the particular term is required and cannot be obtained grant such Lease or Leases as can be obtained without prior sub-division and all necessary renewals thereof.

~~Dated and delivered this 25th day of August 1977~~

Redated and redelivered this 21st day of April 1980

In the
High Court

No. 4
Amended Reply
to Further
Amended
Defence
21st April
1980
(cont'd)

10

Sgd. L.A.J. Smith

Solicitor for the Plaintiff

In the
High Court
No. 5
Order of the
Court - 14th
October 1977

No. 5

Order of the Court
14th October
1977

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

SUIT NO. 2187 of 1977

B E T W E E N

HIRENDRA LAL BANNERJI

PLAINTIFF

AND

CHIN CHENG REALTY (PTE.) LTD DEFENDANTS

10

BEFORE THE HONOURABLE THE CHIEF JUSTICE

IN CHAMBERS

UPON the application of the abovenamed Plaintiff made by way of Summons-for-Directions Entered No: 3635 of 1977 coming on for hearing this day And Upon Hearing the Solicitor for the Plaintiff IT IS ORDERED that the Plaintiff do within 30 days from the date hereof serve on the Defendants a list of documents and file an affidavit verifying such list AND IT IS FURTHER ORDERED that the Defendants do within 30 days from the date hereof serve on the Plaintiff a list of documents and file an affidavit verifying such list AND IT IS FURTHER ORDERED that there be inspection of documents within 21 days of the service of the lists/filing of the affidavits AND IT IS FURTHER ORDERED that the trial of this action be fixed for 1 day and be set down for trial within 30 days from the date hereof AND IT IS LASTLY ORDERED that the costs of this application be costs in the cause.

20

30

Dated this 14th day of October, 1977.

Sgd.

ASST. REGISTRAR

No. 6

Summons endorsed with Statement
of Claim - 29th September 1977

In the
Subordinate
Courts

No. 6
Summons
endorsed
with
Statement
of Claim
29th
September
1977

DISTRICT AND MAGISTRATES COURTS
SINGAPORE

SUMMONS

D.C. SUMMONS NO. 4724 of 1977

Between

10 CHIN CHENG REALTY (PRIVATE)
LIMITED Plaintiff

And

HIRENDRA LAL BANNERJI Defendant

To: Hirendra Lal Bannerji,
322-F, Changi Road,
Singapore.

20 You are hereby summoned to appear either in
person or by your advocate before the 6th Court of
the Subordinate Courts, Havelock Road, Singapore 1
on Saturday the 12th day of November 1977 at 9.30 a.m.,
to answer a claim against you by the abovenamed
plaintiff Chin Cheng Realty (Private) Limited, a
Company incorporated in the Republic of Singapore
and having its registered office at Room 1705,
17th Floor, Orchard Towers, Orchard Road,
Singapore.

30 Take Notice that within 7 days of the service
of this summons on you, inclusive of the day of
such service, you may enter an appearance to this
summons for which the notice of appearance
appended hereto may be used:

And take notice that in default of attending
the Court on the day and time appointed, judgment
may be given against you.

Dated the 29th day of September, 1977.

L.S.

Sgd. Lee Cheong Hoh
Registrar

40 N.B. (a) This summons may not be served more than
12 calendar months after the above date unless
renewed by order of the court.

(b) The return day of the Summons is extended
to:-

In the
Subordinate
Courts

No. 6
Summons
endorsed
with
Statement
of Claim
29th
September
1977.
(cont'd)

STATEMENT OF CLAIM

1. The Plaintiffs are the owners and entitled to recover possession of the premises known as No. 322-F, Changi Road, situate in Singapore in a block of shop houses standing at the junction of Changi Road and Telok Kurau Road together with the yard and room at the back thereto, hereinafter referred to as the said premises.

2. By a Lease dated the 23rd day of July 1957 hereinafter referred to as the said Lease, the Plaintiffs let to the Defendant the said premises for a term of 10 years from the 1st day of August 1957 at a rent of \$110.00 per month subject to a proviso for increase or decrease of such rent.

10

3. The proviso for increase or decrease of rent states as follows:-

"Provided however that if the assessment on the said premises shall at any time within the said period be increased or decreased then and in such event the said rent shall also be proportionately increased or decreased accordingly."

20

The rent of \$110.00 per month is based on the annual value of the said premises assessed at \$1,320.00.

4. Further, under the proviso (b) to Clause 3 of the said Lease the Plaintiffs are entitled to re-enter in case the rent should be more than twenty-one days in arrear after demand in writing has been made.

30

5. Under Clause 3(c) of the said Lease the Defendant was entitled to a renewal of the Lease for a further 10 years from its expiration at the same rent and containing the like covenants and provisos.

6. Although no fresh Lease was granted to the Defendant after the expiration of the said Lease on the 31st day of July 1967, the Defendant remained in possession of the said premises paying the same rent of \$110.00 per month and upon the same terms and conditions as the said Lease.

40

7. The assessment on the said premises was increased by the local authorities with effect from the 11th day of March 1974. The annual value of the said premises was assessed at \$2,880.00 which is an increase from the previous assessment of \$1,320.00.

8. By virtue of the proviso referred to in paragraph 3 hereof the rent payable by the Defendant to the Plaintiffs with effect from the 11th day of March 1974 is therefore \$240.00 per month.

In the
Subordinate
Courts

No. 6
Summons
endorsed
with
Statement
of Claim
29th
September
1977
(cont'd)

10 9. By letter dated the 15th day of March 1974, the Plaintiffs accordingly informed the Defendant of the said increase in rent and required payment thereafter of rent in the sum of \$240.00 per month.

10. The Defendant refused or was unwilling to make payment of such rent notwithstanding the several demands made by the Plaintiffs and has to date not made payment of the said rent since its increase on the 11th day of March 1974. The rent is now more than twenty-one days in arrear after demand in writing was made and served on the Defendants, who is therefore in breach of the terms of the said Lease.

20 11. The Plaintiffs accordingly caused to be served on the Defendant a Notice duly determining the said Lease and requiring him to quit and vacate the said premises by the 31st day of August 1977; yet the Defendant wrongfully holds possession of the said premises.

And the Plaintiffs claim:-

- (i) Possession of the said premises;
- (ii) Arrears of rent payable at \$240.00 per month from the 11th day of March 1974;
- 30 (iii) Mesne profits from the 1st day of September 1977 until delivery of possession of the said premises; and
- (iv) Costs.

Dated this 29th day of September 1977.

Sgd. Allen Yau

Solicitors for the Plaintiffs

In the
Subordinate
courts

No. 7
Defence and
Counterclaim
1st December
1977

No. 7

Defence and Counterclaim - 1st
December 1977

SUBORDINATE COURTS SINGAPORE

D.C. SUMMONS NO. 4724 OF 1977

BETWEEN

CHIN CHENG REALTY (PRIVATE)
LIMITED

Plaintiffs

AND

HIRENDRA LAL BANNERJI

Defendant

10

D E F E N C E

1. Paragraph 1 of the Statement of Claim is admitted save that the Defendant denies that the Plaintiffs are entitled to recover possession of the premises.

2. Paragraphs 2, 3, 4 and 5 of the Statement of Claim are admitted save that under Clause 3(c) of the Lease the Defendant was entitled to have the Lease renewed for successive periods each for ten years at the Defendant's option and request and that each successive Lease should contain a covenant for renewal.

20

3. The Defendant admits that the Plaintiffs did not execute a fresh Lease after the expiration of the Lease on the 31st day of July, 1967, but the Defendant exercised his option and as alleged continued to remain in possession paying the said rent and the Defendant will contend that the Defendant was entitled to a fresh Lease.

4. Paragraph 6 of the Statement of Claim is admitted but the Defendant will contend that the Plaintiffs never refused to grant a fresh Lease and the Defendant was entitled to remain in possession to all intents and purposes as if a fresh Lease had been executed.

30

5. The Defendant admits that the Local Authorities increased the annual value to \$2,880.00 and by virtue thereof the assessment on the premises was increased.

6. Paragraph 8 of the Statement of Claim is denied. The proportionate increase of rent

40

agreed to between the Plaintiffs and the Defendant on the increase in annual value and the assessment to be made therein was \$46.80 per month and not \$130.00 per month and the rent payable was therefore \$156.80 per month and not \$240.00 per month.

In the
Subordinate
Courts

No. 7
Defence and
Counterclaim
1st December
1977
(cont'd)

10 7. Paragraph 9 of the Statement of Claim is admitted save that by letter dated the 23rd March, 1974, the Defendant notified the Plaintiffs that the proper increase of rent was \$46.80 per month and not \$130.00 per month and forwarded a cheque for the sum of \$31.70 for the current month being the additional rent payable for the month of March, 1974, the sum of \$110.00 having been paid on the 1st March, 1974.

8. Further, by the Defendant's letter of the 23rd March, 1974, the Defendant requested confirmation that the new monthly rental thereafter would be \$156.80 per month.

20 9. By letter dated the 4th April, 1974, the Solicitors acting for the Plaintiffs, namely, Chan, Goh & David See, informed the Defendant that they were looking into the question of the increase of rent and that they were holding the cheque for \$31.70 tendered for the month of March, 1974.

30 10. Subsequently, rent at \$156.80 was tendered monthly by cheques as agreed in writing on the grant of the original Lease but the said cheques were not cashed and the Plaintiffs did not until the 1st July, 1977, again demand a rent of \$240.00 a month.

11. By letter dated the 9th April, 1976, the Plaintiffs through their Solicitors, Allen Yau, returned the cheques tendered by the Defendant in respect of 322-F and 322-G, Changi Road, which latter premises were let to the Defendant's wife by the Plaintiffs, a certain Madam Ho Ging Ling, and which cheques combined both rents.

40 12. By letter dated the 14th April, 1976, the Defendant issued a fresh cheque in respect of 322-F, Changi Road, for the sum of \$3,951.70 being rent from April 1974 to April 1976 together with the additional rent from the 11th March, 1974 to the 31st March, 1974.

50 13. The Plaintiffs accepted the said cheques but on the 21st May, 1976, returned the cheque for \$3,951.70 and a further cheque for \$156.80 in respect of 322-F, Changi Road without demanding or claiming any further sum as being due.

In the
Subordinate
Courts

No. 7
Defence and
Counter-
claim - 1st
December
1977
(cont'd)

14. By letter dated the 22nd May, 1976, the Defendant requested an explanation for the return of the cheques and asked in particular if the Plaintiffs wanted payment in cash or Cashier's Order.

15. The Plaintiffs did not reply to the said letter and the Defendant continued to tender the rent at \$156.80 per month.

16. On the 1st day of July, 1977, the Plaintiffs demanded the sum of \$9,360.00 by way of rent alleging that the said sum was due as arrears of rental from the month of March 1974 up to June 1977 at \$240.00 per month.

10

17. On the 4th day of July, 1977, the Defendant replied stating that the rent payable upon a correct interpretation of the Lease was \$156.80 per month and not \$240.00 per month and the cheque for the said amount was forwarded monthly from the month of March 1974 up to June 1977, but the said cheques had not been cashed by the Plaintiffs.

20

18. By a further letter dated the 7th day of July, 1977, the Plaintiffs claimed that the sum of \$240.00 per month should be paid to them from the 11th March, 1974 and in consequence, demanded the sum of \$9,360.00 alleging the said sum was due as arrears of rental from March 1974 to June 1977 and demanded a further cheque for the sum of \$240.00 for payment of the rent for July, 1977.

30

19. By the same letter dated the 7th day of July, 1977, the Plaintiffs returned the Defendant's cheques each for \$156.80 for the rent from the 2nd June, 1976 to the 2nd July, 1977.

20. On the 13th July, 1977, the Defendant by letter of that date forwarded a cheque to the Plaintiffs in the sum of \$9,360.00 and another cheque for \$240.00 as requested but under protest and subject to the Defendant's right to recover the same.

40

21. By letter dated the 22nd July, 1977, the said cheques were returned by the Plaintiffs stating that they were not prepared to accept the cheques with any pre-conditions and that unless the said payments were made without pre-conditions the Plaintiffs would be compelled to determine the tenancy.

22. By letter dated the 3rd August, 1977, the Plaintiffs purported to determine the tenancy as at the 31st August, 1977.

50

23. By letter dated the 5th August, 1977, the Plaintiffs refused to accept the rent for the month of August 1977 tendered by the Defendant under protest and subject to recovery.

In the
Subordinate
Courts

No. 7
Defence and
Counterclaim
1st December
1977
(cont'd)

24. In the premises, the Defendant has always been ready and willing to pay the correct rent and the Defendant will contend that the correct rent was \$156.80 per month and not \$240.00 per month as demanded by the Plaintiffs.

10 25. Further by letter dated the 3rd January, 1967, the Defendant requested the Plaintiffs to grant the Defendant a further term of ten years from the expiration of the first term on the same terms and conditions as set out in Clause 3(c) of the original Lease including a covenant for renewal as agreed thereby. The Defendant will refer to the said Lease for the full terms and effect at the trial of the said action.

20 26. Subsequent thereto, the Defendant remained in possession of the premises but the Plaintiffs failed to grant a Lease as requested though they did not refuse to do so.

27. By letter to the Plaintiffs dated the 22nd April, 1977, the Defendant requested the Plaintiffs to grant the Defendant a further term of ten years, namely, from the 31st July, 1977.

30 28. Notwithstanding the said request the Plaintiffs have failed to grant the said term as requested and as alleged in paragraph 11 of the Statement of Claim purported to determine the Defendant's holding by a Notice to Quit to vacate the said premises by the 31st day of August, 1977.

29. As a result thereof, the Defendant commenced proceedings in the High Court of the Republic of Singapore on the 27th July, 1977, for specific performance of the agreement and for an Order to have the Leases executed by the Plaintiffs from the 1st August, 1967 and the 1st August, 1977.

40 30. The Plaintiffs entered an appearance to the said Summons and the Defence thereto and the Plaintiff in Suit No. 2187 of 1977 filed a Reply and issued a Summons for Directions.

31. On the hearing of the said Summons for Directions, it was ordered inter-alia that the trial of the action between the Plaintiff and the Defendants be fixed for one day and set down for trial within thirty days.

In the
Subordinate
Courts

No. 7
Defence and
Counterclaim
1st December
1977
(cont'd)

32. The Plaintiffs did not inform the Defendant that they had commenced proceedings on the 29th September, 1977 at the hearing of the Summons for Directions which was on the 14th October, 1977, and served a Summons and Statement of Claim herein on the Defendant on the 21st October, 1977.

33. In the premises, the issues between the Plaintiffs and the Defendant are being litigated in Suit No. 2187 of 1977 and the Defendant and the Plaintiffs are precluded from maintaining the present motion herein.

10

34. Further, the issue between the Plaintiffs and the Defendant is whether they have a title to the premises by virtue of the Leases of which the Defendant has claimed specific performance in Suit No. 2187 of 1977, and the District Court has no jurisdiction herein.

35. If contrary to the contention of the Defendant, the Plaintiffs in spite of having accepted an order for trial in the High Court without objection and there is no question of title involved which is denied and the District Court has jurisdiction, then the Plaintiffs claim to be entitled to be in possession of the premises under the Leases aforesaid and the Plaintiffs are not entitled to recover possession.

20

36. Save as is expressly admitted or denied the Defendant denies each and every allegation in the Statement of Claim as if the same had been set out separately and denied seriatim.

30

C O U N T E R C L A I M

1. The Defendant repeats the Defence and counterclaims specific performance of the Agreement dated the 23rd day of July, 1957, by the grant of a Lease for a term of ten years after expiration of the first term, namely, 31st July, 1967, and a further lease from the 1st August, 1977, by virtue of the following:-

(i) By a Lease dated the 23rd July, 1957, made between the parties, the Plaintiffs demised to the Defendant all that the premises known as No. 322-F, Changi Road, situate in Singapore in a block of shop houses standing at the junction of Changi Road and Tolok Kurau Road together with the land and a room at the back thereto belonging, hereinafter called "the said premises" to the Plaintiffs for a term of 10 years from 1st August, 1957 at a rent of \$110.00 per month subject to increase or decrease in proportion with the

40

assessment on the said premises.

In the
Subordinate
Courts

No. 7
Defence and
Counterclaim
1st December
1977
(cont'd)

10 (ii) By Clause 3(c) of the said Lease the Plaintiffs covenanted on the written request of the tenant made 3 calendar months before the expiration of the term thereby created at the expense of the tenant to grant to him a Lease of the demised premises for a further term of ten years from the expiration of the said term at the same rent and containing the like covenants and provisos as are therein before contained including the covenant for renewal.

(iii) By letter dated 3rd January, 1967, the Defendant requested the Plaintiffs to grant to the Defendant a further term of ten years from the expiration of the first term, namely, on the 31st July, 1967, on the said terms.

20 (iv) The Defendant has since the expiration of the said term remained in possession of the said premises, paying the rent reserved under the said Lease and still remains in possession thereof but the Plaintiffs have failed to grant to the Defendant the said further Lease pleaded in paragraph (iii) above.

30 (v) By letter to the Plaintiffs dated the 22nd April, 1977, the Defendant requested the Plaintiffs to grant to the Defendant a further term of ten years from the expiration of the term, namely, from 31st July, 1977, pleaded in paragraph (iii) above in accordance with the clause pleaded in paragraph (ii) above as repeated in the Lease that the Plaintiffs were required to grant by the request in paragraph (iii).

(vi) Notwithstanding the said request the Plaintiffs have failed to grant the said further term referred to in paragraph (v) as requested or at all.

(vii) The Defendant was always ready and willing and hereby offers to perform the said agreements on his part.

40 2. And the Defendant claims to have the said agreements specifically performed by the Plaintiffs and to have Leases granted to him accordingly from the 1st August, 1967 and 1st August, 1977.

3. Costs.

Dated and delivered this 1st day of December 1977.

Sgd. L.A.J. Smith

Solicitor for the Defendant

In the High Court

Paras. 10-13 put forward on behalf of present owners and not Chin Cheng.

No. 9
Plaintiffs' Evidence
Notes of Evidence
12th November 1981
(cont'd)

Para 11 of Pleadings - further & better particulars.

Amended Reply.

After we commenced proceedings in High Court Chin Cheng 3 months later commenced action in District Court in D.S. Summons 4724 of 1977 - Pleadings Bundle "A". Reads pleadings.

Statement of Claim - The amendment of para 6 sought by my learned friend is contrary to the facts. I submit he is not entitled to amend at all at this stage.

10

No Defence filed on counterclaim.

Giam: I apply to amend para 6 of the Statement of Claim in D.C. Summons 4724 of 1977 by deleting the words "and upon the same terms and conditions as the said Lease".

This point will have to be established by the Dr. to this Court and in any event m.l.f. has in his pleadings pleaded the same thing. It is not prejudicial to the Dr. I apply for amendment because it would be contrary to evidence which the plaintiff is going to adduce. Parties to the action are entitled to any amendment subject to leave of the Court and should not be precluded from any application to amend. This is a point that has to be proved and I am entitled to this amendment.

20

No Defence filed to counterclaim - we inherited this action. I managed to get copy of pleadings only this morning. My difficulty is that Chin Cheng Realty have changed management and the people originally in charge of this matter I have not been able to contact them. I have received no response. The counterclaim is practically the same action as action in Suit 2187/77. Defence need not be filed on the counterclaim. Trial can go on on issues alleged in both cases. Judgment should not be entered on the counterclaim.

30

Court: Application for amendment is refused. Both actions to proceed.

Smith: Where is the breach of contract? There must be refusal.

Bundle AB -.
AB 106.....

Adjd. to 2.30.

Sgd. F.A. Chua.

40

Hearing resumed.

In the High
Court

Smith continues:- AB 107

No. 9
Plaintiffs'
Evidence
Notes of
Evidence
12th
November
1981
(cont'd)

AB 111 para 3 - lease AB 163 clause 3(c)
AB 164 - Chin Cheng in February 1979 saying we
are not entitled to the renewal of the lease for
1977 because we had not paid the rent as we
should have. They commenced D.C. Summons in
September 1977.

10 AB 114 - Chin Cheng sold property in April
1978. AB 144 - 147 to be completed on 4th
August 1978. AB 146 these proceedings mentioned -
para 9 renewable every 10 years - admission.

AB 115 - my learned friend sets out the
position re Planning Act 1960. Lease frustrated.
There can be no frustration of the lease.

AB 118 - Limitation raised. Our reply AB
121.

AB 122 - asked for increased rent based on
the lease.

20 AB 138 - my learned friend's client really
Moh Seng Realty.

AB 156 - 147 - all the figures are agreed.

AB 158 - the very first lease 1953 - 4 year
term clause 3(c) AB 159 "a further term
for renewal", "including the present covenant for
renewal." AB 163 - the second lease - ten years -
Clause 1 "Practical however accordingly" -
issue between the parties.

30 AB 168 - S.T. of 20th June 1957 Leader.
Some Coming Changes "The Local Govt. Bill
That will be in December". At this time there was
talk of Katong being taken out of City areas and
put into Changi and consequently would be lowered.
That was why plaintiff suggested decrease as well
as increase in assessment.

40 Assessment - meaning of - AB 59. Allen
Yau's interpretation; AB 49 Chin Cheng's inter-
pretation rent of premises is annual value of the
premises \$110 p.m., annual value is \$1320 and
annual value of \$2880 makes the rent \$240 p.m.
They say that is what clause 1 means.

I answered at AB 50. Assessment is the
property tax. Assessment meant the sum of money
you pay. Annual value can go up and you can get
the rate of tax going up or going down.

In the High Court
No. 9
Plaintiffs'
Evidence
Notes of
Evidence
12th
November
1981
(cont'd)

Assessment not defined - reference to it in Local Govt. Ord. No. 24 of 1957 S. 136 (1) "No assessment or valuation" deals with the sum of money you have to pay. S.108 (7). "Where any rate" sums payable. S.108(1) "rate or rates on the annual value" - tax payable.

Shorter Oxford Dictionary "Assess v. ... amount payable. "Assessed".

Property tax based on annual value.

If it meant annual value easy to say so in the lease.

10

AB 23.

AB 50, their answer to it at AB52. AB 48 necessary as they sent us Notice to Quit at AB 46 but they based increase on the lease - AB 49.

After we issued our notice for second renewal 2 years later they again came up with AB 59 based on the lease. AB 61 I replied.

Adjd. to 10.30 tomorrow.

Sgd. F.A. Chua.

20

13th
November
1981

13th November, 1981

Suit No. 2187/77 (Contd.)

Hearing resumed.

Smith continues:-

Next point - the term of years - perpetually renewable lease. It depends on the intention of the parties.

Caerphilly Concrete Ltd. v. Owen (1972) 1 W.L.R. 372.

AB 164 clause 3(c) - "including the present covenant for renewal.

30

372 h.n., 374 D 375 fails".

376 C "Were I in a 377 378 this appeal".

Parkus v. Greenwood (1949) 2 All E.R. 743 h.n. precise words used in our case. 746A "The term shall be" Reversed on appeal (1950) 1 All E.R. 436; 439E "That being so 440."

1980 Annual Abridgment Hals. Laws of
England para 1713. We don't know the facts.

In the High
Court

Green v. Palmer (1944) 1 All E.R. 670 h.n.
671D "Turning to the actual language" Our
clause "including the present covenant for
renewal".

No. 9
Plaintiffs'
Evidence
Notes of
Evidence
13th
November
1981
(cont'd)

Next point - unenforceability by virtue of
the Planning Act.

10 Vol. 8 Statutes p. 319 Cap 279, S. 9(3)
relied on by m.l.f. S.9(5), S. 9(6), S.9(7).
My learned friend said by virtue of S. 9(3) that
although my client exercises my option to renew
his client is precluded from granting a further
10-year lease to my client. The reason he gave
is because of the meaning of "subordinate" in
S.2(1) "demises" "becomes capable of being
registered under the Registration of Deeds Act".

20 Our answer - the lease was granted in 1957.
The Planning Act came into existence on 1st
February 1960 and that lease was in fact registered
in the Registry of Deeds. There is no dispute
about that see AB 163 - registered on 1st August
1957, that fact is not disputed. At side of it is
a note see original lease "Registered against
Lot 340²³ Mukim 26 in the exercise of" note
of same date 1st August 1957, Original lease marked
Ex. P.1.).

30 Registration of Deeds Act Vol 7, Laws of
the Colony of Singapore S.14(1)(d), same today S.14
(1)(d) Registration of Deeds Act (Cap 281).

Rules are also identical - except for an
amendment to R.13. R.13 Registrar has discretion
to dispense with certain of the provisions -
Registration of Deeds Rules, 1979.

40 We are considering the position in 1967.
That is when the option was exercised and Planning
Act was then in force and m.l.f. said he could not
comply. We say our deed is registered. All m.l.f.
has to do is to execute the document and we will
get it registered.

I submit the provisions do not apply to
documents already in existence "Becomes capable".
I agree we get a fresh document but it does not
become capable of being registered for the first
time.

If we are wrong on first point - the next

In the High Court

No. 9
Plaintiffs'
Evidence
Notes of
Evidence
13th
November
1981
(cont'd)

point is that it is not prohibited, you have to apply and either they give it to you or don't give it to you. It is for the landlord to make the application which he did not do but present owner has applied for sub-division and this unit along with other units in the building have been sub-divided in fact and now brought under the Registry of Titles and they are able to give a separate title to the unit and in respect of every other unit.

10

My learned friend's point is that his client can't do it. Our point is he can do it and he should apply and Registrar has a discretion.

My learned friend's point is that it has been frustrated. We say that is not so and in any event he could have applied and frustration never applies to a lease.

National Carriers Ltd. v. Panalpina Ltd.
(1981) 3 All E.R. 161 h.n.l. 163 f "This question is" 165 c "The doctrine of frustration" 166 167 168 169"

20

175 g "Frustration of a contract performance". 178 c "As far 179 ... frustration".

They could have given us the lease if they applied for sub-division. In fact the place has now been sub-divided.

Chong Hoong v Yuen San (1976) 1 M.L.J. 282 h.n., 283 l.c. H.

(1973) 1 M.L.J. 133 Siew Soon Wah v. Yong Tong Hong h.n.

30

(1970) 1 M.L.J. 210 Hassan v. Ismail h.n. 213 c "But in this case" H "Before concluding .."

My learned friend's next point ...

(Adj'd. to a date to be fixed - early date).

Sgd. F.A. Chua.

Certified true copy.
Sgd.
Private Secretary to Judge
Court No. 2.

40

In the High Court

No. 9
Plaintiffs'
Evidence
Notes of
Evidence
10th
February
1982
(cont'd)

lost. The landlords held the cheques for 3 years and after that they send them all back. They got the cheques and I submit we have paid. In 1974 they recognised the existence of the lease although they have not given us the document.

This is a case with option to renew and the Dr. renewed it. Both sides performed it. Landlord recognised the lease right up to 1977.

Does time run at all in these cases?

Williams v. Greatrex (1956) 3 All E.R. 705, 708G "But then it is said 709 is enough". 711 F "What is the position enforcement". 712 "Cotton L.J. performance".

10

Tan Swee Lan v. Engku Nik - (1973) 2 M.L.J. 187, 188C "On the defence

On facts of our case, if time runs at all, it runs from date landlord refused to recognise the doctor's right - date of Notice to Quit. Up to that time they treated us as holding under our equitable estate. My learned friend relies on Ariff v. Rai J.M. Bahadur - (1931) 47 T.L.R.233 h.n. 239 "Before considering ... 240 ... 241 242" This case is on Indian Limitation Act. This case long before Williams v. Greatrex.

20

Limitation Act Cap 10 - S.6(1), S.6(8)

Does a lease, which is not a contract, come within Section 6 at all?

We are not asking for equitable relief, we just ask for the lease to be executed.

Specific performance of a covenant in the lease.

30

Calls:

P.W.1. - Evidence of Hirendra Lal
Bannerji dated 10th February 1982

No. 10
P.W.1.
Evidence of
Hirendra Lal
Bannerji
dated 10th
February
1982

P.W.1. - Hirendra Lal Bannerji - a.s. (in
English):
Xd. by Mr. Smith

Living at 15 Jalan Wakaff, Singapore 1542;
medical practitioner.

(S: AB 1 - payment of rent by cheque).

10 As far as I remember the first payment of
rent was by cheque which I handed over personally
when I went there to rent the premises. The
first lease was from 1st August 1953 to 31st
July 1957 (AB 158). There is a covenant for
renewal, clause 3(c); another covenant for
renewal in the new lease. AB 158 was registered.
Subdivision was dispensed with at that time.

(S: 1957).

20 I gave a notice I wanted another lease of
10 years. When AB 158 expired I asked my lawyer
Mr. Bezoruah to ask renewal for the lease. He then
wrote to R.C.H. Lim, solicitors for Chin Cheng
Realty the landlords at that time (AB 8). After
a couple of reminders ... I wrote first, when I
did not get a reply I asked Mr. Bezboruah to
write. They wrote back and said they had lost
their copy of the lease and they asked for a copy
(AB 11). A copy of the lease was then sent
(AB 12). A draft renewal was then sent by R.C.H.
30 Lim to Mr. Bezboruah (AB 13). At that time I
thought it was troublesome to approach the
landlords every 4 years, so I rang up the
landlords and asked for a 10-year lease. R.C.H.
Lim replied at AB 14 agreeing on terms. They
suggested 10 years to be followed by another 10
years. I rang up and said the lease renewal was
every 4 years, and any number of times but this
was 10 years to be followed by another 10 years
only. I said I would like to have any number of
40 10 years. The M.D. said I was a good tenant and he
was willing to give me what I wanted. He told
me to see my lawyers and to set down what I
wanted. I pointed out that the draft was being
prepared by their lawyers. So he said he would
speak to their lawyers. Then came letter AB 15.
I wished my lawyers to prepare the lease. At
that time I changed my lawyers and my lawyers
Oehlers & Co. sent the letter AB 16 forwarding the

In the High Court

No. 10
P.W.1.
Evidence of
Hirendra Lal
Bannerji
dated 10th
February
1982

draft lease for approval. R.C.H. Lim sent back the draft lease approved with amendments (AB 17). The amendments appear at AB 23, at the margin. Mr. Oehlers rang me up and told me about the amendments and asked me to go and see him. I went to see Mr. Oehlers and he explained to me that it meant that if the tax is increased then my rent would also be increased by the same amount. So I asked him how much, he said he did not know, so I asked why not find out from R.C.H. Lim. He rang up Mr. R.C.H. Lim, spoke to him for a little while, told him I was there and said I would like to speak to him. I took the phone and asked what is it all about. He told me "Do you know that your landlords have to pay tax to the City Council for the shophouse that you occupy". I said I did. He asked, "How do you know?" So I told him I have a house in Calcutta After he was satisfied that I knew he told me there was some talk of re-organisation which I must have read in the newspapers, that there was a possibility that the City Council may increase the tax on the building so the landlords would want to recover the tax from you. So I asked him how much would it be. So he said if it comes to .50 cents p.m. probably your landlords would not charge you that extra .50 cents but should it be more than \$3 to \$4 p.m. then they would increase the rent by the same amount. Then he asked me if I thought it was fair. I said it was. Then I pointed out that I have also read in the newspaper that Katong in which my premises are may be transferred to Changi District Council in which case the tax payable would be less, so could I get the benefit of that. He said yes, you ask your lawyer to write in and I will recommend it to my clients. Then I asked if he thought the landlords would object. He asked me why. So I said it would mean the lowering of the rent. Then he said that is only how it looks like, they will pay that much less tax and you will pay that much less rent so they have nothing to lose. So I will explain to my clients you don't worry. So Mr. Oehlers wrote to R.C.H. Lim AB 18. That is agreed and the lease was executed and duly registered. Lease at AB 163.

Adjd. to 2.40.

Sgd. F.A. Chua.

Hearing resumed.

P.W.1. - Hirendra Lal Bannerji - o.h.f.a. s (in English)
XXd. by Mr. Smith (Contd.)

Everything went on alright for 10 years.

On 3rd January 1967 I wrote to the Secretary of Chin Cheng Realty exercising my option (AB 28A). No answer was received. So I wrote again on 20th April 1967 (AB28B). I got no answer to that either. Then I went to my solicitors, Murugason & Co. and by letter 1st June 1967 my solicitors exercised option on my behalf (AB 29). Again no answer. My solicitors wrote again on 15th August 1967 (AB 30). I do not know what the telephone conversation referred to AB 30 was. A further letter from my solicitors to Chin Cheng is at AB 31. On 5th December 1967 my solicitors wrote to Chin Cheng enclosing rent (AB 32). I have been sending the rents regularly and they had been accepting it all the time. On the 15th December my solicitors wrote a personal letter to Ko Seng Gie and Ko Teck Siong the directors of the Company as well as to Chin Cheng (AB 23). (33)

In the High Court
No. 10
P.W.l.
Evidence of
Hirendra Lal
Bannerji
dated 10th
February
1982

I then got a response from one Mr. Tan Poh Thong. He was on the staff of Chin Cheng Realty. He went to Murugason's office to look at the lease. In AB 34 Murugason forwarded a copy of the lease to Chin Cheng. I did not see Tan Poh Thong at all.

Then I received a letter from R.C.H. Lim & Co. addressed to Murugason & Co. (AB 35). Substantially the letter said the Notice given by Murugason was not within the time and so they could not give me the lease. When I saw that I rang up R.C.H. Lim's office and asked to speak to the lawyer who wrote AB 35. I was told he was away and I could speak to the chief clerk. I told the chief clerk that I had sent 2 letters to Chin Cheng in January and April 1967 requesting renewal of the lease so why is it being said that proper notice was not being given. He said Chin Cheng never told us about these letters, and that he would speak to the lawyer who wrote AB 35.

Then I went to see Murugason & Co. and gave them copies of the letters which I had sent to Chin Cheng. My lawyers wrote AB 36 on 27th December 1967 to R.C.H. Lim & Co. enclosing copies of those letters. There was response from R.C.H. Lim in AB 37 stating that their clients were "now negotiating with your client direct". At that time there was no negotiation going on.

AB 38 a letter from my solicitors to R.C.H. Lim stating that rent had been forwarded but I had not got the rent receipt and AB 39 a letter from my solicitors to R.C.H. Lim & Co. forwarding another rent for the current month, February 1968. I got a rent receipt marked "Without Prejudice",

In the High Court

No. 10
P.W.I.
Evidence of
Hirendra Lal
Bannerji
dated 10th
February
1982
(cont'd)

so I sent it back in June for deletion of those words along with the rent for the current month (AB 40).

On 6th June I got a letter from R.C.H. Lim acknowledging receipt of rent for June and a receipt marked with "Without Prejudice" (AB 41). I sent the receipt back for deletion of "Without Prejudice" together with rent for July 1969 through Murugason & Co. (AB 42).

I got tired of this and I sent the rents thereafter myself. I got rent receipts marked "Without Prejudice". 10

On 2nd November 1970 I wrote personally to Chin Cheng (AB 43), lapse of some 3 years 322-G is my wife's premises. I sent rents for the two premises. Receipts for 322-G were clean receipts. Then I received a reply from Chin Cheng (AB 44) stating they had decided to make a new agreement for 3 years with new terms.

When I got AB 44 I did not do anything. But 2 days later Chin Cheng rang me up and asked how I found the new terms. The caller said he was from the office of Chin Cheng. He said 10 years was too long, 5 years was better and also we are giving you a chance to alter the other terms of the lease if you so like. So I said I preferred the old terms and the old lease. He said he would tell the directors about it. 20

There was no further letter and no further talk. I continued to get my rent receipts; the receipts were not marked. I have the rent receipts. 30

I received a letter dated 26th June 1973 from Chan, Goh & David See (AB 45). This letter claims that I am holding as a monthly tenant at \$110 p.m. and they gave me a Notice to Quit and said the purpose of serving the Notice was to increase the current rent of \$110 p.m. to \$330 p.m. Notice is AB 46. At that time there was a general notice sent to each tenant of the building. 40

My reaction was to write the letter AB 47. I also consulted Mr. L.A.J. Smith and instructed him to write AB 48 pointing out that I hold a lease and that I exercised my option of renewal of the lease in 1967 in accordance with the terms of the lease.

That was the end of that demand for increase of rent and they accepted the old rent which I sent

to them and they issued receipts for the rent.

In the High
Court

I did not see or speak to anyone about this matter at that time.

No. 10
P.W.1.
Evidence of
Hirendra Lal
Bannerji
dated 10th
February
1982
(cont'd)

10 The next letter I got from Chin Cheng was dated 15th March 1974 (AB 49), a year later. They were asking for increase in rent under the lease, as property tax had been increased. I consulted Mr. Smith and he wrote letter AB 50 setting out what the rent should be. They handed that letter to Chan, Goh ' David See who wrote AB 52 on 4th April 1974 stating they were looking into the question of the increase of rental and that they were holding on to my cheque for additional rent of \$31.70.

Thereafter I sent them the rents on my computation - \$156.80. I did not get any rent receipt but I kept on sending the rents. They kept my cheques but they did not cash them. They did not threaten to get me out.

20 On April 3, 1976, my solicitors wrote to Messrs. Allen Yau the then solicitors of Chin Cheng (AB 53). I produce the letter of 1st April 1976 addressed to my wife in respect of 322 From Allen Yau, stating that Chin Cheng had not received rent since March 1974 (Ex. P 2). The previous rent of 322-G had been \$90 p.m., that rent was up up to \$170 after the Quit Notice.

On 22nd April 1977 I exercised my option (AB 58).

30 On 1st July 1977 Allen Yau wrote (AB 59) referring to their clients' letter of 15th March 1974 about the increase in rent to \$240. I replied at AB 61.

40 On 7th July 1977 Allen Yau returned all my cheques (AB 62) and asked for rents calculated at \$240 p.m. and threatening action. I wrote back on 13th July 1977 (AB 64), saying that I would pay whatever was due under protest and sent cheques for \$9360 and \$240 which they had asked for. In AB 65 Allen Yau said they would take their clients' instructions and in meantime hold the cheques.

I instructed my solicitors to write on 21st July 1977 about the execution of the new lease (AB 66).

AB 67 Allen Yau replied that their clients were not prepared to accept payment under protest. I sent rent under protest (AB 69). Then on 3rd

In the High Court

August 1977 they served me a Notice to Quit to deliver up possession on 31st August 1977.

No. 10
P.W.1.
Evidence of
Hirendra Lal
Bannerji
dated 10th
February
1982
(cont'd)

I continued to send rent under protest (AB 74). Cheque returned by Allen Yau (AB 75). I again sent them the rents under protest (AB 76). Allen Yau sent my cheque back (AB 77).

It came to my notice that Prime Realty Pte Ltd had taken over and they had sent notices to all the tenants except me that they had taken over asking that rents be paid to them.

10

I instructed Mr. Smith to write to Prime Realty to find out the position (AB 78). No answer to this letter.

Chin Cheng then went to David See & Co and David See wrote AB 80 returning my cheque for \$12,240.00 stating that in any event the amount was incorrect. Mr. Smith wrote on 4th July asking what the correct amount was as the amount was calculated by Allen Yau (AB 81). They never said what the correct figure was.

20

Adjourned to 10.30 tomorrow.

Sgd. F.A. Chua.

11th
February
1982

Thursday 11th February 1982

Suit No. 2187/77 (Contd.):

Hearing resumed.

P.W.1- Dr. Bannerji - o.h.f.a. s(in English):

Xd. by Mr. Smith (Contd.)

Eventually I commenced proceedings in this matter - for them to execute the lease.

Chin Cheng then commenced proceedings in the District Court for forfeiture. I had to stop the proceedings in the District Court and have it transferred to the High Court as the two proceedings were identical.

30

I produce a receipt dated 3rd November 1970 with remark "Without Prejudice" (Ex. P 3). On 7th December 1970 I received the first receipt with those wordings removed (Ex. P4). I continued to receive clean receipts like Ex. P4 until 8/2/73. When I received a receipt with the heading "Without Prejudice" Notice to Quit Re our letter dated 1973" (Ex. P5). The only Notice to Quit I had at that time was AB 46 dated 26/1/73

40

and the letter was AB 45 dated 26/1/73. I answered by Registered Post AB 47 letter dated 1/2/73. I instructed my solicitors to write on 19/2/73 AB 48 to Chan, Goh & David See.

In the High Court

No. 10
P.W.L.
Evidence of
Hirendra Lal
Bannerji
dated 11th
February
1982
(cont'd)

When I paid the next rent I received a clean receipt without any endorsement (P 6). dated 7/3/73. I thereafter got clean receipt monthly until 7/3/74 (P 7).

10 My wife in 1973 got a similar receipt "Without Prejudice" in respect of 332-G. After the amount of the rent had been settled she received clean receipts.

From October 1970 to June 1973 I sent the rent of my place and the rent of 322-G by my cheque, one cheque. Separate receipts were issued by the landlords.

20 Thereafter from May 1973 to 4th March 1974 I continued to send my cheque for the two rents in one cheque and separate clean receipts were received.

On 15th March 1974 I received a letter asking me to pay increased rent under the lease (AB 49) which I disputed as to the quantum. I continued to pay the rents of the two premises by my one cheque from April 1974 to March 1976. During that period I received no rent receipts at all, nor did my wife.

30 Subsequently Allen Yau in 1976 on behalf of Chin Cheng wrote a letter to my wife dated 1st April 1976 stating that she had paid no rent for 2 years. Ex. P 2 the letter. I sent a cheque for the full amount and they returned all the uncashed cheques. I asked my solicitors to write AB 53. They acknowledged receipt of my cheque in AB 54 and sent back the uncashed cheques. The history of the cheques appears in the correspondence.

40 I originally asked for the lease of these premises as I explained to the management that whereas they said I could stay as long as I like and I said you may sell and the new owner may not let me stay and medical practice is not built in a day. Secondly I did not want to make a journey every month from my clinic in Changi Road to their office in South Canal Road to pay the rent within the stipulated period I was offered a 4-year lease with a covenant for renewal. That covenant stated that they would renew (S: That is in AB 159 clause 3(c)). We specifically agreed that. They had no objection and they said I could stay as long
50 as I liked.

In the High Court

(S: AB 1 - payment by cheque).

No. 10
P.W.1.
Evidence of
Hirendra Lal
Bannerji
dated 11th
February
1982
(cont'd)

They said it was not necessary to put that in the lease, but it could be covered by a letter and AB 1 is the letter. I wanted to pay by cheque because first I did not want to make a journey from Changi Road to landlords' office in South Canal Road to pay the rent every month. Secondly, I wanted to pay the rent between the 1st and 7th of the month as required under the terms of the lease and the bill collector might not come within that time. So it was arranged that I should post the cheque every month. That was what I have always done. I always crossed those cheques.

10

I tender my computations regarding the increase in rent (Ex. P 8). If the annual value on the rate of tax, or the tax payable goes down there is a danger that they would receive net to himself after payment of tax less than he would otherwise get, whereas on my calculation no matter what happens to these 3 factors the landlord will always receive the same net rent after payment of tax and will not be out of pocket because of the variation in tax. From my point of view when tax goes up I pay more and if it goes down I will pay less gross rent and landlord will not receive less net rent after payment of tax. The idea of this increase came from the landlords. No one suggested that the rent would go up in relation to the annual value. Landlords basing it on the annual value. I spoke to Mr. R.C.H. Lim. We were talking about the possible increase in tax. He and I understood what we were talking about - the possible increase in tax the landlords might have to pay and I wanted to know how much. I was told if the tax went up by \$ X then my rent would be increased by \$ X. After that I mentioned about the decrease, and he said in that case the rent would be reduced by the same amount of dollars.

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30

Currently I am paying \$800 p.m. under protest. That is the annual value of \$9600. The rate of tax has been progressively reduced from 1979. In 1979 the rate of tax was 33%. In 1980 31%. In 1981 28%. In 1982 26%. In my case the landlords are not suggesting any decrease in the rent.

40

Cross-
Examination

Cross-examination (Giam: The first lease AB 158 by Mr. Giam: for 4 years).

My solicitors prepared this lease, Mr. Bezboruah. Yes normally it is the landlords' solicitors who prepare the lease. In this case they agreed to give

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me a lease, they said "Ask your lawyer to make a lease and we will sign". I spoke to a Mr. Tan and the Secretary, Mr. Kin. Mr. Tan was a director. When I went to talk about the lease I was told the rent would be \$110 p.m. Yes I said I was told I could stay there as long as I liked. I asked for 4 years as Mr. Bezboruah said I had just started practice and I had better find out whether I could practise there or not, and 4 years was time enough to find that out.

10

My wife moved to 322-G in 1963, that is to the best of my memory.

Yes the landlords told me that I could stay there for as long as I liked. We never discussed if the rent was to remain at \$110. I cannot say if the landlords at that time thought that I was to stay for 4 years plus 4 years at the rent of \$110 p.m. and no further. I don't know if the landlords did know that this was a perpetual lease. They had their lawyers.

20

(G: AB 4 - after the first lease had been registered there was a little problem. You refused to allow City Council to enter to instal water meter for the 1st floor premises.)

That is so.

(Giam: See 2nd para.)

Yes at that stage the landlords had good relationship with me. Not correct they were unhappy over my refusal. The senior member of the management did not know anything about this. It was one of those contractors instructed with the job of fixing metres who used to hang around the landlords' office and caused the trouble. The contractor would not get paid until the meter was fixed by the City Council.

30

(Giam: AB 5, AB 7).

Yes I refused the request of the landlords and the City Council wrote to me on 6th July 1956. I passed the letter to my lawyers and my instructions were to refuse.

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(Giam: AB 8).

Yes that on 18th April 1957 I gave a Notice to renew for a further period of 4 years. Yes on 23rd April 1957 the solicitors for the landlords again wrote for my permission to allow the City

In the High Court

No. 10
P.W.1.
Evidence of
Hirendra Lal
Bannerji
dated 11th
February
1982 - Cross
Examination
(cont'd)

In the High Court Council to enter my premises to fix the water meter (AB 9).

No. 10 (Giam: AB 14).
P.W.1.

Evidence of Hirendra Lal Bannerji dated 11th February 1982 - Cross Examination (cont'd) Yes landlords' solicitors agreed to a lease of 10 years with an option for a further 10 years on my agreeing to permit the City Council to enter my premises to instal the water meter. Yes they gave me a 10-year lease as I went to them and negotiated for a longer lease. Not true they had to agree to the 10 years because they had to have the water meter fixed in my premises. Not true I was holding the landlords to ransom. They could have refused to grant me a new lease and give me notice.

10

I wanted the 10 years because I did not want to go to the lawyers every 4 years and it would mean expenses.

Q. If it was the intention of landlords to give you a perpetual lease why would they give you a letter stating that the terms that they had agreed with you was 10 years with an option for a further 10 years and nothing more. (AB 14).

20

A. I do not know.

Q. May I suggest that up to this stage of time only you knew that it was a perpetual renewal clause, NOT THE landlords.

A. I find it difficult to believe that the landlords who were hard headed business man would sign a document without first finding out from their lawyers what it meant.

30

(Giam: AB 14 - the last para.

AB 15 - you wished your solicitors to prepare the lease).

Not true I wanted it prepared by my lawyers because I thought the landlords' solicitors would not put in this covenant of renewal in the lease. Yesterday I explained after AB 14 I rang up the landlords and told them that my last lease stated that I could renew any number of 4 years and in same way I would like a lease which I could renew any number of 10 years.

40

The first lease of 4 years was registered because it was a legal document.

(Giam: AB 163 - the lease for 10 years).

In the High
Court

10 Yes this lease would expire on 31st July 1967. Yes on 3/1/67 I exercised my option to renew. Yes 6 months before the expiry (AB 28A). Yes I was very careful about my rights. Yes I received no response and I wrote on 20/4/67 (AB 28B). Again I received no reply. Yes I then instructed Mr. Murugason to write on 1/6/67 (AB 29) and other letters until 5th December 1967 (AB 32).

No. 10
P.W.l.
Evidence of
Hirendra Lal
Bannerji
dated 11th
February
1982 - Cross
Examination
(cont'd)

(Giam: AB 32).

20 It was not obvious by that time that the landlords were not going to renew the lease. I don't think so that it was very obvious that they were not going to comply with their agreement to give me a further lease of 10 years. It is possible as in the case of the first lease they had mislaid the 2nd lease and did not know what I was talking about. The important people who would remember were dead or had left the Co. Mr. Kin, the Secretary and Mr. Ko Teik Kin the M.D. were dead. Yes I mentioned yesterday Mr. Ko Teik Kin; that in 1957 I rang up the office and asked for the secretary and explained what I wanted and he went and consulted Mr. Ko Teik Kin and rang me back saying Mr. Ko approved.

30 Yes the 10-year lease expired on 31st July 1967. Yes on 15th December 1967 I wrote to two of the directors of the company and the company itself to get a response (AB 33). Yes I was worried that I did not get a reply; yes the lease had expired and I had not got a response. Not correct I then received a response on 22nd December 1967; I received a response on 16th December 1967, see AB 34. Yes I then received a written response on 22nd December 1967, AB 35.

(G: AB 35 para 4 "As your client not prepared to grant client.")

Yes that is a definite refusal.

40 (G: AB 35 last para "This is also as Notice unnecessary").

Yes it was a notice to me to vacate the premises. Yes my solicitors replied on 27th December 1967 at AB 36.

(G: AB 36 last para).

Yes I had instructed my solicitors in that letter to go to Court if the lease was not granted.

In the High Court

No. 10
P.W.1.
Evidence of
Hirendra Lal
Bannerji
dated 11th
February
1982 - Cross
Examination
(cont'd)

(G: AB 33 - para 4).

Yes up to 22nd December 1967 it was obvious that there was a definite refusal and I would have to go to Court.

(G: AB 37).

Yes I said they never negotiated with me. Yes AB 37 is untrue. AB 37 is a face-saving letter.

(G: AB 44 - 3 years later).

Yes in response to my letter of 2nd November 1970 requesting for renewal (AB 33) I received a reply AB 44 offering me new terms for a new agreement. I don't agree this letter shows that the landlords had refused to comply with the lease for 10 years. They were trying to find out if I would accept new terms for the old lease.

10

(G: AB 47 - you again set out all the facts and that the lease had not been renewed).

That is so. Yes as far as I was concerned, "the lease has not been renewed yet." By that I meant I had not received the new lease document.

20

My wife moved into 322-G sometime in 1963, as far as I can remember. The rental at that time was \$90 p.m. I did not ask for a lease But sometime after that I wrote and asked if we could have a lease for the upstairs and the downstairs and that was after 1974. I don't know why the landlords would not grant a lease of 322-G.

I do not know the annual value of my premises in 1953; I did not go and find out. Before I entered into the second lease I did not know what the annual value was in 1957. We were only concerned with the tax, the annual value was immaterial.

30

Not true when I was talking to RCH Lim I knew what was the rate of tax, what was the annual value and the amounts payable.

Not true I knew that the rent of \$110 p.m. was based on the annual value divided by 12 which worked out to \$110 p.m.

40

Q: I suggest that you had agreed that if the assessment of the premises is increased or decreased the rent will be proportionately increased or decreased.

A: No.

Adjd. to 2.30.

Sgd. F.A. Chua.

Hearing resumed.

P.W.l. Dr. Bannerji - o.h.f.a. s (in English):

Cross-examination:
by Mr. Giam (Contd.)

10 By "assessment" I understand it as money payable as tax. I don't know that the money payable as tax is called rates rather than assessment. I am familiar with the word "Assessment" not "rates". I don't agree that in the 1950s the property tax as we know now is called "rates". As a layman I only know "assessment". Yes the two leases were drafted by my lawyer. RCH Lim explained to me that "Assessment" meant "tax".

Correct in 1953 and 1957 neither the landlords nor I mentioned sub-division.

20 I started my action only in July 1977 and not earlier because I felt that I had the lease still going on. For example, in 1973 when they gave notice to Quit to everybody and I wrote and my lawyer wrote back and said I was on lease and they did not insist on the quit notice anymore. Earlier in 1970, 1st November, when the landlords sent a letter about making a new agreement for 5 years they said by the new agreement the old agreement would lapse which meant that the old agreement was still on.

30 I started this action because the last lease was executed in 1957, since then many years have passed and I still did not have a new document. This made me feel uneasy so I started this action to get a new lease document.

Re-examination:
By Mr. Smith.

Re-
Examination

(S: AB 70 - 3/8/77 Notice to Quit).

I started my action in July 1977.

40 (S: AB 66 - letter from your solicitors to landlords asking for the lease to be executed by the landlords within 72 hrs.)

Yes. That was 21st July 1977 and I commenced my proceedings on 27th July, 1977.

In the High
Court

No. 10
P.W.l.
Evidence of
Hirendra Lal
Bannerji
dated 11th
February
1982 - Cross
Examination
(cont'd)

In the High
Court

No. 10
P.W.1.
Evidence of
Hirendra Lal
Bannerji
dated 11th
February
1982 - Re-
examination
(cont'd)

The actual solicitors were Allen Yau and before that Chan, Goh ' David See and before that RCH Lim & Co. As far as I am concerned none of those solicitors have ever claimed to refuse to grant me a lease.

Allen Yau commenced proceedings in the District Court in OS 416/77.

(S: Statement of Claim para 11 "The plaintiffs to quit and vacate by August 1977").

10

Yes.

(S: Para. 5 - you are entitled to a renewal of a lease).

Yes.

There was no dispute at all between Chin Cheng and myself except for the amount of rent that I should pay.

(S: AB 14 - 10 year lease with option of further 10 years.

Suit 2187/77 - Defence para 8")

20

They are suggesting that the effect of clause 3(c) is that I was to have a lease for 10 years with a renewal clause and that the new lease would be a lease for 10 years with a renewal clause. Until that appears in the Defence no solicitor has ever suggested that.

(S: Para 2 of Statement of Claim).

That is admitted. That is what I am claiming.

I have just found the rent receipt in respect of my wife's premises - one "Without Prejudice" and the other without those words (Ex. P9 and P.10).

30

(S: AB 159 clause 3(c) further term of 4 years, at same rent.).

Yes, In that lease RCH Lim was acting for the landlords and Mr. Bezboruah for me. I was told I could stay as long as I liked. These are not rent-controlled premises. I could have insisted on 4 years, plus 4 years and on and on. The 10-year lease, they wanted a rent variation clause and they agreed to make it every 10 years.

40

Sgd. F.A. Chua.

Smith: Case for plaintiff

No. 11

Defendant's Evidence - D.W.1.
Evidence of How Huai Hoon -
Examination - 11th February 1982

No. 11
Defendant's
Evidence
D.W.1.
Evidence of
How Huai Hoon
Examination
11th February
1982

Defence: Giam calls -

D.W.1 - How Huai Hoon - s/s (in English):

Examination-in-chief

by Mr. Giam.

10 Living at 26A Toh Turck Road, Registered
Surveyor.

I started practice in Malaysia in 1962. I
started practice in Singapore in 1965. Today I
have 2 offices, one in Singapore and one in J.B.
As far as I know there is only one other
Registered Surveyor equal in seniority to me in
Singapore and he is Mr. Lee Eng Kwan. I have
given evidence in Court before in encroachment
cases and my evidence in those cases had been
accepted.

20 (G: Lot 340 - 23 Mukim 26 in which house
No. 322-F Changi Road, Singapore,
stands.)

30 I am familiar with this plot of land because
I have carried out survey for sub-division of all
the units that stand on this land. There are 18
units on the ground floor and 18 units on the
first floor making a total of 36 units standing on
this land. Sub-division approval was in fact
granted on 31st March 1980 on the application of
the present registered owners, Messrs. Moh Seng
Realty Pte Ltd.

Q: If you have to sub-divide this land in 1957
to excise 322-F from the rest of the units
how would you do it and how much would it
cost?

40 I was not in practice in 1957 so I am not able
to say what the surveyor's fees would be but I can
tell what the Government fees would be. 322-F is
somewhere in the middle of the lines of units. To
excise 322-F out of this row of units I have to sub-
divide the whole land into 3 lots. One lot on
left of 322-F, one lot on the right of 322-F.
322-F itself one lot. 322-F has 322-G on the top
of it. So the net effect is that you have
separate lot on the left of 322-F and 322-G, one
separate lot on the right of 322-F and G and a

In the High Court

No. 11
Defendant's Evidence
D.W.1.
Evidence of How Huai Hoon Examination
11th February 1982
(cont'd)

separate lot for 322F & G. The survey fees according to Fees (Survey) Order, 1951, is for lots not exceeding 2000 sq. ft. is \$140 per lot. In a subsequent order in 1951 the fees were doubled. In 1957 the fees would be \$280 per lot. For 322-F the lot does not exceed 2000 sq. ft. The fees for 322-F and 322-G would be \$560. They do not charge for the lot on the right of 322-F & G and the lot on the left of 322-F & G.

In 1967 after I have started practice the procedure to sub-divide 322F would be the same. My costs would be about \$400 and the survey fees would be the same \$560 making a total of \$960 in all.

10

In 1978 when I carried out this sub-division, if I have to sub-divide only 322-F in the same way as I would have done in 1967 I would charge \$2500. In 1978 the Government charge for the balance lots, the lot on the right and the lot on the left. According to my estimation the cost would be \$4,000. That is in addition to my \$2500. In 1978 you required an architect who must prepare the building plans and submit to Planning Dept. I estimate the architect's fees would be \$2000. So if this kind of sub-division is carried out in 1978 the owner would have to spend \$9500.

20

Adjourned to 11 a.m. tomorrow.

Sgd. F.A. Chua.

12th February 1982

Friday, 12th February 1982

30

Suit No. 2187 of 1977 (Contd.)

Hearing resumed.

D.W.1 - o.h.f.a. s(in English):

Xd. (Contd.)

I produce the Fees (Survey) Order 1951 (Ex. D1) and the Fees (Survey Temporary *Increase) Order, 1951 (Ex. D2), The Fees (Surveys) Order 1970 (Ex. D3) the Fees (Surveys) Order, 1971 (Ex. D4), The Surveyors (Scale of Fees for Title Surveys & Payments) Rules, 1972 (Ex. D5).

40

The figures I gave yesterday were arrived by applying these orders.

Cross-Examination

Cross-examination by Mr. Smith:

(S: Ex. D 1 - Schedule Section 1).
Lots not exceeding 2,000 sq.ft. \$140 per lot.

Yes "each additional half the above rates..."
Yes the lot on the left, the lot on the right and
the lot 322-G each contiguous lot. Yes \$140 for
one lot and \$70 for the other two lots, total
\$280.

In the High
Court _____
No. 11
Defendant's
Evidence
D.W.1.
Evidence of
How Huai Hoon
Cross-
Examination
12th February
1982
(cont'd)

10 (S: Your own fees).

Yes these are personal to myself; I charge
what I wanted. I don't know what the other
surveyors charge. Yes I know that there are
some surveyors who charge less.

(S: We had a survey done of 322-F in order
to lodge a caveat).

The method of survey is different. In 1977
I would charge \$300.

20 (S: to Court: The fees we paid exactly the
same).

30 Yes 322-F is in one block. Yes there is
another identical block but that is on a different
lot. The block in which 322-F is there are 36
units 18 up, 18 down. The other block has 38 units.
Yes I did the subdivision for the two blocks. My
total bill was \$9000. Yes my clients had to pay
a Government fee and it was \$8,139; that was in
1978, April. Yes we had an architect to submit a
building plan and his fees were \$6000. There
were other additional Government fees- \$1200 for
inspection fees, \$60 processing fees, of planning
dept. Yes for all that I was able to sub-divide
74 units. Yes that works out to something like
\$300 odd a unit.

40 Yes if I had done all this subdivision in
1967 It would have cost considerably less. I
would charge at that time \$50 per unit, total
\$3600; yes the Fees Order talks of a Lot.
The Lot on which 322-F is is 2593 sq. metres;
25,000 sq. ft. 322-F alone is 115 sq. metres =
1200 sq. ft. approximately. Yes Lot is the whole
area of land. There is no scale for the survey of
322-F. The calculation of the Government fees
are done by the Government Chief Surveyor, subject
to final survey.

Yes 25,000 sq. ft. would be \$278, that is
according to Ex. D1 and D 2. Yes that is for the

In the High Court

No. 11
Defendant's
Evidence

D.W.1.
Evidence of
How Huai Hoon
Cross-
Examination

12th February
1982

(cont'd)

whole Lot. For subdivision of a unit in a lot I do not know the Government fees; normally we would send the plan to Chief Surveyor for estimation of survey fees to be paid to the Land Office.

I have been approached a few times to subdivide a unit in a whole lot. Yes I did not work out the Government fees. I referred it to the Chief Surveyor.

(S: This instant case, you sub-divided the Lot).

10

We worked out roughly the Government fees payable from our clients. Yes the Chief Surveyor also gave a rough figure. My rough figure and the Chief Surveyor's rough figure not the same. My figure \$8065 and the Chief Surveyor's \$8139.

(S: Ex. D5 1972 fees - Schedule - Vertical Subdivision - Strata Subdivision.)

Yes fees went up to \$650 per lot. Strata sub-division "For flat lots" means each individual unit.

20

Architect not required in 1967. The Govt. fees in 1967 would be the same as those in 1951. No inspection fee in 1967, no planning fee also. Inspection fee came in 1972; planning fee same time.

Re-
examination

Re-examination - Giam

(G: Lot in which 322-F is).

I gave the figure of \$278. according to D 1, according to D2 it would be \$556. I divided the whole block into 18 units downstairs and 18 units upstairs in 1967. Actually we don't know how to work out the Government fees, we got the Chief Surveyor to do that. We did not know what formula the Chief Surveyor used to work out the fees. Yesterday I worked out the figure of \$560; I did that on the assumption that 322-F and G consisted of 2 units and at \$140 per lot total \$280 based on D1, based on D2 \$560.

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To Court: Yes I considered each unit as a Lot.

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To excise 322-F out of the block without sub-dividing the rest of the unit that is the only way I could do it.

(Witness Released)

Sgd. F.A. Chua.

Giam: Case for the defendants.

Giam addresses the Court:-

10 Giam: Plaintiff's claim is for specific performance of a lease dated 23rd July 1957, to be specifically performed by defendants to have the leases granted from 1st August 1967 and 1st August 1977 in accordance with clause 3(c) of the said lease.

The facts not really in dispute. There is a lease dated 23rd July 1957 made between plaintiff and Chin Cheng Realty which has been registered. We are not disputing it contains clause 3(c). Tenant has claimed that he has given notice pursuant to clause 3(c) for renewal of the lease. From the evidence adduced and from the pleadings particularly the Defence I will categorise the whole action into 4 issues.

20 (1) Whether Clause 3(c) is a perpetual renewal clause.

(2) As defendants raised in pleadings - whether the plaintiff from the facts adduced is time barred by the Limitations Act S 6, as a result of his delay in bringing this action.

30 (3) Whether the Planning Act which came into force in 1960 has released the defendants of their obligation under Clause 3(c) of the lease and whether clause 3(c) is now enforceable against the defendants in view of the Planning Act.

(4) What is the interpretation of clause 1 of the lease with regard to the increase or decrease in the assessment and how should the rent be calculated?

40 First issue - It is quite clear that the registered owners of the land who have not the conduct of this case are not in a position to adduce evidence relating to the intention of the parties at the time of the execution of the lease; but from the agreed bundle and from evidence of P.W.1 I can make a few observations:-

(a) the 2 leases, the first lease of 4 years AB 158 which also contained a similar clause and the second lease of 10 years AB 163, were

In the High Court

No. 12
Counsels
Submissions
Giam - 11th
March 1982
(cont'd)

prepared by solicitors for the plaintiff. That was not the normal practice. It was normally the landlord's solicitors who prepare leases for tenants to sign. I don't know if their landlords and their solicitors realised the wordings of Clause 3(c).

(b) P.W. 1 mentioned there was no discussion of \$110 p.m. was to be forever. If he is right in his allegation that the landlords had agreed to allow him to stay for as long as he liked then it would also follow that the landlords had agreed to allow him to remain at rental of \$110 for as long as he liked. I suggest that is highly improbable. P.W. 1 also mentioned that the then Managing Director of defts. one Ko Teik Kin had agreed to this term and said he was a prominent businessman and would have known what he was doing and that is precisely the point I am making - that an experienced businessman like Mr. Ko, if he had realised or there had been an agreement or discussion on the rental or term of years he would not have agreed to an arrangement like that. The result of this lease containing such a clause is practically giving the plaintiff forever with a monthly payment of \$110. Again, I say that is highly improbable. We were referred to AB 14 written by the landlords' previous solicitors, which strangely enough, does not contain the perpetual clause agreement and if they had agreed with the plaintiff I submit the letter would not have been written this way. Not only no mention of perpetual lease, it is only 10 year lease with a further option of another 10 years. They were prepared to draft a lease for approval of tenant's solicitors. What actually went on between the plaintiff and the defendants' representative at that time that resulted in this lease and this clause is something I can't say. I can only submit that it could not have been the intention of the landlord to give a lease with a perpetual renewal clause and that the defendants' representative and their solicitors may have made a mistake in the drafting of this clause. It is well established by authorities that the Courts do show a reluctance in holding a clause to be a perpetual renewal clause and they do not generally encourage such clauses. They lean against it wherever possible and the rationale behind it is quite clear - it is an unfair clause.

Caerphilly Concrete Ltd. v. Owen (1972) 1
W.L.R. 372, at 375G "The question 376
377 378

I would concede that the wording in Clause 3(c)

is similar to the wording in the case I have just read. It is open to this Court to infer from the documents and the evidence as to whether it was in fact the intention of the parties at the time and if Court has to come to a conclusion that this clause is a perpetual renewal clause, the defendants say that the plaintiff is never- the less statute barred by Section 6 of the Limitation Act.

In the High Court

No. 12
Counsels
Submissions
Giam - 11th
March 1982
(cont'd)

10 Adj'd. to 2.30. Sgd. F.A. Chua.

Hearing resumed.

Giam continues:

2nd issue Section 6(1) (a) Limitation Act,
Section 6(8).

I submit that Clause 3(c) which is a perpetual renewal clause is itself a contract. An agreement contains terms of parties under hand without a seal. The whole agreement is called a contract. The agreement contains the conditions and terms of the parties under hand and seal is in law a deed. Nevertheless, a deed is a contract. This lease is a deed because it is under hand and seal. The reason why it is a deed is because it has to be registered against the land and there are provisions in the Registration of Deeds Act that say if you have to register an agreement against the land it must be by deeds. You cannot register an agreement. My point is a deed and an agreement are both contracts. I would say clause 3(c) is clearly a contract. It is an executory promise of the landlord to grant a tenancy to the plaintiff on condition that he exercises his right of renewal. The exercise of this right does not automatically extend the lease, a right arises and it is this contractual right which I say that the plaintiff is entitled to enforce and to enforce his contractual right that has arisen after he has given his notice, he has six years to do it and that is provided by Section 6(1) (a).

My learned friend mentioned about covenants. Again I say it is a question of terminology. In an agreement the terms and conditions are called terms and conditions undertaken by each party. "The landlord agrees with the tenants the following conditions .." "The tenant agrees with the landlord the following conditions." In the case of a deed the terminology is different; in case where the parties agree to the terms and conditions they are called covenants. "The

In the High Court

No. 12
Counsels
Submissions
Giam - 11th
March 1982
(cont'd)

landlord covenants" and similarly "The tenant covenants". To me whether you call it an agreement with terms and conditions or a deed with covenants, they all refer to the same thing. The difference being only of legal form. They are both contracts.

John Balman's Commentary on Land Titles Ord 1956 The Singapore Torren System 0 p. 150, S.67 provides for procedure for registration of an option under Land Titles Registration System. p. 151 "options his right". Option itself is a separate contract. That being so I submit the facts of this case and clause 3(c) must come under S. 6(1) (a) an action founded on a contract.

10

The next point as to when the cause of action accrued. My learned friend suggested it accrued from refusal. He says it must be clear and unequivocal refusal. I don't dispute that. The duty of this Court is now to find from the facts when time actually starts to run. I would say time commenced from the date of expiry of the 10-year lease AB 163 i.e. on 1st August 1967. I say this is because the plaintiff has in his evidence alleged, no reason to doubt it, that he had as early as 3rd January 1967, AB 28A, exercised his right under this clause. He was well within his contractual right. The moment he exercised his right the landlords' obligations have commenced and if they do not comply with the request they would be in breach of their obligations under the clause. The tenant would expect that this obligation would be complied with at least by 1st August 1967. The moment the landlords failed to comply with the request by 1st August 1967 the plaintiff's right of action has accrued. When you say the refusal must be clear and unequivocal I say it need not be statements that are positive as long as the plaintiff knew by 1st August 1977 that he is not going to get his renewal and as long as the surrounding facts up to 1st August show that the landlords are not going to respond I submit is clear and unequivocal refusal. To strengthen this argument further the plaintiff not only wrote AB 28A in January he wrote a further letter in April 1977 AB 288. April having received no response to his January letter it would be obvious that there would not be any response from the landlords especially so when he requested his solicitors in June AB 29 which is before the expiry of the lease, wrote to the defendants requesting again for renewal. I further submit that all these subsequent correspondence only confirms a refusal of the landlords to grant this further lease and by the time 1st August 1967 the

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10 plaintiff should have immediately taken steps to
enforce his rights which he failed to do so.
Instead he chose to enter into protracted
correspondence with the defendants and
threatening the defendants but did nothing to
enforce his rights. If Court does not follow
my argument on that and if Court thinks there
must be written refusal I would say the letter
of 22nd December 1967 written by solicitors of
the defendants to the solicitors of plaintiff,
AB 35, would have put the issue beyond doubt -
para 4 and 5. When this letter was read to the
plaintiff he had agreed that para 4 clearly sets
out the intention of the defendants not to grant
a further lease and para 5 confirms that
intention by giving him notice that he should
vacate the premises. Court is not concerned
whether they are right or wrong in taking the
stand, they may be wrong, they may have treated
20 their obligations under Clause 3(c), the right
of action of plaintiff has accrued beyond doubt at
least by 22nd December 1967 and it is now a simple
matter of calculation as to when the six years
expire. I submit whether the six years run from
1st August 1967 which I strongly contend it did
run from that time, whether it commenced from
22nd December 1967 under AB 35, a written refusal,
more than six years had passed by the time this
action was commenced. This action was filed on
30 29th July 1977.

40 The plaintiff has suggested through m.l.f.
that although no formal document was executed the
plaintiff nevertheless has a lease. If he had a
lease from 1st August 1977 I say that such a
lease is void in law. All leases more than 3 years
must be registered and in this connection I refer
to the Conveyancing & Law of Property Act (Cap
268) S. 53(1). The question is what kind of lease
did the plaintiff have, if at all he has a lease?
Is it a lease for 10 years, if it is I say it is
void. If it is not then what kind of lease is
this? Is it a lease from year to year? or month
to month? and so on. I would put the plaintiff in
the position of a tenant holding over after the
expiry of a term of years unless he enforces his
rights to get the landlord to give a lease to be
registered for 10 years, it is only a tenant
holding over.

50 What is the position of a tenant holding
over? I submit he is holding over from month to
month because he is paying rental from month to
month and the law is that although he holds over
for month or month on an expired lease he will
have to comply with all the terms and conditions

In the High
Court

No. 12
Counsels
Submissions
Giam - 11th
March 1982
(cont'd)

In the High Court
No. 12
Counsels
Submissions
Giam - 11th
March 1982
(cont'd)

of the expired lease which are not inconsistent with his monthly tenancy. In other words, the tenancy period of 10 years which is inconsistent with his monthly tenancy does not apply. But I express the view if you hold over and pay rent there is one view he is on month to month tenancy. There are also cases that the Court will hold that the holding over more than a monthly tenancy. The Courts will have to look at the facts and sometimes they do come to the conclusion that it is a yearly tenancy.

10

Syed Mohamed Alsagoff v. Max Behr (1883)
S.S.L. R. p. 637.

It is a question before the Court as to what about the tenancy the plaintiff is holding over - monthly or yearly. Syed Mohamed's case held yearly, one of the reasons is that he was running house as a hotel and the Court held because he was running a business to treat him as a monthly tenant and has to quit on a monthly notice would be unreasonable.

20

I submit that although it is still open for Court to hold to be a monthly tenancy after expiry of least at most he is a yearly tenant.

Swift v. Ambrose - (1931) T.L.R. 594; h.n.,
595 r.c. "It would be difficult once only."

"Court ought to lean against a construction which might lead to a perpetual option."

Ariff v. Bahadur (1931) T.L.R. 238; h.n.

My learned friend has asked for specific performance of a lease from 1st August 1977 which expired on 31st July 1977. The period has expired. If my learned friend is right that his client is not statute barred I submit it would be wrong to order specific performance of a lease for a period that had already expired. Specific performance is a discretionary relief exercised by the Courts and if it cannot be performed then Court should not grant specific performance for that period. My learned friend said even there is no formal lease it is being performed. I submit that the lease that has been performed is a void lease as it has not been registered and if it is a void lease his right for renewal for the next 10 years must have been contained in the void lease, not the first lease. If that is so the clause is also void, which now means that my learned friend is not entitled to enforce clause 3(c) against the defendants to grant a new lease

30

40

from 1st August 1977. The other argument is this. If Court agrees with me that you should not grant specific performance for a lease which has already expired, my learned friend's claims for a lease commencing from 1st August 1977 cannot stand because the clause for renewal would have ended with the expiry of the lease that was registered. There should be continuity.

In the High
Court

No. 12
Counsels
Submissions
Giam - 11th
March 1982
(cont'd)

10 Next point.
 Adjd. to an early date (2 days)
 Sgd. F.A. Chua.

Thursday, 11th March 1982

(Part-heard)

Suit 2187/77 (Contd.)

Hearing resumed.

Giam continues with his address:-

20 Giam: 1. It is open to Court to find if
the intention of the parties was to have a
perpetual clause.

2. The parties have been barred by the
Limitation Act from bringing this action.

3. The lease if it has been performed
is a void lease as it has not been registered
under Section 53 of the Conveyancing & Law
Property Act. The covenant for renewal of lease
is also void.

30 4. If lease is void and plaintiff has
lost his rights he is a tenant holding over as a
monthly tenant - cited cases. Another case:

Lee Ah Toke v. Chan Ah Fat (1894) S.S.L.R.
20,22 Judgment.

Court should not order specific performance
of a lease which has been performed.

40 3rd issue: The lease cannot be performed in
view of the Planning Act which came into force in
1960 - S. 9(3) Cap 279; S 9 (9) - an offence to
sub-divide the land if he does not comply with
Sec. 9. Definition of "Sub-divide" Sec. 2(1)...
Provided definition. If you grant a lease
for 10 years without proper sub-division you are
committing an offender under Section 9.

In the High
Court

No. 12
Counsels
Submissions
Giam - 11th
March 1982
(cont'd)

The lease was registered in 1957 giving the plaintiff a lease for 10 years and this was before the Planning Act came into force. By time lease expired in 1967 if the plaintiff wanted a 10 year lease the deft. could only grant it to him if he carried out proper sub-division otherwise he has committed an offence. If it is argued that the plaintiff already had his 10-year lease from 1967 - 1977 then I say that the lease is illegal by virtue of the Planning Act because no proper sub-division was obtained. The defendant has opened himself liable under S. 9 for committing the offence. And if this lease is illegal then the covenant continued in the lease purportedly performed cannot be enforced.

10

We have a situation where the parties have agreed to a 10-year lease in 1957 and in the words of the plaintiff "subdivision was never discussed". Neither party had contemplated sub-division and I submit neither knew that the Planning Act would come into force in 1960 to make subdivision necessary in this case. I submit it is not open to Court to find that the deft. should now be saddled with an additional obligation of obtaining subdivision to enable the plaintiff to remain in the premises for 10 years. It is also not open to us to speculate as to whether the deft. would have agreed to let the plaintiff have a lease for 10 years, if he had to apply for subdivision. It could be that the deft. would only agree to 3 years or 5 years but it is not for us to speculate. I submit in view of this the correct way to look at it would be that the Planning Act has now rendered this renewal clause unenforceable. To accept the other argument would mean that a party can create a lease for 10 years without subdivision and with a renewal clause, then perform it and still come to Court and obtain enforcement. This cannot be correct.

20

30

As regards illegality I have cases on JJs' point of view:-

40

In re Mahmoud & Ispalani (1921) 2 K.B. 716 h.n. 728 "It is perfectly 729 his own illegality.

St. John Shipping Comp. and Joseph Rank Ltd. (1957) 1 Q.B. 267; 283 "I am satisfied ... unenforceable.

Kiri Cotton Co. Ltd. v. Dewani (1960) A.C. 192; h.n.; 202 "Nevertheless of an action".

The lease for 10 years which is not registered

50

is void under the Conveyancing & Law Property Act and therefore unenforceable and is illegal under the Planning Act and is therefore unenforceable.

In the High Court

No. 12
Counsels
Submissions
Giam - 11th
March 1982
(cont'd)

10 Next point - my learned friend has brought to Court's attention that the lease that was registered in 1957 had an endorsement of the Registrar of Deeds - AB 163. "Registered on in the exercise" On face there is a discretion exercised under Rule 13 of the 1934 Rules. Registration of Deeds Ord (Cap 255) S 14 (1) (c) this was the Act which was in force when AB 163 was registered. There must be a proper Lot and it must be identified when you register against the Lot. Rule 13 (2) (3) Registrar would exercise his discretion in cases of leases where the building is only occupying part of the Lot or is for a lease that applies to a building which occupies part of a Lot or in cases where it is a lease relating to a portion of a building which occupies the Lot. In case if sub-rule 3 leases of 20 7 years or less; no building. In the case of land the Registrar would not exercise his discretion if lease is more than 7 years or it is prohibited completely. So that a person who wants to register a lease of more than 7 years against a part of a whole Lot he would have to apply for subdivision so that he would get a separate Lot. Relating to building Court will notice there is no time period so far as leases are concerned so that 30 anyone who wants to register a lease for more than 7 years in respect of a part of a building or a building standing as a part of a Lot can register his lease as long as he has a proper plan demarcating the portion of the building identifying the premises. In 1957 when AB 163 was presented the Registrar had exercised his discretion under Rule 13(2), no subdivision was required. Then the Ord. is now incorporated into the Registration of Deeds Act (Cap 281) which 40 contains a similar provision under S. 14(1). Rules have also been changed and new Rules in force- Registration of Deeds Rules, 1979. A similar sub-rule appears in Rule 13(1) (b) (c). I submit the position would not have changed if not for the Planning Act. To register a lease for a building which occupies a part of a Lot being a lease of more than 7 years if the Registrar exercises his discretion under Rule 13 (1) (b) and registers the document like the case of AB 163, then the 50 Registrar has approved or endorsed the committing of an offence by the parties. I say that the Registrar, in view of the Planning Act, will, under no circumstances, exercise his discretion

In the High
Court

No. 12
Counsels
Submissions
Giam - 11th
March 1982
(cont'd)

for leases of a building occupying a part of a Lot with a tenure of more than 7 years. So what is the effect now of Rule 13(1)(b)? This sub-rule is still operational, it is operational only in cases of leases for building occupying part of a Lot with a tenure of less than 7 years and this rule is necessary because Section 53 of the Conveyancing & Law Property Act says that all leases more than 3 years must be registered and since the law does not burden the lessor or lessee with subdivision for leases of 3 to 7 years, the Registrar will have to use his discretion to allow the registration of such leases. So my point is that my learned friend in his statement that the Registrar may or would exercise his discretion if such a lease is presented today without subdivision, I say the Registrar would not exercise his discretion in view of the Planning Act and this was the position also in 1967 when AB 163 expired. It is also the position in 1977 when the other 10 years had expired.

10

20

Next point - Rent.

The question is how should the rent be increased. According to my learned friend he has given us a formula whereby the plaintiff would pay all increases in property tax and the rental remains at \$110. Our contention is that rental should be increased based on the annual value. It is a simple formula of the rent calculated at 1/12th of the annual value.

30

AB 163 - clause 1, proviso "Provided however accordingly. " "Assessment" I suggest the clue lies in the word "proportionately". The Concise Oxford Dictionary, 5th Ed. "Proportion" - "equality of ratio between 2 pairs of quantities". In 1957 when the lease was granted to plaintiff the annual value was \$1320. I say the ratio of \$110 to \$1320 is 1/12th and therefore if there is any increase in the annual value it would also bring about an increase in the rental by the same ratio 1/12th. That is the meaning of "proportionately".

40

I submit therefore the plaintiff is liable to pay his rental to the defendants at all times based on 1/12th of the annual value in spite of the fact that lease expired in 1967 and all terms and conditions would still be applicable as long as they can be applied. I have submitted he had held the tenancy on month to month basis and I say that all the conditions and terms still apply to him on a month to month basis. It follows he is liable to pay for an increase in the rental based on the interpretation of clause 1 of the expired licence.

50

10 Last point - Case commenced by defts. in
the District Court. The defendants had claimed
against the plaintiff possession of the premises
after giving him notice to quit. Notice
expired 31st August 1977. Earlier in his
opening statement m.l.f. has mentioned para 6
of the Statement of Claim "Although no fresh
lease lease". My learned friend said
there was a lease which expired in 1967 and
because of para 6 there is an admission that it
was performed. My reading of this is that you
cannot say that the lease was performed. The
law is that if the tenant holds over after 31st
July 1967 he would still have to comply with the
terms and conditions of the lease, so far as it is
applicable. There is nothing wrong with the
pleadings, the facts are right. Even assuming
that my learned friend is right that the lease has
been performed, it would still be void, illegal
and unenforceable, as I have already submitted.

In the High
Court

No. 12
Counsels
Submissions
Giam - 11th
March 1982
(cont'd)

20 I therefore submit that the defendants'
action in the District Court action is correct in
law and they should be given possession of the
premises.

30 My learned friend has counter-claimed in
the District Court action for specific
performance of the lease, which is substantially
the same claim as his claim in this case. If his
claim fails in the High Court action, it
necessary follows his counterclaim must be
dismissed.

I therefore ask Court to dismiss the High
Court action of the plaintiff with costs and give
judgment for the deft. in the District Court case
for recovery of possession and dismiss the counter-
claim of the plaintiff in the District Court action.

Adjd. to 10.30 tomorrow.

Sgd. F.A. Chua.

Friday 12th March 1982

12th March
1982

40 Part-heard (Contd.)

Suit No. 2187/77:

Hearing resumed.

Giam continues:-

Rental - Proviso to Clause 1 "proportionately"

If the parties had agreed that the rental

In the High Court

No. 12
Counsels
Submissions
Giam - 12th
March 1982
(cont'd)

remains the same and that the tenant pays the increase of the assessment or decrease in the assessment, then I say it would have been stated in the proviso that rent shall remain at \$110 and all increases and decreases in the assessment shall be the responsibility of the tenant.

Again on p. 2 of the lease AB 164 the clause 3(b) Landlord to pay taxes, assessments etc. So that if as tenant states that any increase in assessment he will bear or any decrease is to his credit I would have thought that a proviso would be put into this sub-clause relating to the increase or decrease in the assessment and if the intention is that the rental is to remain at \$110 throughout then the parties would have specifically provided for that and not provided as they have done in clause 1. The proviso again says the rent shall be proportionately increased or decreased. It mentions "rent". I submit the only possible way to interpret this would be to look at it and calculated it based on annual value so that it goes up or down proportionately.

10

20

Smith

Smith Last point of my learned friend.

On the evidence I submit parties were not thinking about the rent going up to astronomical heights or to fluctuation of rents according to annual value. What they were thinking of was about the tax payable by the landlord. If landlord had to pay more tax then that additional tax would be built into the rent - additional tax borne by the tenant. If landlord has to pay less tax the tenant got the benefit of it. Hence the word "decrease". The net rent was always to remain the same.

30

The Dr. had a lease already for 4 years and that had a covenant for renewal and in fact a perpetual covenant for renewal and consequently the effect would be that the rent would remain the same ad infinitum. Even if the tax went up and it was at landlord's request that provision should be made in that one aspect - the increase in tax and the word "assessment" used in those days and now means "the tax payable" and you have to arrive at the assessment, 2 factors to be considered - the rates and the annual value and applying one to the other you arrive at the assessment, the tax payable.

40

All solicitors know what annual value means. If they meant annual value they would have said so. All know what we meant by assessment - how much do you pay.

50

You can say "tax payable" or "assessment". Only word which my learned friend can have an argument is the word "proportionately". Shorter Oxford Dictionary "proportionately", p. 1601, "Rates", 1659.

In the High Court
No. 12
Counsels
Submissions
Smith - 12th
March 1982
(cont'd)

No one anticipated in 1957 what was going to happen.

Assessment does not mean annual value.

Clause 1 drawn up by landlord's solicitors.

10 Next point - perpetual renewal lease.

Correspondence drawn by Dr's solicitors on terms. RCH Lim well-known conveyancing lawyers - they were acting for Chin Cheng which became a multi-million corporation. The wording of this clause is a clause which every conveyancer knows and every conveyancing book will tell you so. RCH Lim knew exactly what they were doing. Not much use looking at one letter as m.l.f. did; you have to look at the document.

20 27 Hals. 4th Ed. p. 280 para 360.

Next point the lease and the option in the lease. My learned friend says it is a contract - under seal or not under seal. Reason this lease is under seal nothing to do it is a contract. It is a conveyance and has to be under seal, if not void.

30 Lease - I submit it is not a contract. It creates a legal estate in the land; it is binding on all the reversionists and successors in title and successors in title can sue the reversionists - no privity of contract. Doctrine of frustration never applies to a lease; it is not liable to repudiation and acceptance as a contract is. All the covenants in the lease run with the land and all part and parcel of the land.

Total Oil v. Thompson Garages (1972) 1 Q.B. 318, h.n. 324 "The second point is ... acceptance". H 325"

40 National Carriers Ltd. v. Panalpina (Northern) Ltd. (1981) 1 All E.R. 161.

27 Hals. 4th Ed. p. 9 para 1, Note 4 para 2.

Our case lease for a term of 10 years. What is the effect when it contains a term for perpetual renewal?

In the High Court

27 Hals. p. 90 para 113 "An option to renew..... run with the land"

No. 12
Counsels
Submissions
Smith - 12th
March 1982
(cont'd)

Next point - Exercise of option, but landlord never executed the lease. What is the effect. All my learned friend's submission is incorrect. I rely on:

Gray v. Spyer (1922) 2 Ch. Div. 22 h.n. 29
"A that I have to do 30 year to year".
33 "With all respect 34 at length."

It is a perpetual lease subject to right to exercise every 10 years. 10

Next point - 10 year term. There is no agreement for a lease, as my learned friend says. What term have you got? I submit you have the full term.

Tottenham Hotspur v. Princegrave Publishers
(1974) 1 W.L.R. 113 h.n. 121B "The plaintiff's second submission

Lowther v. Heaver (1889) 41 Ch. D. 248 h.n.
264 "Then as to that a tenant holding" 20

National Carriers (1981) 1 All E.R. 178 F
"As for the significance to refer." 178
bottom "Again 179 frustration".

On the pleadings - there was a lease with covenant for renewal.

Notice of 3rd August 1977 AB 70 "tenant" not a notice terminating monthly tenancy or any tenancy.

Statement of Claim in O.S. - there is a lease in existence. Nothing about the Planning Act. Nothing about frustration; nothing about time barred. They are estopped from saying that the Dr. is not their tenant. Statement of Claim in September 1977, lease expired in July 1977. Action commenced in Sept. 1977. I submit it has been performed. 30

Years later m.l.f. comes up with these points.

We have acted all these years on a term of our lease.

AB 163 - Clause 2 - tenants" covenants - clause 2 - Landlord's covenants. 40

Amended Bundle of Pleadings p. 19 Amended Reply in 1980. para 22.

Landlord regarded the Dr. as the tenant for the whole 10 years - estoppel.

(1981) 2 W.L.R. p. 554.

Planning Act -

Only question of subdivision. Chin Cheng never raised the point. Registrar can dispense with it. It did not apply to leases of less than 7 years. Landlord did not trouble to subdivide.

In the High Court

No. 12
Counsels
Submissions
Smith - 12th
March 1982
(cont'd)

10

Frustration

Leighton Investment v. Cricklewood Property
(1943) 1 K.B. 493, 495 "The sole issuekind of lease."

Now there has been sub-division.

(Giam: That is irrelevant to my argument.)

No bar to specific performance now.

C.A.V.

Sgd. F.A. Chua.

20

Certified true copy.
Sgd.
Private Secretary to Judge,
Court No. 2.
Supreme Court, Singapore.

In the High Court

No. 13

No. 13
Judgment of
Chua J. - 3rd
August 1982

Judgment of Chua J. - 3rd
August, 1982

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 2187 of 1977

Between

HIRENDRA LAL BANNERJI Plaintiff

And

CHIN CHENG REALTY (PTE) LIMITED Defendants

JUDGMENT OF CHUA, J.

10

By a lease dated the 23rd July, 1957, made between the parties (the said lease), the defendants demised to the plaintiff all that the premises known as No. 322-F, Changi Road, situate in Singapore in a block of shop houses standing at the junction of Changi Road and Telok Kurau Road, together with the land and a room at the back thereto (the said premises), for a term of ten years from the 1st August, 1957, at a rent of \$110 p.m. subject to increase or decrease "if the assessment on the said premises shall ... be increased or decreased".

20

By clause 3(c) of the said lease the defendants covenanted "that the Landlords will on the written request of the Tenant made three calendar months before the expiration of the term hereby created and if there shall not at any time of such request be any existing breach or non-observance of any of the covenants on the part of the Tenant hereinbefore contained at the expense of the Tenant grant to him a lease of the demised premises for a further term of Ten years from the expiration of the said term at the same rent and containing the like covenants and provisos as are therein contained including the present covenant for renewal."

30

By letter dated the 3rd January, 1967, the plaintiff requested the defendants to grant to the plaintiff a further term of ten years from the expiration of the first term, namely on the 31st July, 1967, on the same terms. The defendants did not grant a further lease.

40

The plaintiff has since the expiration of the

said term remained in possession of the said premises and still remains in possession thereof.

In the High Court

10 By letter dated the 15th March, 1974, the defendants informed the plaintiff that the Comptroller of Property Tax had increased the annual value of the said premises from \$1320 to \$2880 with effect from the 11th March, 1974, and that the rent would be increased from \$110 p.m. to \$240 p.m. with effect from the 11th March, 1974, in accordance with clause 1 of the said lease.

No. 13
Judgment of
Chua J.
3rd August
1982
(cont'd)

By letter to the defendants dated the 22nd April, 1977, the plaintiff requested the defendants to grant to the plaintiff a further term of ten years from the expiration of the term, namely from 31st July, 1977. The defendants did not grant the said further term.

20 The plaintiff commenced the present proceedings on the 27th July, 1977, and now claims to have the said agreements specifically performed by the defendants and to have leases granted to him accordingly from the 1st August, 1967, and 1st August, 1977.

The defendants through their solicitors by letter dated the 3rd August, 1977, gave the plaintiff notice to quit and vacate the said premises by the 31st August, 1977.

30 The defendants on the 29th September, 1977, commenced an action in the District Court (D.C. Summons No. 4724 of 1977) against the plaintiff, claiming possession of the said premises and arrears of rent payable at \$240.00 p.m. from the 11th March, 1974, and mesne profits from the 1st September, 1977. The plaintiff counterclaimed for specific performance of the agreements and to have leases granted to him from the 1st August, 1967, and the 1st August, 1977.

40 By an order of the High Court, in Originating Summons No. 416 of 1977, dated the 23rd January, 1978, it was ordered that D.C. Summons No. 4724 of 1977 be transferred to the High Court and that it be consolidated with the present suit.

The said premises has since the commencement of the present suit been sold in 1978.

The defendants contend that the plaintiff was in breach of the said lease as he had failed to pay the increased rent of \$240 p.m. with effect from the 11th March, 1974, in accordance with clause 1 of the said lease.

In the High Court

No. 13
Judgment of
Chua J.
3rd August
1982
(cont'd)

The relevant portion of Clause 1 reads:

" - PAYING THEREFOR monthly during the said term the rent of Dollars One hundred and ten (\$110.00) PROVIDED however that if the assessment on the said premises shall at any time within the said period be increased or decreased then and in such event the said rent shall also be proportionately increased or decreased accordingly. "

The annual value of the said premises was increased from \$1,320.00 to \$2,880.00 with effect from 11th March, 1974. The defendants say that in view of the increased assessment the rental payable by the plaintiff after that date is \$240. This figure is arrived at by doing the following calculations:

$$\begin{array}{r} \$110 \times \$2880 \\ \hline \$1320 \end{array} = \$240$$

or by taking 1/12 of \$2880 = \$240
(just as \$110 is 1/12 of \$1320).

The contention of the plaintiff is that the increase in rental is proportionate not to the increase in annual value but to the increase in assessment, which is 36% of the annual value. Calculated on this basis the increase in rental payable comes to \$46.80 p.m., which together with the old rent of \$110 makes \$156.80.

According to the plaintiff's formula, the plaintiff is to pay all the increases in the property tax and the rental is to remain at \$110. I do not think that is the proper interpretation of clause 1. I am of the view that the interpretation of the defendants is the correct one - the rental should be increased based on the annual value. It is a simple formula of the rent being calculated at 1/12 of the annual value.

The evidence is clear that the plaintiff despite repeated requests has not paid or even tendered the proper rental payments in accordance with the said lease since March, 1974. In consequence thereof the plaintiff was in breach of the said lease and therefore not entitled to renewal of the same.

The next question for consideration is whether Clause 3(c) of the said lease gave the plaintiff a perpetual right of renewal.

In Caerphilly Concrete Products Ltd. v. Owen

(1972) 1 W.L.R. 372, by a lease dated the 6th May, 1963, the predecessor in title to the plaintiff landlords demised the premises to the tenant Owen for a term of five years from the 1st January, 1963, at a yearly rent of £10 payable by a single payment of £50 in advance. Clause 4(3) provided that on the written request of the tenant a lease for a further term of five years would be granted to him "at the same rent and containing the like covenants and provisos as are herein contained (including an option to renew such lease for a further term of five years at the expiration thereof)." The tenant, who had occupied the premises prior to 1963 under similar leases, by an oral agreement in 1957 sublet the premises to the Landlords on a weekly sub-tenancy at the weekly rent of 30 s. and the landlords remained in possession under the sub-tenancy until the 31st December, 1967. On the 8th February, 1968, the landlords' predecessor conveyed to the landlords the freehold of the premises. The tenant's option to renew was not registered in the Land Charges Registry pursuant to the Land Charges Act, 1925, and no request in writing for the grant of a new lease was made. On the 23rd June, 1969, the landlords issued a summons seeking a declaration that on the true construction of the lease the tenant was not entitled to a term of 2,000 years in the land demised thereby, and that in the event that had happened the tenant had no title to or interest in the land. Foster J. held that the lease was perpetually renewable and dismissed the summons. The landlords appealed. The appeal was dismissed. The Court of Appeal held that the lease was perpetually renewable since it was plain that by the words used the parties were explaining that the covenants and provisos contained in the first lease which it required the second lease to contain were to be construed as a reference to all those covenants, including an option to renew as defined by Clause 4(3).

In the High Court

No. 13
Judgment of
Chua J.
3rd August
1982
(cont'd)

Russel L.J. in the course of his judgment said (p. 374):

"The approach to the question whether a lease is perpetually renewable is not in doubt. The language used must plainly lead to that result: though the fact that an argument is capable of being sustained at some length against that result does not of course suffice. As a matter of history, when a covenant by a lessor conferred a right to renewal of the lease, the new grant to contain the same or the like covenants and

In the High
Court

No. 13
Judgment of
Chua J.
3rd August
1982
(cont'd)

provisos as were contained in the lease, the courts refused to give literal effect to that language, which if taken literally would mean that the second lease would contain the same covenant (or option) to renew, totidem verbie, and so on perpetually. The reference to the same covenants was construed as not including the option covenant itself. This limited the tenant's right to one renewal. In order therefore to make it plain that the covenants to be contained in the second lease (to be granted under the exercise of the option to renew) were to include also the covenant to renew, draftsmen were accustomed to insert phrases such as "including this covenant," so as to achieve a perpetually renewable lease. As I have indicated, if they did not do this, the second lease would not contain any option clause.

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The operation of the words of inclusion was not limited to requiring the second lease to contain a covenant to renew once more only, which would have been the outcome if the words of inclusion had been omitted in the second lease. This was because the words of inclusion could not properly be construed as requiring the second lease to contain the same covenants other than the covenant to renew but additionally to include an option to renew once more only - a total of three terms. The words of inclusion defined or explained what was meant by "the same covenants," that is to say, as including the covenant to renew. Consequently in the second lease, in order to comply with the words of definition or explanation, the covenants referred to therein to be contained in the second lease must contain the same wording including the inclusion.

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40

In the present case the brackets make it abundantly plain that the parties are explaining that "containing the like covenants and provisos" is a phrase intended to embrace an option. That is to say that the covenants and provisos contained in the first lease, which the first lease requires the second lease to contain, are not to be construed as a reference to those covenants and provisos other than an option to renew. But what covenant in the first lease (to be repeated in the second) can be regarded as such except clause 4(3)? The second lease must contain the clause 4(3) covenant. When the clause 4(3) covenant speaks of "the like

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covenants and provisos" it defines them as including an option to renew. If the words of clause 4(3) are repeated in the second lease without the words in parenthesis the second lease will not be carrying out the requirement of the first lease: it will not be granting an option for a further lease containing "the like covenants" as defined.

In the High Court

No. 13
Judgment of
Chua J.
3rd August
1982
(cont'd)

10 It was argued that if this was intended the draftsman would have used the well known phrase "(including this covenant)." It is true that he might have done so, and that on this view he may be accused of verbosity. But on the other view, the draftsman would be guilty of including the option in the like covenants when he simply meant the second lease to contain an option to renew, and further of failing adequately to define the terms and conditions for the exercise of this independent second and last option. The only reasonable construction of the language of clause 4(3) is such as to lead to a perpetually renewable lease, and accordingly in my view the appeal fails."

20

30

Sachs L.J. said in his judgment (p. 375):

30 "It is trite to say that when construing a document such as a lease it is the prime purpose of the Courts to seek to adopt a meaning that conforms to the intentions of the parties. Not even the most impeccable conveyancing logic, however neatly expressed, can convince me that in the instant case it was the mutual intention of the parties that the lease should be perpetually renewable. So far as the landlord is concerned it seems to me highly unlikely that he really intended that this particular lease could or should be "for ever". My doubts on this question of intention extend also to the tenant - for I would acquit him of any intent to lay a trap through the operation of the words enclosed in the brackets, which we know to have been added to the draft at the very last moment by his solicitors. It is difficult indeed, at any rate so far as I am concerned, to think that two business men would be talking in terms of five years if both - or indeed either - of them truly meant that a lease should be granted which went on ad infinitum.

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In the High Court

No. 13
Judgment of
Chua J.
3rd August
1982
(cont'd)

Were I in a position to give effect to the views just expressed that would result in the landlord succeeding in this appeal: but it is necessary to consider whether the authorities which were so fully and so helpfully cited to us permit such a result. An examination of the relevant decisions discloses an area of law in which the courts have manoeuvred themselves into an unhappy position."

10

He later said (p. 377):

.....
.....

"I could wish that the Courts had followed the apparent preference of Lord Fitzgerald in *Swinburne v. Milburn* (1884) 9 Apo. Cas. 844, 855 for confining interpretations of perpetual renewability to leases where words such as "for ever" or "from time to time for ever hereafter" or some equivalent were used in the relevant document. This approach would have avoided that sort of path by which good logic can on occasion make bad law, and would have been in accord with the aphorism that at times 'logic is only the art of going wrong with confidence'."

20

And he concluded:

"Having, however, examined the authorities, I feel bound in this Court to say that the matter is concluded by them in that the words in brackets, as inserted at the last moment, have in law the same effect as those considered in *Parkus v. Greenwood* (1950) Ch. 644."

30

Having regard to the authorities I too have to come to the conclusion that in the present case there is a perpetually renewable lease.

The defendants say that even if Clause 3(c) created a perpetually renewable lease the plaintiff is nevertheless statute barred by Section 6 of the Limitation Act (Cap 10).

40

Section 6 reads:-

"6(1) Save as hereinafter provided the following actions shall not be brought after the expiration of six years from the date on which the cause of action accrued,

that is to say:-

- (a) actions founded on a contract ...
- (b)
- (c)
- (d)"

In the High
Court

No. 13
Judgment of
Chua J.
3rd August
1982
(cont'd)

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The plaintiff submits that the said lease is not a contract and does not come within the provisions of Section 6. The argument of counsel for the plaintiff why a lease is not a contract is this. A lease creates a legal estate in the land; it is binding on all the reversioners and successors in title and the successors in title can sue the reversioners although there is no privity of contract. Further, the doctrine of frustration never applies to a lease; it is not liable to repudiation and acceptance as a contract is. All the covenants in a lease run with the land and all part and parcel of the land.

20

There is no substance in this submission. Originally the relationship of landlord and tenant was one of contract only but from early times the contract conferred an estate in the land without losing all its contractual characteristics. In my view the said lease comes within the provisions of Section 6(1)(a).

30

The question then arises as to when the cause of action accrued in this case. Counsel for the plaintiff submits that it accrued from unequivocal refusal to perform. The defendants do not dispute this. The plaintiff says that there is no such unequivocal refusal to perform until 3rd August, 1977, when the defendants served a notice to quit on the plaintiff asking him to deliver up possession on the 21st August, 1977.

40

It is for me to find from the facts when time actually started to turn. The plaintiff had as early as the 3rd January, 1967, six months before the expiry of the said lease exercised his right under Clause 3(c). When the plaintiff did not hear from the defendants he again wrote on the 20th April, 1967, (AB 28 B) drawing their attention to his letter of the 3rd January, 1967, requesting for a renewed lease for a further ten years. When there was no reply it was obvious to the plaintiff that there would not be any response from the defendants and he instructed his solicitors to write to the defendants on the 1st June, 1967, (AB 29) about the renewed lease. When there was no response by the 31st July, 1967, the plaintiff must have realised that the defendants were not

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In the High Court

No. 13
Judgment of
Chua J.
3rd August
1982
(cont'd)

going to comply with Clause 3(c). There was clear and unequivocal refusal to perform by the defendants. I find, therefore, that time began to run from the 1st August, 1967. The Plaintiff should have taken immediate steps to enforce his rights which he failed to do. Instead he chose to write protracted correspondence with the defendants and threatening the defendants but did nothing to enforce his rights. If there was any doubt in the mind of the plaintiff, the letter of the defendants' solicitors (AB 35) would have put the issue beyond doubt that the defendants had no intention of granting a further lease. The right of action of the plaintiff has accrued beyond doubt at least by the 22nd December, 1967. More than six years have passed from the date on which the cause of action accrued.

10

Counsel for the plaintiff submits that although no formal document was executed the plaintiff nevertheless has a lease for ten years as the plaintiff had exercised his option, and both sides had performed it and the defendants had recognised the lease right up to 1977.

20

Counsel for the defendants submits that the holding over could not create a lease of ten years as such a lease would be void by virtue of section 53(1) of the Conveyancing & Law of Property Act (Cap 268). If a valid tenancy is created it would be one of month to month because the tenant is paying a rental from month to month and at most a tenancy from year to year.

30

It is not necessary for me to decide on the point raised. The plaintiff has allowed his right to enforce the contract to become barred with the result that he can resist the defendants' claim to possession only by seeking to establish a title, the acquisition of which is forbidden by the Limitation Act. The Act disables him from contesting the defendants' right to possession.

Another defence raised by the defendants is that Clause 3(c) cannot be performed. The defendants submit that since 1960 it is an offence for the defendants to grant a lease for a term exceeding seven years without proper subdivision under the Planning Act, (Cap 279) which came into force in February, 1960.

40

Section 9(3) of the Planning Act provides:

"No person shall subdivide any land unless -

(a) he has obtained the written permission

of the competent authority, and a copy of its written permission has been forwarded by the competent authority to the Collector"

In the High Court

No. 13
Judgment of
Chua J.
3rd August
1982
(cont'd)

Section 9(9) provides:

"Any person who contravenes the provisions of subsection (1) of (3) of the section, is guilty of an offence under this Act and is liable on conviction to a fine"

10 The defendants submit that Clause 3(c) of the said lease is subdivision within the meaning of the definition "subdivide" in Section 2(1) of the Act, which reads:-

20 " -a person is said to subdivide land if, by any deed or instrument, he conveys, assigns, demises or otherwise disposes of any part of the land in such a manner that the part so disposed of becomes capable of being registered under the Registration of Deeds Act or in the case of registered land being included in a separate folio of the land register under the Land Titles Act, and "subdivision" shall be construed accordingly: Provided that a lease for a period not exceeding seven years without the option of renewal or purchase shall not be deemed to be a disposal within the meaning of this definition; "

30 The plaintiff contends that the defendants are not precluded from granting a further lease by the Planning Act. He submits that the said lease when originally granted having been capable of and having been registered under the Registration of Deeds Act was not a lease which "becomes" capable of being registered under the Registration of Deeds Act as a result of the disposal within the meaning of the Planning Act. I am unable to accept this submission.

40 The plaintiff then argues that the defendants could and should have applied for written permission for subdivision and that such written permission would have been granted if applied for.

It seems to me that it was never in the contemplation of the parties that subdivision should be applied for in respect of the said premises. The plaintiff says that the defendants are required to apply for subdivision of the said premises. That would be a fundamental change in the conditions of the said lease. I am of the

In the High
Court

No. 13
Judgment of
Chua J.
3rd August
1982
(cont'd)

view that by virtue of the Planning Act, clause 3(c) is unenforceable as against the defendants and the defendants are released from their obligations thereunder.

In the result the plaintiff's claim must be dismissed with costs. There will be judgment for the defendants in terms of their prayers in District Court Summons No. 4724 of 1977 and costs.

JUDGE

3.8.82

10

Certified true copy.
Sgd.
Private Secretary to Judge
Court No. 2
Singapor;.

No. 14

Order of Court - 3rd August 1982

In the High
Court

No. 14
Order of
Court - 3rd
August 1982

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 2187 of 1977

L.S. Between

HIRENDRA LAL BANNERJI Plaintiff

And

CHIN CHENG REALTY (PTE) LTD. Defendants

And

10 D.C. Summons No. 4724 of 1977

Between

CHIN CHENG REALTY (PTE) LTD. Plaintiffs

And

HIRENDRA LAL BANNERJI Defendant
(By Action)

And

Between

HIRENDRA LAL BANNERJI Plaintiff

And

20 CHIN CHENG REALTY (PTE) LTD. Defendants
(By Counterclaim)

(Actions and Counterclaim consolidated by
Order dated 23rd January 1978)

BEFORE THE HONOURABLE MR. JUSTICE F.A. CHUA

ORDER OF COURT

30 THIS CONSOLIDATED ACTION AND COUNTERCLAIM
coming on 3rd August 1982 for trial before this
Court in the presence of Counsel for the respective
Plaintiffs and Defendants AND UPON READING the
pleadings and the Order dated 23rd January, 1978
AND UPON HEARING the evidence and what was alleged
by Counsel for the respective Plaintiffs and
Defendants

THIS COURT DOTH ORDER :-

1. With regard to High Court Suit No. 2187/77:-
 - i) That this action be dismissed;

In the High
Court

No. 14
Order of
Court - 3rd
August 1982
(cont'd)

ii) That the Plaintiff in the action do pay to the Defendants its costs of this action to be taxed.

2. With regard to District Court Summons No. 4724 of 1977:-

- i) That the Defendant in this action do give the Plaintiff possession of the immovable property described in the Statement of Claim as No. 322-F, Changi Road, Singapore; 10
- ii) That arrears of rent at \$240.00 per month from the 11th day of March 1974 until the 31st day of August 1977 be paid by the Defendant to the Plaintiffs;
- iii) That mesne profits be paid by the Defendant to the Plaintiffs from 1st day of September 1977 until possession of the said premises is given up by him;
- iv) That the Defendant do pay the Plaintiffs its costs of this action to be taxed; 20
- v) That the Counterclaim do stand dismissed with costs to be taxed and paid by the Defendant Hirendra Lal Bannerji to the Plaintiff.

AND IT IS ORDERED that the execution be stayed for one (1) month and if within that time the said Hirendra Lal Bannerji gives notice of appeal, execution be further stayed until the determination of the appeal or as may be according to the Judge's direction. 30

Dated this 3rd day of August 1982.

Sgd. Tay Yang Kwang
ASST. REGISTRAR

RECEIVED
15 OCT 1982

No. 15

Notice of Appeal - 1st September
1982

In the Court
of Appeal

No. 15
Notice of
Appeal - 1st
September
1982

IN THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

Civil Appeal No. 52 of 1982

Between

HIRENDRA LAL BANNERJI Appellant

And

10

CHIN CHENG REALTY (PRIVATE)
LIMITED Respondents

In the Matter of Suit No. 2187 of 1977

Between

HIRENDRA LAL BANNERJI Plaintiff

And

CHIN CHENG REALTY (PRIVATE)
LIMITED Defendants

NOTICE OF APPEAL

20

TAKE NOTICE that the abovenamed Appellant/
Plaintiff being dissatisfied with the decision of
the Honourable Mr. Justice Chua given at Singapore
on the 3rd day of August 1982 appeals to the Court
of Appeal against the whole of the said decision.

Dated the 1st day of Sept. 1982.

Sgd. L.A.J. Smith
Solicitors for the Appellant/Plaintiff

To: The Registrar,
Supreme Court,
Singapore.

30

And:
Messrs. Wee Swee Teow & Co.,
Solicitors for the Respondents/Defendants.,
Singapore.

The address for service of the Appellant/
Plaintiffs is Messrs. LA.J. Smith of Suites 1508-
1509, 15th floor, Straits Trading Building, 9
Battery Road, Singapore 0104.

In the Court
of Appeal
No. 16
Petition of
Appeal - 15th
October 1982

No. 16

Petition of Appeal - 15th October
1982

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

CIVIL APPEAL NO. 52 OF 1982

BETWEEN

HIRENDRA LAL BANNERJI Appellant

AND

CHIN CHENG REALTY (PRIVATE) LIMITED Respondents

(In the Matter of Suit No. 2187 of 1977

10

BETWEEN

HIRENDRA LAL BANNERJI Plaintiff

AND

CHIN CHENG REALTY (PRIVATE) LIMITED Defendants

PETITION OF APPEAL

To: THE HONOURABLE THE JUDGES OF THE COURT OF
APPEAL

The Petition of the abovenamed Appellant/
Plaintiff showeth as follows:-

1. The Appeal arises from a claim by the Appellant for specific performance of the Lease dated 23rd July, 1957 and to have leases granted to him accordingly from 1st August 1967 and 1st August 1977 in respect of No. 322-F, Changi Road, Singapore.

20

2. The Respondents commenced an action in the District Court in D.C. Summons No. 4724 of 1977 against the Appellant claiming possession of the said premises and arrears of rent at \$240.00 per month from the 11th March, 1974 and mesne profits from the 1st September, 1977. The Appellant counterclaimed for specific performance of the agreements and to have leases granted to him from the 1st August, 1967 and the 1st August, 1977.

30

3. By an Order of the High Court, in Originating Summons No. 416 of 1977 dated the 23rd January, 1978, it was ordered that D.C. Summons No. 4724 of 1977 be transferred to the High Court and that it be consolidated with Suit No. 2187 of 1977.

4. By Judgement dated the 3rd day of August, 1982 the Learned Trial Judge made the following Orders:-

In the Court
of Appeal

No. 16
Petition of
Appeal - 15th
October 1982
(cont'd)

(1) With regard to Suit No. 2187 of 1977:-

i) That this action be dismissed;

(2) With regard to D.C. Summons No. 4724 of 1977:-

10 i) That the Appellant do give the Respondents possession of the immovable property described in the Statement of Claim as No. 322-F, Changi Road, Singapore;

ii) That arrears of rent at \$240.00 per month from the 11th day of March 1974 until the 31st day of August 1977 be paid by the Appellant to the Respondents;

20 iii) That mesne profits be paid by the Appellant to the Respondents from the 1st day of September 1977 until possession of the premises is given up by him;

iv) That the Counterclaim be dismissed.

5. Your Petitioner is dissatisfied with the said Judgment on the following grounds:-

30 (a) The Learned Trial Judge was wrong in law in ordering the Appellant to deliver up possession of the subject premises to the Respondents because (inter alia) the evidence before the Court was consistent only with the Appellant being the tenant of the said premises.

(b) The Learned Trial Judge misdirected himself in construing Clause 1 of the Lease dated 23rd July, 1957.

(c) The Learned Trial Judge erred in law in holding that the Planning Act (Cap. 279) was relevant to the facts of the case.

40 (d) The Respondents were estopped from denying that they had granted a second 10 year term to the Appellant of the subject premises.

(e) Section 6 of the Limitation Act (Cap. 10) had no application to the contract for the term sought by the Appellant commencing in 1977.

In the Court
of Appeal

No. 16
Petition of
Appeal - 15th
October 1982
(cont'd)

- (f) In any event, the Learned Trial Judge mis-directed himself as to the meaning and effect of the said Section 6.
- (g) The Respondents by their acts acknowledged their obligation to grant to the Appellant the respective terms sought by the Appellant with the result that the said Section 6 did not operate in favour of the Respondents.
- (h) On the proper construction thereof, the said Section 6 has no application to a purchaser or tenant in possession, and therefore in any event had no bearing on the present case. 10
- (i) There was no, or no sufficient, evidence before the Learned Trial Judge to warrant his finding that "the Plaintiff despite repeated requests has not paid or even tendered the proper rental payments in accordance with the said Lease since March 1974". 20
- (j) There were no grounds in law justifying an Order for possession against the Appellant.

6. Your Petitioner prays that such Judgment may be reversed or that this Honourable Court may make such other Order as it deems fit and proper.

Dated this 15th day of October, 1982.

Sgd. L.A.J. Smith
Solicitor for the Appellant

To: The Respondents and
their Solicitors,
M/s. Wee Swee Teow & Co.,
Singapore.

30

No. 17

Certificate of Security for
Costs - 1st September, 1982

In the Court
of Appeal
No. 17
Certificate
of Security
for Costs
1st September
1982

IN THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

Civil Appeal No. 52 of 1982

Between

HIRENDRA LAL BANNERJI Appellant

And

10 CHIN CHENG REALTY (PRIVATE) LIMITED Respondents

In the Matter of Suit No. 2187 of 1977

Between

HIRENDRA LAL BANNERJI Plaintiff

And

CHIN CHENG REALTY (PRIVATE) LIMITED Defendants

CERTIFICATE OF SECURITY FOR COSTS

20 This is to certify that Hirendra Lal
Bannerji, the abovenamed Appellant has deposited
the sum of Dollars Five Hundred Only (\$500.00)
by way of security for the Respondents' costs of
the appeal with the Accountant-General, Singapore.

Dated the 1st day of Sept. 1982.

Sgd.

ASSISTANT REGISTRAR

In the Court
of Appeal

No. 18

No. 18
Written
Submissions
14th March
1983

Written Submissions - 14th March
1983

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

Civil Appeal No. 52 of 1982

BETWEEN

HIRENDRA LAL BANNERJI Appellant

AND

CHIN CHENG REALTY (PRIVATE)
LIMITED Respondents 10

In the Matter of Suit No. 2187 of 1977

BETWEEN

HIRENDRA LAL BANNERJI Plaintiff

AND

CHIN CHENG REALTY (PRIVATE)
LIMITED Defendants

WRITTEN SUBMISSION

Ground of Appeal (a) - page 3 of the REcord.

I would first of all refer to the Statement
of Claim made in the District Court Summons pages 20
28 to 31 of the Record.

The claim claims mesne profits from the 1st
September, 1977 and rental up to the 31st August,
1977.

The significance of the 1st September, 1977
is that whatever view is taken of this case Dr.
Bannerji was recognised as a tenant up to the 31st
August, 1977.

That is the claim and the Notice to Quit at
page 202 specifically refers to Dr. Bannerji as a 30
tenant at a rental of \$240.00 per month and purports
to bring the tenancy to an end on the 31st August,
1977.

Counsel for the Defendants Ching Cheng Realty
argued that he was either a monthly tenant or a
yearly tenant. Hence in our submission as the
Notice to Quit was not a valid Notice to Quit to
determine a monthly tenancy no Order for possession

could have been made and the Learned Trial Judge was wrong in law in holding at page 122 end of the 2nd paragraph the act disables him from contesting the Defendants' rights to possession. This remark followed the previous reasoning "the Plaintiff has allowed his right to enforce the contract to become barred with the result that he can resist the Defendants' right to possession by seeking to establish a title the acquisition of which is forbidden by the Limitation Act."

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

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In face he was recognised as a tenant up to the 10th April, 1981 pages 261 and 262 of the Record.

20

Further after the commencement of proceedings in ejectment based on the Notice (page 202) the total sum owing up to the 16th August, 1978 was paid (landlords' interpretation) and clean rent receipts for rent were given on the 21st August, 1978 with the remark see conditions of tenancy endorsed on reverse.

Notice of Sale was given to Dr. Bannerji on the 28th August, 1978 (page 233 of the Record) informing Dr. Bannerji that all future rentals commencing from the 1st September, 1978 should be paid on due date to Moh Seng Realty (Pte) Ltd and arrears of rent for the period 11th August to the 31st August, 1978 should be paid to Prime Realty (Pte) Ltd.

30

Ground of Appeal (b)

The original Lease of 1953 is set out at pages 290 to 292 of the Record of Appeal. This Lease contained a covenant for perpetual renewal (page 291 of the Record) by including the words "including the present covenant for renewal".

40

The request had to be made three calendar months before the expiration of the term and the covenant for renewal provided for a further Lease at the same rent and containing the like covenants including a covenant for renewal.

A Notice of Renewal was duly delivered on the 18th April, 1957 (page 139 of the Record).

At page 140 the landlords wrote asking for permission to allow workmen to enter the premises to instal a water meter for the use of the tenant upstairs.

In the Court
of Appeal

No. 18

Written
Submissions
14th March
1983

(cont'd)

Dr. Bannerji's Solicitor at page 141 wrote asking if they could send a draft renewed lease for approval (22nd May 1957).

M/s. R.C.H. Lim & Co. replied at page 142 stating that their clients had lost the original agreement.

Mr. Bezboruah forwarded a copy and notified R.C.H. Lim & Co. that as the Lease was registered it could be inspected at the Registry of Deeds Office.

10

On the 4th June, 1957 they forwarded draft renewal for approval. During this time Dr. Bannerji had asked for the Lease to be made a 10 year lease instead of a 4 year Lease and the landlords agreed to this variation on condition that he would permit the City Council to enter upon the premises.

R.C.H. Lim asked for a draft Lease at page 146 and M/s Oehlers & Co. sent the Lease in duplicate.

20

The draft Lease was amended. A further conversation took place and the amendment was agreed to provided the word decreased was added to the proviso in clause 1 at page 149.

Evidence regarding the surrounding circumstances was given by Dr. Bannerji. The evidence commences half way down page 55.

Half way down page 56 what Mr. Oehlers said about it as set out at page 56 commencing eleven lines from the bottom "I went to see Mr. Oehlers". Mr. R.C.H. Lim's version and what Mr. R.C.H. Lim said is set out in the first seven lines of page 57. The relevant words are "There was a possibility that the City Council may increase the tax on the building so the landlords would want to recover the tax from you." He then gave some figures and stated "then they would increase the rent by the same amount."

30

Dr. Bannerji then referred to the newspaper which he has seen and which is set out in the Record at page 298.

40

The relevant words are again "the tax payable would be less so could I get the benefit of that."

There was an explanation as to whether the landlords would agree as it would mean "lowering

of the rent."

R.C.H. Lim said "that is only how it looks like, they will pay that much less tax and you will pay that much less rent so they have nothing to lose."

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

10 This aspect of the evidence has in fact not been taken into account or gone into by the Learned Trial Judge. In our submission it means that the rent will be increased or decreased by the same amount as the increase or decrease of the tax payable and proportionately in the clause relates directly to that portion of the rent which is the subject of an increase or decrease.

In short if proportionately has two meanings one by the same ratio i.e. if the assessment is increased by X% the rent is also increased by X% and the other a portion of the whole, the conversion fixes it as a portion of the whole.

20 The Judgment commences at page 110 and finishes at page 125.

The R.V.C. Clause is set out at page 113 middle.

30 The Learned Trial Judge accurately sets out the position at page 114 first paragraph. The first criticism with respect to the Judge's reasoning is that the clause itself refers to assessment not annual value. It was agreed that assessment means tax payable. It is only possible to justify the Learned Trial Judge's view by using the word assessment as annual value.

We submit there could be three possible meanings of the word assessment, firstly amount of tax, secondly determination of the annual value i.e. 36%, 23%, 15% etc. of the annual value, and thirdly actual annual value (Shorter Oxford Dictionary 3rd Edition page 110 in the first column on the left the 3rd word from the bottom "assessment").

40 Neither side contended it referred to the percentage (second meaning). No one has suggested that standing on its own it would refer to that i.e. the 36% or 15%. The two opposing views are set out by Mr. Justice Chua.

Nothing in the conversation of R.C.H. Lim referred to annual value.

ASSESSMENT IN LANDLORDS' COVENANTS

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

Apart from the three meanings of assessment already referred to the word assessment is referred to in the landlords' covenants (page 291 of the Record) of the 1953 Lease, clause 3(b).

"(b) to pay all rates, taxes, assessments and outgoings payable by law in respect of the demised premises other than those referred to in clause 2(c) above".

Clause 2(c) is at page 290 and refers to City Council charges for electricity, gas and water supply to the said premises.

10

The 1957 Lease introducing the rent variation clause uses the word assessment under the landlords' covenants (clause 3(b) at page 295 of the Record and is in identical terms to the 1953 Lease quoted above.

In our submission the word assessments in the landlords' covenants relates to the actual sum of money payable and not to the annual value on which the tax is based.

20

It is to be remembered that the R.V.C. was drawn by the landlords and if there are two meanings then the least favourable to the person who drew the clause namely the landlords should be placed upon the clause and should be applied.

PROBABILITIES

In our submission the probabilities are as argued by the tenant for the following reasons:-

(i) If it was intended that the rent should be 1/12th of the annual value there was no point in not using the words annual value in which case there would have been no argument.

30

(ii) The conversation with R.C.H. Lim referred to the tax payable.

(iii) The word assessment is used in the landlords' covenants as meaning the tax payable.

(iv) To an experienced lawyer like R.C.H. Lim if he meant annual value would he not use that word in clause 1 in preference to assessment when in the same document it meant tax payable.

40

(v) As the Lease already had a perpetually renewable clause and the tenant was prepared to meet the landlords if an additional burden was

placed on the landlords it is improbable that he would have agreed to a clause which would not achieve that limited object but which would result in a sliding scale of rent based on annual value when there was no necessity to have any increase of rent at all.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

(vi) Similarly the landlords would not put a proposition to a tenant which might immediately decrease the nett rent receivable.

10 (vii) The reason for prompting the amendment was the Islandwide imposition of the education rate and other taxes to be introduced which would be based on the annual value. It was suggested that the tenant should bear this additional charge.

20 (viii) They were contracting on the basis of the known factors at that time and provided for a decrease or increase in tax payable not annual value. The annual value is based on annual rent received and not vice versa. M.L.F. suggested rent was A.V. divided by 12 also Mr. Justice Chua.

Proportionately our contention is that this refers to by the same amount see page 1601 of the Oxford Shorter Dictionary. The word proportion at the bottom left hand column.

We would call attention to the following meanings:-

- (i) "a portion or part in its relation to the whole"
- 30 (ii) their relation existing between things or magnitude as to size, quantity, number etc.; comparative relation, ratio.

We submit that of the two meanings the first is more appropriate in relation to the annual tax payable.

Authorities for introducing the conversation between Dr. Bannerji and R.C.H. Lim on the meaning of the word assessment and proportionately in the proviso.

40 Extrinsic evidence when admissible: (pages 178 and 179 of Lord Davey in delivering judgment of the judicial committee in New Zealand Bank v. Simpson, 69 LJ PC at page 24 (1900) said "Extrinsic evidence is always admissible not to contradict or vary the contract but to apply it to the facts which the parties had in mind and were negotiating about". (emphasis ours).

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

Lord Davey in his judgment gave other instances in which courts have received evidence in order to give specific content to general expressions used in contract. He quoted Lord Campbell's words in *Macdonald v. Longbottom* saying "There cannot be the slightest objection to the admission of this previous conversation, which neither alters nor adds to the written contract, but merely enables us to ascertain what was the subject matter referred to therein".

10

What was there in question was the meaning of the words "your wool".

In the instant case, the "previous conversation between the tenant and the landlords' Solicitor Mr. R.C.H. Lim in 1957" corresponds to the abovementioned conversation and the purpose is to find what was meant by "assessment" and "proportionately" in the proviso. Evidence Act Section 92(f) and Section 98.

INTENTION OF THE PARTIES

20

Intention from the conversation was to bear the burden of any additional taxation. There was no intention to have a flexible sliding scale of rent in the future.

Ground of Appeal (c)

The findings of the Learned Trial Judge is at pages 122, 123 and 124.

The relevant section of the Planning Act is Section 9(3) and Section 9(9).

The Learned Trial Judge at page 124 held as follows:-

30

"It seems to me that it was never in the contemplation of the parties that subdivision should be applied for in respect of the said premises. The plaintiff says that the defendants are required to apply for subdivision of the said premises. That would be a fundamental change in the conditions of the said lease. I am of the view that by virtue of the Planning Act, clause 3 (c) is unenforceable as against the defendants and the defendants are released from their obligations thereunder".

40

Substantially he makes two points:

- (a) It was never in the contemplation of the parties that subdivision should be applied for in respect of the said premises.

(b) That would be a fundamental change in the conditions of the said lease.

In the Court
of Appeal

In effect the Learned Trial Judge held that the covenant for renewal has been frustrated by the Planning Act.

No. 18
Written
Submissions
14th March
1983
(cont'd)

Nothing in the Planning Act renders illegal a contract to subdivide land.

10 Section 9 of the Planning Act does not forbid subdivision but merely prescribes the conditions in which it can take place.

The lessor cannot be allowed to rely on his own failure to attempt to comply with Section 9(3) as excusing him from performing his contract.

The question of frustration came before the courts in National Carriers Ltd. v. Panalpina Ltd (1981) 1 AER Page 161.

20 Lord Hailsham L.C. adopted Lord Ralcliff's test "Frustration occurs whenever the law recognises that, when without default of either party a contractual obligation has become incapable of being performed because the circumstances in which performance is called for would render it a thing radically different from that which was undertaken by the contract. Non haec in foedera veni. It was not that I promised to do".

If we look at the matter in that way then it becomes more a question of degree.

30 The Planning Act provides that the landlord obtains written permission in certain circumstances and lays down in section 2(1) those circumstances.

In our submission the only relevant facts are:-

(a) Can subdivision take place in fact? There was never any suggestion that it could not and the entire property has now been subdivided as it stands.

(b) What steps had to be taken and what was the cost?

40 The cost of subdivision was dealt with at the trial.

The evidence is at page 77 and notes on page 83.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

The witness called for the defendants admitted that subdivision could have taken place in 1967 and would not have cost more than \$560.00.

Hence there was nothing standing in the way of obtaining subdivision. The landlord did not even suggest it, he did not even ask Dr. Bannerji to pay the cost.

In cross-examination the witness stated "Yes in 1967 the fees were the same as those in 1951" and there was not much difference in 1977.

10

Further see Judgment of L. Simon in National Carriers Ltd. v. Panalpina Ltd (1981) 1 AER page 161 at page 175 line G4 "Frustration of a contract takes place when there supervenes an event (without default of either party and for which the contract makes no sufficient provision) which so significantly changes the nature (not merely the expense or onerousness) of the outstanding contractual rights and/or obligations from what the parties could reasonably have contemplated at the time of its execution that it would be unjust to hold them to the literal sense of its stipulations in the circumstances; in such case the law declares both parties to be discharged from further performance".

20

The same Judge deals with the position of an agreement to grant a lease page 178 line C to G4.

"The rule can hardly depend on whether the estate or interest in land is legal or equitable: no one has so suggested; and it would constitute an even more absurd anomaly than those to which I have ventured already to refer".

30

Assuming the doctrine of frustration applies the requirement for its application are not present.

CONTEMPLATION OF THE PARTIES

Subdivision was always an essential but the Registrar could dispense with subdivision as happened in this case in 1953 and 1957.

40

The 1979 rules which we referred to also give the Registrar power to dispense with subdivision.

Apart from these considerations we submit that on a consideration of the Act itself subdivision was not in fact necessary.

10 It is to be noted that the part so disposed of has to "become capable of being registered as a result of the disposal". If therefore prior to the disposal the part in question was already capable of being registered the disposal in question does not constitute a subdivision for the purposes of Section 9 of the Planning Act. In this case the 1957 Lease was in fact registered. There is no dispute on this. In our submission therefore the grant of a further 10 year Lease from the 31st July 1967 and the grant of subsequent 10 year Leases as claimed by the Plaintiff would not constitute subdivision for the purposes of Sections 2 and 9 of the Planning Act.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

20 If this is incorrect then the further submission is to the effect that the true effect of the agreement to create a perpetually renewable Lease is to create a succession of reversionary terms each 10 years certain provided the requisite notice was given before the expiration of each succeeding term. The authority for this proposition is Gray v. Spyer (1922) 2 Ch page 22.

30 LJ Warrington page 33 said "With all respect I cannot agree with this view. Having regard to the relative position of the parties at the time, I am of opinion that the true effect of the agreement was to extend the option, at its date limited to one year, to a succession of years, limited of course by the length of the landlords own interest in the premises but otherwise undefined and it purported therefore to create a succession of reversionary terms, each for one year certain, provided the requisite notice was given prior to the expiration of each of those terms. If the tenant failed to give the notice exercising his option, the tenancy would, in my opinion, determine at the expiration of the then current year, notwithstanding the failure of the tenant to give the two months' notice of his intention to leave the premises, and the landlords' rights in consequence of his breach of the stipulation in this behalf would be to claim damage only".

40 The next paragraph deals with the effect of the Statute of Frauds and specifically includes the agreement within that Statute because on the construction it is an agreement for a term exceeding three years and consequently would be void at law.

50 This particular point is dealt with in the next paragraph where it is argued commencing with the words "but though void at law the agreement in

Inthe Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

question would in equity be held to operate as an agreement for a Lease, and as such create an equitable tenancy on the terms expressed in the agreement provided and this is an essential condition that it be found to be an agreement of which a Court of Equity would decree specific performance".

Reference is then made to the decision in Manchester Brewery Co. & Coombs (1901) 2 Ch 608 and Walsh v. Lonsdale 21 Ch. D,9.

10

It is our submission that this is a perpetually renewable Lease for a term of years of indefinite duration subject only to the Lessee exercising his option once in every 10 years and that consequently since the Lease was originally registered in 1957 the Planning Act as such has no effect on the subsequent renewals.

In our submission the cost of subdivision was negligible. Whether the parties contemplated it or not as is always the case with frustration and extra cost even if there were any to the landlords would not have frustrated the renewal of the Lease. The landlords did not even ask the tenant to pay the costs.

20

The previous owners had even offered a replacement lease which would have involved subdivision.

Page 176 of the Record letter from Chin Cheng Realty to Dr. Bannerji on the 12th November, 1970.

30

GROUNDS OF APPEAL (d), (f), (g) AND (h) -
 ESTOPPEL, ACKNOWLEDGEMENT, STATUTE OF LIMITATIONS
 AND TENANT IN POSSESSION

Assuming time ran from the 1st August, 1967 we submit that in any event the landlords are estopped from denying that they in fact renewed the Lease by virtue of the fact inter alia that in March 1974 by letter dated 15th March, 1974 (page 181 of the Record) the Landlords specifically purported to increase the rent under clause 1 of the Lease dated 23rd July, 1957.

40

Clause 1 of the Lease provided that "if the assessment on the said premises shall at any time within the said period be increased or decreased then and in such event the said rent shall also be proportionately increased or decreased accordingly" (underlining ours).

The term "within the said period" in the context of the letter of the 15th March, 1974 referred to the period 1967 to 1977.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

In our submission the lessors cannot claim an increase in 1974 without at the same time accepting that the Lease has in equity been renewed for a further term of 10 years from the 1st August, 1967.

10 Put differently, if there was no renewal in 1967 but merely a holding over by the tenant, the lessors could not claim an uplift in the rent because the assessment would not have been increased "within the said period".

Whatever view one takes of the correct amount of the rent Dr. Bannerji acted on the fact and sent the rent as he considered due under the Lease and subsequently.

20 Prior to this letter, in 1973 the lessors' Solicitors having purported to treat Dr. Bannerji as a monthly tenant after our letter (page 180 of the Record) of February 19, 1973 continued to accept Dr. Bannerji as a lessee under the Lease and continued to accept the rent as previously paid.

Further throughout the lessors have specifically recognised the Lease as still being in existence from the following acts of the lessors.

- 30 (a) The lessors' continued acceptance of rent after our reply on February 19, 1973 and Dr. Bannerji's reply of the 1st February, 1973 to the letter and Notice to Quit by Chan Goh & David See dated 26th January, 1973 (pages 177, 178, 179 and 180 of the Record).
- (b) The lessors' letter dated 15th March, 1974 claiming an increase of rent under the Lease clause 1 (page 181 of the Record).
- 40 (c) Letter from Chan Goh & David See dated 4th April, 1974 (page 184 of the Record) "We are looking into the question of increase of rental and would revert to you in due course.

In the meantime we are holding your client's cheque for the said sum of \$31.70."

- (d) Letter dated 1st July, 1977 (page 191 of the Record) from Allen Yau reaffirming the claim under the Lease.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

- (e) Letter dated 7th July, 1977 from Allen Yau also claiming under the Lease and returning the cheques.
- (f) Letter dated 22nd July, 1977 (page 199 of the Record).
- (g) Notice to Quit dated 3rd August, 1977.
- (h) Paragraph 10 of District Court Summons "Rent is now more than 21 days in arrear..... who is therefore in breach of the terms of the said Lease" (page 30 of the Record). 10
- (i) Paragraph 11 "The Plaintiffs accordingly caused to be served on the Defendant a Notice duly determining the said Lease from the 1st September, 1977".
- (j) Paragraphs 5 and 6 (page 29 of the Record) recognising the Defendant's entitlement to a renewal of the Lease and holding under a Lease in equity.
- (k) Paragraph 4 "Further under the proviso (b) to clause 3 of the said Lease the Plaintiffs are entitled to re-enter in case the rent should be more than 21 days in arrear after demand in writing has been made". 20

AUTHORITIES

Lord Denning in Wallis's Cayton Bay Holiday Camp Ltd. v. Shell-Mex and B.P. Ltd. (1975) 1 Q.B. page 94 at page 104 specifically in relation to the Statute of Limitations see line A6 "Even if they were in possession for 12 years, a court of equity would not allow them to enforce their strict rights under the Limitation Act 1939. 30
There is a broad principle of equity dating back for at least 100 years that where a person, by his words or conduct, leads another to believe that his strict rights at law will not be enforced and the other acts on it, the person who otherwise might have enforced those rights will not be allowed to enforce them where it would be inequitable having regard to the dealings which have taken place between the parties: see 40
Hughes v. Metropolitan Railway Co. (1877) 2 Appeal Cases 439, 448, per Lord Cairns L.C. line C6 "I saw no reason why it should not be applied so as to preclude a squatter from enforcing his strict rights under the Limitation Act 1939. By not replying to the letters Wallis's were plainly doing wrong".

10 If we apply those principles to this case the landlord did not reply to the letter (page 180 of the Record) stating Dr. Bannerji is holding under the Lease which will expire in 1977 and the lessors by their silence and their letter of the 15th March, 1974 accepted this position (page 181 of the Record) and the landlords' Solicitors specifically accepted that there was in existence a Lease as late as 3rd August, 1977 when they purported to determine it for non-payment of rent and claimed possession on their right to forfeit the Lease.

In the Court
of Appeal
No. 18
Written
Submissions
14th March
1983
(cont'd)

20 Reference is also made to Amalgamated Property Co. v. Texas Bank (C.A.) 1981 W.L.R. page 565 at page 575 line F "When the parties to a transaction proceed on the basis of an underlying assumption - either of fact or of law - whether due to misrepresentation or mistake makes no difference - on which they have conducted the dealings between them- neither of them will be allowed to go back on that assumption when it would be unfair or unjust to allow him to do so.

If one of them does seek to go back on it, the courts will give the other such remedy as the equity of the case demands".

30 Also see page 579 line A5 commencing "When the parties have acted in their transaction upon the agreed assumption that a given state of facts is to be accepted between them as true, then as regards that transaction each will be estopped against the other from questioning the truth of the statement of facts so assumed".

Also see page 583 Brandon LJ line F "When the parties have acted in their transaction upon the agreed assumption that a given state of facts is to be accepted between them as true, then as regards that transaction each will be estopped as against the other from questioning the truth of the statement of facts so assumed".

40 But for the continued acceptance of rent after our letter of February 19, 1973 (page 180 of the Record) Dr. Bannerji would certainly have sued sooner. The imputation from the silence was that they accepted the position and this is proved by the letter of the 15th March, 1974 (page 181 of the Record) and all the subsequent correspondence and acts to which I have referred.

RENT ACCEPTED UNDER THE LEASE AFTER PROCEEDINGS COMMENCED

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

Even on the 21st August, 1978 Chin Cheng Realty (Pte) Ltd accepted the full rent on their construction of clause 1 of the Lease (see page 230 of the Record).

The rent was for the period 11th March, 1974 - 10th July, 1978 namely \$12,480.00 and 21st July, 1978 - 10th August, 1978.

This was not mesne profits but rent and rent under the Lease.

This recognises the existence of a Lease.

10

On the 28th August, 1978 (page 233 of the Record) Notice was given by the new landlords stating that all future rentals should be paid promptly on due dates to David See & Co. as Solicitors for Moh Seng Realty (Pte) Ltd. and that arrears of rent from the 11th August to the 31st August should be paid to the same firm as Solicitors for Prime Realty.

In pursuance of the demand rent was paid to David See & Co. on the 1st September, 1978 (page 233 of the Record) also rent for October. Rent continued to be paid and on the 7th February, 1979 it was said that the rent was accepted without prejudice to the action for recovery of possession.

20

PERPETUALLY RENEWABLE LEASE - THE STATUTE CANNOT APPLY

Reference is made to Gray v. Spyer (1922) 2 Ch page 22. This was an action for a declaration on the meaning of a term in a Lease.

30

I would refer to the Judgement of Warrington L.J. page 33 commencing with the words "With all respect I cannot agree with this view".

The operative words are in dealing with the tenancy from year to year with a covenant to renew including a covenant to renew set out commencing "I am of opinion that the true effect of the agreement was to extend the option, as its date limited to one year, to a succession of years, limited of course by the length of the landlord's own interest in the premises, but otherwise undefined, and it purported therefore to create a succession of reversionary terms, each for one year certain, provided the requisite notice was given prior to the expiration of each of those terms".

40

See also page 39 Scrutton L.J. "But the continuation depends, not on a grant, but on an agreement to grant if the tenant so requires".

If this is the correct interpretation to be placed on a perpetually renewable lease then the Statute of Limitations cannot apply at all.

This position is referred to in Halsbury Laws of England 4th Edition Vol 27 para 177 page 132 line 10.

10 "A perpetual right of renewal is repugnant to a tenancy from year to year, but, where the tenant was given the right to renew by notice, the tenancy operated as a contract to create a succession of reversionary terms, each for one year certain, provided that the requisite notice was given".

This position was taken and accepted in Northchurch Estates Ltd v. Daniels (1947) Ch.117.

20 It was there stated that that being the position a problem arose by reason of the terms of section 149(3) of the Law of Property Act 1925 which states: "A term limited after the commencement of this Act to take effect more than 21 years from the date of the instrument purporting to create it, shall be void, and any contract made after such commencement to create such a term shall likewise be void".

30 There is no corresponding section to 149(3) of the Act of 1925 nor is there any corresponding section to the Act of 1922 Schedule 15.

Both Acts came into force in the United Kingdom on the same day. Schedule 15 of the Act of 1922 converted these leases into leases for 2000 years.

Counsel for the landlords endeavoured to draw distinctions between different clauses in perpetually renewable leases.

40 However, the argument was rejected line H1 page 528. The argument which prevailed was that the lease did not come within section 149 but was covered by Schedule 15 to the Act of 1922.

TENANT IN POSSESSION

In our submission time does not run where the tenant was in possession.

Please see Williams v. Greatrex (1956) 3AER.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

In the Court
of Appeal

No. 18

Written
Submissions
14th March
1983
(cont'd)

I would also refer to Warren v. Murray (1894)
2 Q.B. page 648 at page 651 in the Judgment of
Lord Esher, M.R.

"I think the result of the judgment in
Drummond v. Sant (3) is that, in considering the
effect of the Statute of Limitations as applied
to a case such as this, the Court must consider
what are the actual legal rights of the parties,
meaning thereby their equitable as well as their
common law rights; and, therefore, if the parties,
against whom the Statute of Limitations is
vouched, were according to law, including equity
as well as common law, unable to recover the land
in question, the Statute of Limitations would not
apply".

10

Also see page 653 commencing 10 lines down
"Again, the tenants, in whose case there might be
more reason for insisting on the execution of a
lease, would have had a right to call upon the
trustees to grant a lease. That appears to me
to be a test by which to determine the real
question, which is, whether by the law as applied
to the agreement of 1790 the trustees could at
any time before the end of the period of ninety-
nine year have entered upon the premises in question
and dispossessed the tenants. It seems to me
clear that they could not according to law,
including in that term equity, and therefore no
part of the Statute of Limitations applies to the
case".

20

30

The facts appear on the head note at page
648 "Under an agreement by the owners of land to
grant leases of houses, when erected on such land
by the intended lessees, the latter became entitled
to a lease of two of such houses at a peppercorn
rent for a term of years. No lease of these
houses was ever granted, but the intended lessees
and their successors in title continued in
possession during the term of years under such
circumstances that a Court of Equity, if applied
to, would have decreed specific performance of the
agreement for a lease".

40

The actual decision was that a tenant at
will as they would have been at common law held
for a period of 99 years in equity and the owners
could not have dispossessed them in equity consequently
could not have re-entered and so time could not
have run.

A recent application of the same idea in
Tottenham Hotspur v. Princegrove Publishers
(Q.B.D.) (1974) 1 W.L.R. In that case the tenant

50

attempted to argue that his argument for a one year lease did not result in an actual lease because no lease had been executed. Please see the Judgment of Lawson J. at page 121 line B to line H.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

In the instant case therefore once the right to renew had been exercised and Dr. Bannerji remained in possession he held for the full term as if a lease had been executed.

10 IS A COVENANT IN A LEASE REFERRED TO IN THE
LIMITATION ACT OF SINGAPORE?

In English law it is not usual to use the word contract in a sense which includes a lease of land.

A lease unlike a contract conveys an interest in land. The word lease "is used in the Act eg. Section 13" apparently as something different from a contract.

20 A right of action to recover land by virtue of a forfeiture of a lease or a breach of condition would if a lease were to be treated as a contract be an action founded on a contract for the purpose of Section 6(1).

By virtue of Section 9 of the Act the period of limitation in respect of an action to recover land is 12 years even though Section 14 recognises that this could be based upon a forfeiture.

30 The Federal Court of Civil Appeal in Nasri v. Mesah (1971) 1 MLJ page 32 held that an action for specific performance of an agreement for the sale of land or for a declaration of title to land was essentially an action to recover land and the period of limitation would be 12 years.

He further held that the cause of action of a contract accrues on the date of breach.

Section 6 of the Singapore Act contemplates time running from a breach of contract.

1977 LEASE

40 The Notice of Renewal as at page 190 of the Record.

At that time Dr. Bannerji was tendering the rent according to his interpretation. The landlords had been accepting the cheques and had kept them.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

The last letter from the landlord was on the 4th April, 1974 page 184 when the Solicitors said that "We are looking into the question of increase of rental and would revert to you in due course.

In the meantime we are holding your client's cheque for the said sum of \$31.70".

In our submission in 1977 Dr. Bannerji's right to renew was unaffected and therefore the Lease commencing on the 1st August 1977 was also unaffected by the Statute of Limitations in any event.

10

The Solicitors purported to re-enter by a Notice dated 3rd August, 1977 thereby recognising that Dr. Bannerji had a Lease.

I would refer to paragraph 11 of District Court summons No. 4724 of 1977 commencing (page 30 of the Record) "The Plaintiffs accordingly caused to be served on the Defendant a Notice duly determining the said Lease and requiring him to quit and vacate the said premises by the 31st August, 1977". This can only refer to the Lease commencing the 1st August, 1977.

20

If there was no such Lease which would be at an end by expiration of time no notice determining the Lease would be necessary.

Whether rent was paid or not all they had to do on the 1st August, 1977 was to sue for ejection the Lease having expired.

Paragraph 25 of the Defence specifically avers the exercise of the option of clause 3(c) (page 37 of the Record).

30

The counterclaim is at page 39 of the Record.

No defence has been filed in relation to this counterclaim and the Statute of Limitations has not been pleaded to it.

The Statute of Limitations was not pleaded in relation to the 1977 Lease in Suit No. 2187 of 1977. Please see paragraph 10 (page 11 of the Record) amended pursuant to an Order of the 14th March, 1980 on the 28th day of March, 1980.

40

GROUND OF APPEAL (i)

It was pleaded in the Defence to the High Court Suit No. 2187 of 1977 paragraph 5 that despite repeated requests the Plaintiff has not

duly paid and or tendered the proper rental payments in accordance with the said Lease since March 1974. In consequence thereof the Plaintiff was in breach of the said Lease and therefore not entitled to renewal of the same. Particulars of the so called repeated requests were asked for.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

10 They are set out at page 14 of the Record. In all four letters are referred to, one is the 15th March, 1974, the others were the 1st July, 1977, 7th July, 1977 and 22nd July, 1977 all to Dr. Bannerji personally.

Hence between the 15th March, 1974 and the 1st July, 1977 no request was made at all.

In the reply the facts in relation to this matter are set out (pages 15 and 16 of the Record).

20 Paragraph 4 page 16 refers to the letter dated 4th April, 1977 in which M/s. Chan Goh & David See stated they were looking into the question raised by Dr. Bannerji's Solicitor's letter, would revert and were holding the cheque for \$31.70 tendered. At no time during that period was there any suggestion that the rent was not as stated by Dr. Bannerji nor did the Solicitors revert. Cheques were forwarded monthly and were retained.

30 Chan Goh & David See's letter of the 4th April, 1974 is at page 184 of the Record. The further alleged requests are at pages 191, 194 and 199.

It is to be noticed the first (page 191) was some 2½ months after the Notice of Renewal was given on the 22nd April, 1977 and that the Solicitors M/s. Allen Yau had previous correspondence commencing on the 3rd April, 1976 page 185 of the Record and ending on the 21st May, 1976 page 189 and had not suggested that the rent was otherwise than as was being tendered.

40 On the 9th April, 1976 uncashed cheques (tendered by Dr. Bannerji) were returned as a result of Dr. Bannerji's suggestion to issue a fresh cheque in lieu thereof for 322-F if they wanted it.

On the 20th April, 1976 a further cheque for \$3,951.70 being the accumulated rent was tendered and on the 21st May, 1976 this cheque was returned with the remark "being rent tendered in respect of the premises 322F Changi Road,

In the Court
of Appeal

No. 18

Written
Submissions
14th March
1983
(cont'd)

Singapore. "No suggestion was made that the rent was the incorrect rent and cheques continued to be sent and retained.

Subsequently on the 7th July, 1977 actually six days after the letter of the 1st July, 1977 and Dr. Bannerji's prompt answer on the 4th July, 1977 the uncashed cheques from 2.6.76 up to 2.7.77 were returned at pages 194 and 195 with the remark that on the 21st May, 1976 two cheques were returned to Dr. Bannerji's solicitor being purported tender of rent. Dr. Bannerji forwarded a cheque for \$9,366.00 being arrears and another for \$240.00 as asked for in the letter. Hence rent was actually paid.

10

By letter dated 19th July 1977 page 197 these cheques were retained but were again returned on the 22nd July, 1977 stating that if they were not paid without any pre-conditions the landlords would be compelled to determine the tenancy.

There were no pre-conditions as such Dr. Bannerji was merely safeguarding his position on an uncertain clause.

20

Paragraph 10 of the District Court Summons being summons in which the order for possession was made claimed that the Defendant refused or was unwilling to make payment of the rent of \$240.00 as from the 15th March, 1974 stating that this was notwithstanding the several demands made by the Plaintiffs and further stated that to date which was 29th September, 1977 the rent had not been paid and claiming therefore that he was in breach of the terms of the Lease.

30

On the day when the renewal notice was given on the 22nd April, 1977 the actual rent payable was still undetermined though the landlords had received all the cheques and Dr. Bannerji had even issued a lump sum cheque which they had received. That cheque was delivered on the 20th April, 1976. Even that lump sum cheque along with a cheque for \$56.80 was not returned until the 21st May, 1976.

40

The Learned Trial Judge in dealing with this point at page 114 states "The evidence is clear that the Plaintiff despite repeated requests has not paid or even tendered the proper rental payments in accordance with the said Lease since March 1974. In consequence thereof the Plaintiff was in breach of the said Lease and therefore not entitled to renewal of the same".

No point was taken on the pleadings that the

lessee had failed to comply with the conditions precedent at the date of the exercise of his option to renew.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

No point was taken in argument by Counsel for the lessor that the lessee was not entitled to renew for non-payment.

The point was raised as pleaded by the previous solicitor but was not dealt with by Counsel for the lessor at the trial.

10 The Learned Trial Judge in using the phrase despite repeated requests was not dealing with a question of a condition precedent but the position which arose as a result of the demand of the 1st July, 7th July and 22nd July, 1977 (pages 191, 194, 195 and 199 of the Record).

This must be so from the use of the phrase repeated.

20 In our submission on the facts rent was paid (landlords' version on the 13th July, 1977) and that the words under protest and subject to recovery cannot alter the fact of payment.

If there was any question of a condition precedent which was not raised on the pleadings and which was not argued then in our submission the letter from Chan Goh & David See of the 4th April, 1974 at page 184 of the Record and the subsequent events held determination of the rent in abeyance.

30 I would refer to Hughes v. Metropolitan Railway Co. (1877) 2 Appeal Cases at page 448, Charles Rickards v. Oppenham (1950) 1 K.B. and the Canadian case of Mclaughlin v. Bodnarchuk 8 DLR page 596 at page 603 in which the above-mentioned cases and Birmingham and District Land Co. v. North Western Railway Co. (1888) 40 Ch Div. page 268 are referred to.

40 If we apply those principles to the present case it is clear that whether the rent has been determined to be as Dr. Bannerji said or as the landlords said it is the landlords who took the steps by their Solicitors' letter of the 4th April, 1974 which resulted in no determination of the matter by the landlords until the 1st July, 1977. It is clear enough that Dr. Bannerji had been led to believe that the strict rights arising under the contract will not be enforced or will be kept in suspense or held in abeyance and it would be inequitable having regard to the dealing which

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

actually took place to allow the landlords at this stage to allege that at the time of the exercise of the renewal he had not paid the stipulated rent.

THE LEASE HAS BEEN FULLY PERFORMED

Apart from all other considerations there can be no question of the Plaintiff resisting an action for specific performance the sole object of which is to compel the Defendant to sign the Lease which has been forwarded to them especially in view of the Planning Act having ceased to be any bar the particular estate having been subdivided.

10

Although Manchester Brewery Co. v. Coombs (1901) 2 Ch. page 608 is concerned with the case the opposite way round we would submit inter alia that Mr. J. Farwell's statement at page 616 is in point "There is, moreover, another point which is fatal to the defendant. The defendant holds under an agreement for a lease from Broadbents, Limited, under which he has been in possession and paid rent for several years. The whole contract has been performed up to the present time, except that the legal estate has not been actually demised. The defendant would have no defence to an action for specific performance, the sole object of which would be to compel him to accept the legal estate. If Broadbents, Limited, had not parted with the legal estate, I see no reason why they should not now execute the deed in order to complete the transaction. The present plaintiffs are the assigns of the benefit of the agreement both by implication from the conveyance of the land subject to the lease, and by the express words of clause 26 of the agreement of March 29, 1899. The plaintiffs could, therefore, obtain specific performance in this Court of the contract so far as it is incomplete".

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COMMENTS ON ARIFF v. RAI JADUNATH MAJUMDAR BAHADUR

Ariff v. Rai Jadunath Majumdar Bahadur (1931)
T.L.R. Vol xlvii page 238.

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This case deals with a completely different set of facts. However, we would refer to the following at page 240 right hand column commencing with the words "In 1913 the respondent obtained an oral agreement for the grant of a perpetual lease, under which agreement he could have sued for and obtained and registered an instrument creating his title to enjoy the property in perpetuity. That agreement continued to be enforceable against the appellant until the month of December, 1921".

50

In the instant case we are not concerned with an agreement to grant a perpetually renewable lease but a properly executed and registered perpetually renewable lease.

In the Court
of Appeal

No. 18
Written
Submissions
14th March
1983
(cont'd)

10 We would refer also to page 241 right hand column paragraph starting "Reference is made by the learned Judge to the case of Forbes v. Ralli (52 I.A., 178) before this Board, but that decision was based upon an estoppel grounded upon a statement of fact. It was a case in which the Plaintiff in ejectment was held estopped under Section 115 of the Indian Evidence Act, 1872, from denying that a certain registered written agreement was an agreement for a permanent tenancy. It is obviously no authority to assist the respondent here".

20 We are relying in the instant case on an estoppel (Section 115 of the Singapore Evidence Act) which is identical to Section 115 of the Indian Evidence Act, 1872. The authority does not preclude estoppel.

Paragraph 3 in the left hand column page 241.

The contract was said to create when in writing an interest which the statute said can be created only by means of a registered instrument.

In our case the perpetually renewable lease creates an estate which can be and is registered.

GROUND OF APPEAL (j)

30 If in August 1977 the Appellant was a monthly tenant the Notice to Quit was void. The words and are "as tenant thereof at a rental of \$240.00 per month" and was given on the 3rd August and received on the 4th and expired on the 31st.

If this is a notice forfeiting a Lease rent was paid on the 13th July.

40 If the payment on the 13th July is not in law a payment because it was made under protest and subject to recovery it is a case in which relief from forfeiture should have been given as asked for Section 18 C.L.P.A. Cap 268.

Rent was accepted after commencement of proceedings for period after expiration of Notice. Gray v. Spyer Lord Sterndale M.R. and L.J. Scrutton pages 30 and 37 and Dendy v. Nicholl 140 E.R. page 1130 at page 1134 line 21 commencing "There is also a strong expression of opinion to the same effect....".

Dated this 14th day of March, 1983.

Sgd. L.A.J. Smith - Solicitor for the Appellant

In the Court
of Appeal

No. 19
Final Order
18th April
1983

No. 19

Final Order - 18th April 1983

Received on the 3.5.83 at
10 a.m.

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

Consolidated pursuant to Order dated 23rd January
1978.

CIVIL APPEAL NO. 52 OF 1982

Between

HIRENDRA LAL BANNERJI

Appellant

10

And

CHIN CHENG REALTY (PRIVATE)
LIMITED

Respondents

In the Matter of Suit No. 2187 of 1977.

Between

HIRENDRA LAL BANNERJI

Plaintiff

And

CHIN CHENG REALTY (PRIVATE)
LIMITED

Respondents

L.S.

D.C. Summons No. 4724 of 1977.

20

Between

CHIN CHENG REALTY (PRIVATE)
LIMITED

Plaintiffs

And

HIRENDRA LAL BANNERJI

Defendant

CORAM: THE HONOURABLE THE CHIEF JUSTICE
MR. JUSTICE WEE CHONG JIN
THE HONOURABLE MR. JUSTICE T.S.SINNATHURAY
THE HONOURABLE MR. JUSTICE A.P. RAJAH

30

FINAL ORDER

The 18th day of April 1983

IN OPEN COURT

THIS APPEAL coming on for hearing on the 14th,
15th and 16th days of March 1983 AND UPON READING
the Record of Appeal AND UPON HEARING Counsel for
the Appellant and for the Respondents THIS COURT

DID ORDER that the said appeal should stand for Judgment AND the said appeal standing this day for Judgment in the presence of Counsel for the Appellant and for the Respondents THIS COURT DOETH ORDER that:-

In the Court
of Appeal

No. 19
Final Order
18th April
1983
(cont'd)

1. This Appeal be allowed.
2. The order of the Honourable Mr. Justice Chua dated the 3rd day of August 1982 be and is hereby set aside.
- 10 3. The Respondents' claim for possession of the demised premises arrears of rent and mesne profits be and is hereby dismissed.
4. The Respondents do execute a lease under seal in favour of the Appellant in respect of No. 322-F, Changi Road, Singapore, for a term of 10 years from the 1st day of August 1977 to the 31st day of July 1987 on the same terms and conditions as in the 1957 lease.
- 20 5. The Respondents do pay the Appellant his costs in the Court of Appeal and in the Court below to be taxed.
6. The sum of \$500.00 paid into Court by way of security for the costs be paid out to the Appellant or his Solicitor Messrs. L.A.J. Smith.
7. The parties be at liberty to apply.

GIVEN under my hand and seal of the Court
this 28th day of April 1983.

Sgd. Lim Joo Toon
ASSISTANT REGISTRAR

In the Court
of Appeal

No. 20
Judgment
15th April
1983

No. 20

Judgment - 15th April 1983

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

Civil Appeal No. 52 of 1982

Between

HIRENDRA LAL BANNERJI

Appellant

And

CHIN CHENG REALTY (PTE) LTD.

Respondents

Coram: Wee C.J.

Sinnathuray J.

A.P. Rajah J.

10

JUDGMENT

By a Deed dated the 30th July 1953 (the 1953 Lease) Chin Cheng Realty (Pte) Ltd. (the Respondents), the owners of premises known as 322-F Changi Road demised to one Hirendra Lal Bannerji (the Appellant), a medical practitioner, the said premises for a term of four years from the 1st day of August 1953 paying therefor monthly in advance during the said term the rent of \$110.00, (Clause 1). Under the 1953 Lease the Respondents, inter alia, covenanted with the Appellant:-

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(1) "To pay all rates taxes assessment (underlining ours) and outgoings payable in law in respect of the demised premises other than all City Council charges for electricity, gas and water supplied to the demised premises." (Clause 3(b)). Assessment was levied under section 59 of the Municipal Ordinance (Cap. 133 of the 1936 Revised Edition of the Laws).

30

(2) "That on the written request of the Tenant (Appellant) made three months before the expiration of the said term hereby created and if there shall not at the time of such request be any existing breach or non-observance of any of the covenants on the part of the Tenant (Appellant) hereinbefore contained at the expense of the Tenant (Appellant) grant to him a lease of the demised premises for a further term of four years from the expiration of the said term at the same rent and containing the like covenants and

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provisoes as herein contained including the present covenant for renewal" (Clause 3(c)).

In the Court
of Appeal

Under the 1953 Lease the Appellant was "to pay all City Council charges for electricity, gas and water supplied to the demised premises" (Clause 2(c)) and to "have the right to assign his estate in the demised premises or to sublet the demised premises or any part thereof" (Clause 4(a)). There was incorporated in the 1953 Lease a forfeiture clause in the following terms:-

No. 20
Judgment
15th April
1983
(cont'd)

"(b) If the rents hereby reserved or any part thereof shall be unpaid for twenty one days after demand in writing or if any covenant on the Tenant's (Appellant's) part herein shall not be performed or observed or if the Tenant (Appellant) or other person in whom for the time being the term hereby created shall be vested shall become bankrupt or enter into any composition with his creditors then and in any of the said cases it shall be lawful for the Landlords (Respondents) at any time to re-enter upon the demised premises or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to the right of action of the Landlords (Respondents) in respect of any breach of the Tenant's (Appellant's) covenants herein contained." (Clause 4(b)).

As appears from an endorsement thereon, the 1953 Lease was registered in the Registry of Deeds on the 4th August 1953 "in the exercise of the discretion conferred by rule dated 16th April 1934 under Rule 13 of the Registration of Deeds Rules" 1934. The said Rule 13 framed under the Registration of Deeds Ordinance (Cap. 255 of the 1955 Edition of the Laws) enabled the Registrar of Deeds to dispense with compliance with certain provisions relating to conditions precedent to registration of deeds (Section 14).

At the time of the registration of the 1953 Lease there was in force in Singapore the Singapore Improvement Ordinance (Cap. 134 of the 1936 Revised Edition of the Laws) to provide for the improvement of the Town and Island of Singapore. Under Section 58(1) of the said Ordinance it was provided that "No person shall, without the written permission of the Board (The Singapore Improvement Trust) erect any building or lay-out (underlining ours) any land or use any land or building in any manner which is not in conformity with the General Improvement Plan" Under Section 59(11), "Any person who ... lays out any land in lots for

IN the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

building purposes otherwise than in accordance with a plan approved by the Board under this section ... shall be liable to a fine not exceeding two hundred and fifty dollars ..."
Section 3, the definition section of the said Ordinance, enacts, inter alia, that

"'Lay-out', as applied to any area, means the utilisation or proposed utilisation of such area or any part thereof for any of the purposes for which a plan or scheme prepared under section 52 or section 69 may provide. A person is said to "lay out" land if by any deed or instrument he conveys, assigns, demises or otherwise disposes of any part of such land in such manner that the part so disposed of becomes a separate holding; provided that a lease for a period not exceeding three years without the option of renewal or purchase shall not be deemed to be a disposal within the meaning of this interpretation; and provided further that a conveyance, assignment, demise or other disposition of a portion of any area shall not be deemed to be a "lay-out" if the boundaries of such portion correspond with the ground plan of any existing building of a permanent nature erected thereon together with such area of land occupied therewith as the Board may having regard to the circumstances of each particular case allow."

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"'Holding' means any piece or parcel of land held or possessed under an instrument of title, capable of being registered under the Registration of Deeds Ordinance (Chapter 121) relating exclusively thereto, and 'original holding' and 'final holding' mean respectively, with reference to a scheme which provides for the redistribution of holdings, a holding prior to its amalgamation with other holdings for the purpose of redistribution and a holding allotted in pursuance of redistribution."

40

Before the 1953 Lease expired a new Lease for a term of ten years commencing on the 1st August 1957 was executed on 23rd July 1957 (the 1957 Lease) by the Respondents and the Appellant on the identical terms and conditions as those contained in the 1953 Lease except for the additional proviso to Clause 1 thereof which reads as follows:-

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"Provided however that if the assessment (underlining ours) on the said premises

shall at any time within the said period be increased or decreased then and in such event the said rent shall also be proportionately increased or decreased accordingly."

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

The 1957 Lease was similarly registered in the Registry of Deeds on the 1st August 1957.

10 A little more than two years after the execution of the 1957 Lease, the Planning Ordinance 1959 (12 of 1959) (Planning Ordinance) was passed to provide for the planning and improvement of Singapore and came into effect on the 1st February 1960. The Planning Ordinance transferred the functions of the Board to the Competent Authority appointed under it and repealed Parts IV, V and VI of the said Singapore Improvement Ordinance. Under Section 9(3)(a) of the Planning Ordinance "no person shall subdivide (underlining ours) any land unless - (a) he has
20 obtained the written permission of the Competent Authority..." Under Section 9(4) "All applications for permission to develop or subdivide land shall be made to the Competent Authority in the form and manner prescribed by rules made under Section 17 of this Ordinance." Under Section 9(8) "Any person who contravenes the provisions of sub-section (3) of this section, shall be guilty of an offence against this Ordinance and shall on conviction be liable to a fine..."

30 Section 2, the definition section of the Planning Ordinance, inter alia, enacts:

"land" includes buildings and any estate or interest in or right over land."

40 "'Subdivide' - A person is said to subdivide land if, by any deed or instrument, he conveys, assigns, demises or otherwise disposes of any part of the land in such a manner that the part so disposed of becomes capable of being registered under the Registration of Deeds Ordinance or in the case of registered land being included in a separate folium of the land-register under the Land Titles Ordinance and "subdivision" shall be construed accordingly: Provided that a lease for a period not exceeding seven years without the option of renewal or purchase shall not be deemed to be a disposal within the meaning of this definition;" "'Holding' means any piece or parcel of land held or possessed under an instrument of title capable of being registered under the
50 Registration of Deeds Ordinance or where applicable, under the Land Titles Ordinance, 1956, relating exclusively thereto;"

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

On the 3rd January 1967, the Appellant, who was in occupation of the demised premises and not in any existing breach or non-observance of any of his covenant under the 1957 Lease, made a written request as provided for therein for the grant to him of a lease for a term of 10 years from the 1st August 1967. As there was no response from the Respondents a further written request was made on the 20th April 1967. However, the Respondents took no action to execute such a lease.

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On the 15th March 1974 the Respondents wrote to the Appellant to the effect that the Comptroller of Property Tax acting under Section 18(2) of the Property Tax Act (Chapter 144 of the Revised Edition 1970) had increased the annual value of the demised premises from \$1,320.00 to \$2,880.00 with effect from 11th March 1974 and that the annual value thereof was based on a monthly rent of \$240.00. The Respondents cited the said proviso to Clause 1 of the 1957 Lease and claimed from the Appellant an increased rental of \$240.00 per mensem as from 11th March 1974.

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In this connection it should be observed that the demand for an increased rent by the Respondents was as a result of the Comptroller of Property Tax increasing the property tax on the demised premises. The Property Tax Ordinance 1960 came on to our Statute Book in January 1961 and by virtue of Sections 6 and 7 thereof a tax known as property tax became payable as from the 1st January 1961 in respect of each year at the rate of thirty-six per centum upon the annual value of every property included in the Valuation List (previously known under the Municipal Ordinance as Assessment List). Section 64 of the said Ordinance repealed Sections 59 to 81A (rating provisions) of the Municipal Ordinance and Sections 108 to 130 (rating provisions) of the Local Government Ordinance 1957.

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The Appellant however contended that under the 1957 Lease he was only liable to pay them the increase in the assessment payable by the Respondents and accepted liability for \$46.80 per month and said that under the said proviso to Clause 1 of the 1957 Lease the new rental per month should be \$110.00 plus \$46.80 (being 1/12th of the increased property tax) = \$156.80.

On the 22nd April 1977 the Appellant made yet another written request under the 1957 Lease this time for a renewal thereof for yet another period of ten years from the 1st August 1977. On

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10 the 13th July 1977 the Appellant wrote to the Respondents that he was prepared to pay the increased rental of \$240.00 per mensem under protest but subject to recovery in case of his construction of the said proviso being judicially determined as correct and on this basis sent them a cheque for \$9,360.00, the arrears alleged to be due up till then. The Respondents returned the cheque for \$9,360.00 to the Appellant on the 22nd July, 1977.

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

20 On the 27th July 1977 the Appellant commenced Suit No. 2187 of 1977 against the Respondents claiming specific performance of the 1957 Lease and to have leases granted to him accordingly for a term of 10 years from the 1st August 1967 to the 31st July 1977 and for yet another term of ten years from the 1st August 1977 to the 31st July 1987 in respect of the demised premises. In their Further Amended Defence the Respondents contended that (i) the effect of the said Clause 3(c) of the 1957 Lease is not that of a perpetually renewable lease and (ii) it was never their intention to grant the Appellant a perpetually renewable lease and pleaded:-

30 (1) That the appellant, despite repeated requests, had not paid and/or tendered the proper rental payments, namely the increased rent of \$240.00 per month, in accordance with the 1957 Lease since March 1974 and in consequence thereof was in breach thereof and therefore not entitled to its renewal.

40 (2) That, if the Appellant were entitled to a renewal of the 1957 Lease for a term of ten years on the 1st August 1977, which was denied, he was only entitled to such renewal without the proviso for any further renewal inasmuch as the true and correct interpretation of Clause 3(c) of the 1957 Lease is that the Respondents were only bound to include a renewal clause in the renewal lease after the expiry of the first ten years of the 1957 Lease and not in any renewal lease thereafter.

50 (3) That the Appellant's right of action, if any, accrued from the 1st August, 1967 when the Respondents allegedly failed to grant the Appellant the further first term of ten years and that, as more than six years had elapsed before action herein was commenced, the Appellant's alleged cause of action herein was barred by section 6(1)(a) of the Limitation Act (Chapter 10).

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

(4) That Clause 3(c) of the 1957 Lease is a "subdivision" within the meaning of s.2(1), s.9(3) and s.9(8) of the said Planning Ordinance, which came into force on the 1st February 1960, and that since February 1960, it is an offence for the Respondents to grant a lease for a term exceeding seven years without proper subdivision under the said Planning Ordinance.

(5) That it was never in the contemplation of the Appellant and the Respondents, the parties to the 1957 Lease, that subdivision should be applied for in respect of the demised premises, and that requiring the Respondents to apply for a subdivision of the demised premises would be a fundamental change to the conditions thereof.

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(6) That by reason of the foregoing the said Clause 3(c) of the 1957 Lease is unenforceable against the Respondents and that therefore they are released from their obligations thereunder.

The Respondents, having, through their solicitors by Notice to Quit dated 3rd August 1977, given the Appellant notice to quit and vacate the demised premises by the 31st August 1977, commenced an action in the District Court on the 29th September 1977 in D.C. Summons No. 4724 of 1977 against the Appellant claiming possession of the demised premises and arrears of rent at \$240.00 per month from the 11th March 1974 and mesne profits from the 1st September 1977 until delivery of possession of the demised premises. The Appellant in his Defence pleaded (i) that the proportionate increase in the rent of \$110.00 per mensem, agreed to between the Respondents and the Appellant, was based on the amount of increase in the assessment of the demised premises and that the proportionate increase to be made on the said rent was \$46.50 per month and not \$130.00 per month and that the increased rent payable was therefore \$156.80 per month and not \$240.00 as claimed by the Respondents and (ii) that on the 13th July 1977 the Appellant by letter of that date forwarded a cheque to the Respondents for \$9,360.00 and another cheque for \$240.00 as requested but under protest and subject to the Appellant's right to recover the same, and (iii) that, in the premises, the Appellant had always been ready and willing to pay the correct rent. The Appellant counter-claimed for specific performance of the 1957 Lease and to have leases granted to him accordingly for two ten year terms, one from 1st August 1967 and the other from the 1st August 1977 in respect of the demised premises.

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By a High Court Order dated 23rd January 1978 it was ordered that the District Court Summons be transferred to the High Court and that it be consolidated with the Suit No. 2187 of 1977.

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

The Consolidated Action and Counterclaim came on for hearing and by Judgment dated the 3rd August 1982 the learned trial Judge made the following findings:-

10 (i) That the 1957 Lease by virtue of Clause 3(c) thereof is a perpetually renewable lease.

(2) That on a true construction of the proviso to Clause 1 of the 1957 Lease the increased rental to be paid by the Appellant to the Respondents should be \$240.00 per mensem, based on the increased annual value of the demised premises and not on the increased assessment (property tax) the Respondents had been called upon to pay.

20 (3) That, on the evidence, the Appellant despite repeated requests, had not paid or even tendered the proper rental payments in accordance with the 1957 Lease since March 1974 and that in consequence thereof the Appellant was in breach of the 1957 Lease and therefore not entitled to renewal of the same.

30 (4) That the 1957 Lease comes within the provisions of Section 6(1)(a) of the Limitation Act and that the right of action of the Appellant had accrued by the 22nd December, 1967 if not from the 1st August 1967, and that more than 6 years had passed from the date on which the cause of action accrued.

40 (5) That it was never in the contemplation of the parties that subdivision should be applied for in respect of the demised premises; that a requirement that the Respondents apply for subdivision of the said premises would be a fundamental change in the conditions of the 1957 Lease; that by virtue of the Planning Ordinance which came into effect on the 1st February 1960, clause 3(c) of the 1957 Lease is unenforceable as against the Respondents and thus they are released from their obligations thereunder.

In the result the learned trial Judge dismissed the Appellant's claim in the High Court and gave judgment for the Respondents as prayed for by them in District Court Summons No. 4724 of 1977.

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

The Appellant is now appealing against the whole of the Judgment of the learned trial Judge. During the hearing of the Appeal counsel for the Respondents did not dispute the learned trial Judge's finding, and in our opinion, quite rightly so (see page 382 of Cheshire's Modern Law of Real Property (12th Edn.)), that the 1957 Lease was a perpetually renewable lease and conceded that the provisions of the Limitation Act (Cap.10) could not be pleaded in respect of the renewal of the term 1st August 1977 to 31st July 1987, as proceedings had been commenced by the Appellant in respect of this term well within the six year period.

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The heart of the appeal, in our view, revolves around the question of what is the proper construction to be placed on the proviso to Clause 1 of the 1957 Lease, to wit, "Provided however that if the assessment (underlining ours) of the said premises shall at any time within the said period be increased or decreased then and in such event the rent shall also be proportionately increased or decreased accordingly". In this connection one should keep in mind that under Clause 3(b) of the 1957 Lease one of the Landlords' (Respondents') covenants is "to pay all rates taxes assessments (underlining ours) and outgoings payable by law in respect of the demised premises, other than those referred to in Clause 2(c) above", (i.e. Charges for water, light and gas). In determining the meaning of the word "assessment" in Clause 3(b) of the 1957 Lease it is pertinent to note that under Clause 3(b) of the 1953 Lease there is the same Landlord's (Respondent's) covenant couched in exactly the same words.

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In 1953 as previously mentioned assessments on the demised property were raised every half-year under section 59 of the Municipal Ordinance by the Municipal Commissioners and under Section 61 of the said Ordinance

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"The Commissioners shall cause an assessment list of all houses, buildings, lands and tenements liable to assessment to be prepared containing -

- (a) the name of the street or division in which the property is situated;
- (b) the designation of the property either by name or by number, sufficient for identification;
- (c) the names of the owner and occupier, if known;

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- (d) the annual value (underlining ours) on which the property is assessed (underlining ours);
(e) The amount of the assessment (underlining ours) thereon".

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

10 It is quite clear from a reading of the said two Sections (1) that it was for the Commissioners to fix both the annual value (defined in Section 3) of the property on which the said property is assessed and the amount of the assessment thereon to be paid by the owner and (2) that "annual value" and "assessment" do not mean one and the same thing and cannot be used interchangeably.

20 Had these matters been brought to the attention of the learned trial Judge we are of the view that he would not have come to the conclusion that "the rental should be increased based on the annual value" but would have come to the conclusion that the rental should be increased based on the increased property tax to be paid by the Respondents.

30 Further, we are of the view that the proviso, to all intents and purposes, is in the nature of an indemnity clause. Under the 1957 Lease the rental to be paid by the Appellant for the fixed term of ten years is a fixed one of \$110/- per mensem; the obligation to pay the assessment on the demised premises is on the Respondents. The assessment payable on a house or tenement in Singapore then depended on two factors - one on the question of "the gross amount at which the same can reasonably be expected to let from year to year" and the other on the amount of rates it would attract under Section 51(1) of the Municipal Ordinance for rating purposes, that is to say, whether the house or tenement attracted the maximum Consolidated Rate of thirty per centum on the annual value of the property rated and the maximum of five per centum Improvement Rate on the annual value of the same. There was then the possibility of the assessment payable by the Respondents going up either on the basis of an increased annual value of the property rated or an increase in the Consolidated Rate or Improvement Rate or both; so the proviso relating to an increase of assessment was introduced by the parties into the 1957 Lease to re-imburse the Respondents for any increased assessment they might thereby have been called upon to pay. Similarly with regard to a decrease in the assessment so that in this unlikely event the Appellant would get the benefit of such a reduction.

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

The Appellant was always ready and willing to pay and did in fact pay the proper increased rental of \$156.80 per mensem. At one stage he paid the increased rental as demanded by the Respondents, albeit made under protest and subject to determination by the Court as to what the proper rent was. In these circumstances we must hold that the Appellant was never ever in breach of the 1957 Lease. It follows from this that the Respondents' claim for possession of the demised premises and arrears of rent and mesne profits must fail and be dismissed with costs here and below.

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One of the defences raised by the Respondents at the trial of the High Court suit was that Clause 3(c) of the 1957 Lease could not be performed for the reason that since 1st February 1960 it was an offence for the Respondents to grant a lease for a term exceeding seven years without proper subdivision under the Planning Ordinance 1959. It seems to us that the argument that was put to the learned trial Judge by counsel for the Respondents, and not controverted in the manner in which, in our view, it should have been by counsel for the Appellant, was that it was only since the 1st February 1960 that no person could subdivide any land unless he had obtained the permission of the Competent Authority (Section 9(3)) and that any person who contravened this provision was guilty of an offence and liable on conviction to a fine (Section 9(8)). But was this really so? Did the Planning Ordinance enact something new regarding the division of land into lots or parcels for the first time?

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Before February 1960 by virtue of the Singapore Improvement Ordinance "a person is said to 'lay-out' land if by any deed or instrument he conveys, assigns, demises or otherwise disposes of any part of such land in such manner that the part so disposed of becomes a separate holding" and "holding" means any piece or parcel of land held or possessed under an instrument of title capable of being registered under the Registration of Deeds Ordinance"; but as from 1st February 1960 "a person is said to subdivide land, if, by any deed or instrument, he conveys, assigns, demises or otherwise disposes of any part of such land in such manner that the part so disposed of becomes capable of being registered under the Registration of Deeds Ordinance". In effect to "lay-out" land under the Singapore Improvement Ordinance became to "subdivide" land under the Planning Ordinance. It was merely a change in

40

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nomenclature. Further under Section 59(11) of the Singapore Improvement Ordinance any person who lays out land without the approval of the Board is liable to a fine not exceeding two hundred and fifty dollars; similarly under Section 9(8) of the Planning Ordinance any person who shall subdivide land without permission of the Competent Authority shall be liable to a fine not exceeding one thousand dollars. Under the Singapore Improvement Ordinance it was an offence to grant a lease for a term exceeding 3 years without a proper layout: under the Planning Ordinance it is an offence to grant a lease for a term exceeding seven years without a proper subdivision. Yet it was possible under Rule 13 of the Registration of Deeds Rules 1934 for the Registrar of Deeds, exercising his discretion, to have such deeds registered as indeed was what happened both to the 1953 Lease and the 1957 Lease. If the learned trial Judge's attention had been drawn to the similar sections in the Singapore Improvement Ordinance we are of the view that he would not have found:-

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

"that it was never in the contemplation of the parties that subdivision should be applied for in respect of the said premises. The Plaintiff (Appellant) says that the Defendants (Respondent) are required to apply for subdivision of the said premises. That would be a fundamental change in the conditions of the said lease. I am of the view that by virtue of the Planning Ordinance, Clause 3(c) is unenforceable as against the Defendants (Respondents) and that they are released from their obligations thereunder."

The 1953 Lease for 4 years and the 1957 Lease for 10 years were executed while the Singapore Improvement Ordinance was in force and yet it was possible to have the 2 deeds registered on the 4th August 1953 and the 1st August 1957 respectively under the Registration of Deeds Rules. The position in 1967 with regard to the registration of a lease for ten years was in effect no more different than it was when the 1957 Lease was registered on the 1st August 1957. The Respondents took no steps whatsoever in 1967 with the Competent Authority and/or the Registrar of Deeds with a view to register a further lease for 10 years. It lies ill in the mouth of the Respondents now to raise this defence when no such fears of criminal illegality assailed them

In the Court
of Appeal

No. 20

Judgment

15th April

1983

(cont'd)

when the Appellant gave written notice to them in 1967 under the 1957 Lease asking for an extension of ten years from 1st August 1967.

In any event this plea taken by the Respondents on the subdivision issue becomes meaningless as the Court in the course of the hearing of this appeal was informed that the property in question has now in fact been subdivided and allowed registration.

The Appellant's claim against the Respondents in the High Court Suit (Writ issued on 27th July 1977) was for specific performance of two leases in respect of the demised premises, one for the term 1st August 1967 to 31st July 1977 and the other for the succeeding term 1st August 1977 to 31st July 1987. The Respondents in their Defence had pleaded that the Appellant's cause of action therein was barred by Section 6(i)(a) of the Limitation Act (Chapter 10). Whatever the merits of the Respondents' plea in this respect it is clear that the Courts will not grant specific performance of an agreement to grant a lease for a term which expired a few days after the issue of the Writ herein. This then leaves the Appellant's claim for specific performance for the second term namely the 1st August 1977 to 31st July 1987 to be adjudicated upon. However, as previously stated, counsel for the Respondents has, in our view quite properly, conceded that he cannot plead the Limitation Act in respect of the said second term.

"A contract for a lease is a contract to which the equitable remedy of specific performance is peculiarly appropriate. If a party can prove to the satisfaction of the court that such a contract has been entered into (which in the instant case the Appellant has done), he can bring a suit for specific performance requiring the other party (in the instant case the Respondents) to execute a deed in the manner required by statute (in the instant case the Registration of Deeds Act) so as to execute that legal term which the parties (in the instant case the Appellant and the Respondents) intended to create. One effect therefore of such a specifically performable contract is that the prospective tenant (in the instant case the Appellant is more than a prospective tenant: he is a tenant in actual physical occupation of the premises) immediately acquires an equitable interest in the land (in the instant case No. 322-F Changi Road) in the sense that he has an

equitable right to a legal estate" (See Cheshire's Modern Law of Real Property (122nd Edition) at page 392-3). This being so and the equities in the instant case being with the Appellant, it seems to us that the Appellant's appeal must be allowed with costs here and below for the following reasons:-

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

10 (1) There is no dispute between the parties to the appeal that in the instant case there is a perpetually renewable lease by virtue of Clause 3(c) of the 1957 Lease.

(2) That the Appellant had made written requests in conformity with Clause 3(c) of the 1957 Lease for renewal of the lease for two successive periods of ten years each.

(3) That the Appellant at the time of the said written requests in respect of the two terms was not in breach of the 1957 Lease;

20 (4) That the Appellant from the date of the 1957 Lease had always had an equitable right to have granted to him a written lease for successive terms of fixed ten years each and occupied the same position, vis-a-vis, the Respondents, as regards both rights and liabilities, as he would have occupied had a formal lease under seal been executed - See Walsh v. Lonsdale (1882) 21 Ch. D. 9;

30 (5) That at the time the 1957 Lease was entered into, namely the 23rd July 1957, similar provisions as in the Planning Ordinance 1959 relating to "subdivision" were present in the Singapore Improvement Ordinance under the nomenclature of "lay-out". It seems to us therefore that the question of lay-out, as it then was, and which now equates to subdivision in the Planning Ordinance or Act, as the case may be, in respect of the demised premises must have been in the contemplation of the parties herein and that, therefore the question of a fundamental change in
40 the conditions of the 1957 Lease does not arise;

(6) That the Respondents cannot avail themselves of the provisions of Section 6(i)(a) of the Limitation Act to resist the claims of the Appellant for specific performance in respect of a lease for the demised premises for the term 1st August 1977 to 31st July 1987 for the reason that the Appellant always had an equitable right to a renewal of the lease and equity looks upon as done what ought to have been done.

In the Court
of Appeal

No. 20
Judgment
15th April
1983
(cont'd)

There will therefore be an order for the specific performance of the agreement for a lease arising under the 1957 Lease; the Respondents are to execute a sealed lease in favour of the Appellant in respect of 322-F Changi Road for a term of 10 years from 1st August 1977 to the 31st July 1987 on the same terms and conditions as in the 1957 Lease.

Liberty to Apply.

Sd. WEE CHONG JIN

10

Wee Chong Jin
Chief Justice

Sgd. T.S. Sinnathuray
T.S. Sinnathuray
Judge

Sgd. A.P. Rajah
A.P. Rajah
Judge

Singapore,
Friday, 15th April 1983

20

Certified true copy.

Sgd.
Private Secretary to Judge
Court No. 3,
Supreme Court, Singapore.

No. 21

Order of Court granting Leave
to Appeal to the Judicial
Committee of the Privy Council
18th April, 1983

In the Court
of Appeal

No. 21
Order of
Court granting
Leave to
Appeal to the
Judicial
Committee of
the Privy
Council
18th April
1983

IN THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

Civil Appeal No. 52 of 1982

Between

10

HIRENDRA LAL BANNERJI

Appellant

And

CHIN CHENG REALTY (PRIVATE) LIMITED

Respondents/Applicants

(In the matter of Suit No. 2187 of 1977)

Between

HIRENDRA LAL BANNERJI

Plaintiff

And

CHIN CHENG REALTY (PRIVATE)
LIMITED

Defendants

20

ORDER OF COURT

BEFORE THE HONOURABLE CHIEF JUSTICE
MR. JUSTICE WEE CHONG JIN, THE
HONOURABLE MR. JUSTICE KULASEKARAM
AND THE HONOURABLE MR. JUSTICE
A.P. RAJAH

IN OPEN COURT

This application having come on for hearing
before the Court of Appeal this day in the presence
of Solicitors for the Appellant and the Respondents/
Applicants

30

IT IS ORDERED:-

- (1) That the Respondents/Applicants be granted leave under Section 3(1)(a) of the Judicial Committee Act (Cap. 8) to appeal to the Judicial Committee of Her Britannic Majesty's Privy Council against the whole of the judgment of the Court of Appeal delivered herein at Singapore on the 15th April 1983;

In the Court
of Appeal

No. 21
Order of
Court granting
Leave to
Appeal to the
Judicial
Committee of
the Privy
Council
18th April
1983
(cont'd)

- (2) That the time for the Respondents /Applicants to prepare the index of proceedings pursuant to Order 58 Rule 5(1) be extended to 4 weeks;
- (3) That the time for the Respondents/ Applicants to prepare and send to the Registrar the Record of Appeal pursuant to Order 58 Rule 6(1) be extended to 60 days;
- (4) That the Order that the Respondents execute a sealed lease in favour of the Appellant in respect of No. 322-F, Changi Road, for a term of 10 years from 1st August 1977 to the 31st July 1987 on the same terms and conditions as in the 1957 Lease be stayed;
- (5) That the costs of this application abide by the result of this Appeal by the Respondents/Applicants;
- (6) The Respondents do give security for costs in the sum of \$3,000.00

10

20

Dated this 18th day of April 1983

Sgd.

ASST. REGISTRAR

No. 22

Certificate for security for
Costs - 29th April, 1983

In the Court
of Appeal

No. 22
Certificate
for security
for Costs
29th April
1983

IN THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

Civil Appeal No. 52 of 1982

Between

HIRENDRA LAL BANNERJI Appellant

And

10

CHIN CHENG REALTY (PRIVATE)
LIMITED Respondents/Applicants

(In the Matter of Suit No. 2187 of 1977)

Between

HIRENDRA LAL BANNERJI Plaintiff

And

CHIN CHENG REALTY (PRIVATE)
LIMITED Defendants

CERTIFICATE FOR SECURITY FOR COSTS

20

This is to certify that Chin Cheng Realty
(Private) Limited a Company incorporated in
Singapore and having its registered office at
No. 324-P, Changi Road, Singapore, the abovenamed
Respondents/Applicants, have deposited the sum of
Three thousand dollars (\$3,000.00) by way of
security for the Appellant's costs of the appeal
with the Accountant-General.

Dated the 29th day of April 1983.

Sgd.

ASST. REGISTRAR.

30

No. 23

Order of Court amending Title of
Appeal - 9th April, 1984

No. 23
Order of
Court
amending
Title of
Appeal - 9th
April 1984

Civil Appeal No. 52 of 1982 Between

HIRENDRA LAL BANNERJI Appellant

And

CHIN CHENG REALTY (PRIVATE) LIMITED Respondents

Order of Court amending Title of Appeal
dated 9th April 1984

Inthe Court
of Appeal

No. 23
Order of
Court
amending
Title of
Appeal
9th April
1984
(cont'd)

(In the Matter of Suit No. 2187 of 1977)
Between

HIRENDRA LAL BANNERJI Plaintiff
And
CHIN CHENG REALTY (PRIVATE) LIMITED Defendants

ORDER OF COURT

BEFORE THE HONOURABLE CHIEF JUSTICE MR. JUSTICE
WEE CHONG JIN, THE HONOURABLE MR. JUSTICE A.W.
CHOWS AND THE HONOURABLE MR. JUSTICE L.P. THEAN

IN OPEN COURT

10

UPON MOTION heard this day unto this Court
by the Counsel for the abovenamed Respondents and
in the presence of Solicitors for the Appellant and
the Respondents.

IT IS ORDERED:-

- (1) That Chin Cheng Realty (Private) Limited, having assigns its interest in the premises No. 322F Changi Road, Singapore, which is the subject of the action herein, to Moh Seng Realty (Private) Limited, Moh Seng Realty (Private) Limited be named as Respondents in Civil Appeal No. 52 of 1982, Defendants in Suit No. 2187 of 1977 and Plaintiffs in D.C. Summons No. 4724 of 1977 and in all subsequent proceedings herein in place of Chin Cheng Realty (Private) Limited and that the proceedings herein be carried on as if Moh Seng Realty (Private) Limited had been substituted for Chin Cheng Realty (Private) Limited.
- (2) That this order be certified by the Registrar of the Supreme Court, Singapore as a certificate to be issued for the purpose of an application under Rule 51 of the Judicial Committee Rules 1957 in the Privy Council.
- (3) That costs of this application be the Respondents' costs in any event.

20

30

Dated this 9th day of April, 1984.

Sgd.
ASST. REGISTRAR.

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Endorsement

It is hereby certified that this is the certificate issued for the purpose of an application under Rule 51 of the Judicial Committee Rules 1957 in the Privy Council.

Sgd.
REGISTRAR.

E X H I B I T S

AGREED BUNDLE OF DOCUMENTS

Letter - Richard Chuan Hoe Lim & Co.,
to K.K. Bezboruah dated 27.6.1953

EXHIBITS

RICHARD CHUAN HOE LIM & CO.
ADVOCATES AND SOLICITORS

1st Floor,
34 MARKET STREET,
SINGAPORE

Letter
Richard
Chuan Hoe
Lim & Co.
to K.K.
Bezboruah
27.6.1953

Tel. Nos. 22580, 6543 & 83528

RICHARD C.H. LIM
CUTHBERT F.J. ESS

27th June, 1953

10

CE/TBC/CKS

Dear Sir,

Lease of Premises in East Coast Road

With reference to your conversation with our
Mr. Ess, our clients Chin Cheng Realty Limited
have now agreed to the inclusion in the above of
a clause permitting sub-letting etc.

As regards payment of the rent by cheque
our clients have already informed your client that
they will accept payment by cheque, but a receipt
will not be issued until the cheque has been
cleared. It is not necessary to include a clause
to this effect in the lease.

20

Please let us have the original and copy
lease for signature as early as possible.

Yours faithfully,

Sgd.: RCH LIM & CO.

K.K. Bezboruah, Esqr,
21 Battery Road,
Singapore.

30

EXHIBITS

Letter - Bezboruah to R.C.H. Lim & Co.
dated 26.10.1953

Letter
Bezboruah to
R.C.H. Lim
& Co.
26.10.1953

658/B/T
Ce/TBC/CKS
Dear Sirs,

26th October 1953

Lease of premises No. 322-F Changi Road
Between
Chin Cheng Realty Ltd. and Dr. H.L. Bannerji

I send herewith the copy of a letter written
by you to me on the 27th June 1953. My client
has pointed out, that the letter refers to
"Lease of premises in East Coat Road" and not to
the premises in respect of which the lease was
made and in the circumstances I shall be
obliged if you will kindly confirm that the rent
of No. 322-F Changi Road may be paid by cheque.

10

Yours faithfully,
Sd. K.K. BEZBORUAH.

M/s R.C.H. Lim & Company,
Market Street,
Singapore.

20

Encls.:

10

Letter - Bezboruah to Chin Cheng Realty
Limited dated 1.2.1954

EXHIBITS

COPY For A.R. registered post.

Letter
Bezboruah
to Chin
Cheng Realty
Limited
1.2.1954

658/B/P

1st February, 1954

Dear Sirs,

No. 322-F, Changi Road.

I have been consulted by Dr. H.L. Bannerjee
with regard to the ground floor of above premises.

20

I am instructed that in November last, you
laid new pipes for the supply of water to the
first floor of the above premises. My client
permitted you to take these pipes through the
ground floor on the understanding that in future
you will maintain in good repair and condition the
sewers drains and such parts of the premises as
are intended for the common use of the occupants.
Although by law you are under an obligation to
maintain these in good repair and condition my
client's request was made necessary by reason of
your failure to keep them in good repair previously.

30

As an instance of your failure to keep the
common portion of the premises in proper repairs,
my client has instructed me to refer you to his
letter to you dated the 29th January 1954 in which
he has complained about the blocking of the common
underground sewer. Up till now you have taken no
steps to repair the defect and I am instructed to
request you to make the necessary repairs without
delay.

40

On the 29th January 1954, your workmen came
to my client's premises and wanted to fix a water
meter inside my client's premises. This meter it
seems is for the use of the occupants of the first
floor and my client is under no obligation to
permit the same to be fixed in his premises.

I have therefore to request you not to annoy
my client in future by sending your workmen to my
client's premises for the purpose of fixing the
meter.

50

Yours faithfully,
Sd: K.K. BEZBORUAH

To
Messrs. Chin Cheng Realty Limited,
No. 13 South Canal Road,
Singapore.

EXHIBITS

Letter - R.C.H. Lim & Co. to
Bezboruah dated 10.2.1954

Letter
R.C.H. Lim &
Co. to
Bezboruah
10.2.1954

RICHARD CHUAN HOE LIM & CO.
ADVOCATES AND SOLICITORS

1st Floor,
34 MARKET STREET,
SINGAPORE.

Tel. Nos. 22580, 6543 & 83528

RICHARD C.H. LIM
CUTHBERT F.J. ESS

Please Quote Our Ref CE/TBC/939-53
in Your Reply

10

Dear Sir,

Re: No. 322F, Changi Road

We are instructed by our clients Messrs.
Chin Cheng Realty Limited to inform you that
your client Dr. Bannerji the tenant of the above
premises has refused to allow the City Council to
enter upon the said premises for the purposes of
installing a water meter for the 1st floor
premises.

Our clients state that this attitude on the
part of your client, which is to be deplored,
will only impair the cordial relations existing
between the parties.

20

We would therefore request you to ask your
client to allow the City Council to enter upon
the said premises, to carry out the said work.

Yours faithfully,

Sgd.: R.C.H. Lim & Co.

K.K. Bezboruah Esq.,
Singapore.

30

Received

10/2/54
4/10 pm

L38

Letter - R.C.H. Lim & Co. to
Bezboruah dated 18.2.1954

EXHIBITS

RICHARD CHUAN HOE LIM & CO.
ADVOCATES AND SOLICITORS

1st Floor,
34 MARKET STREET,
SINGAPORE.

Tel. Nos. 22580, 6543 & 83528

Letter
R.C.H. Lim
& Co. to
Bezboruah
18.2.1954

RICHARD C.H. LIM
CUTHBERT F.J. ESS

Please Quote Our Ref CE/TBC
in Your Reply

10 Dear Sir,

Re: No. 322F, Changi Road

We refer you to our letter of the 10th instant and shall be obliged if you will let us have a reply as early as possible, as our clients would like to have the water meter installed immediately.

Yours faithfully,

Sgd.: R.C.H. Lim & Co.

20 K.K. Bezboruah Esq.,
Singapore.

Date Stamp
19 Feb 1954
12.45 p.m.

L39

EXHIBITS

Letter - Bezboruah to R.C.H. Lim & Co.
dated 24.2.1954

Letter
Bezboruah to
R.C.H. Lim
& Co.
24.2.1954

658/B/P
CE/TBC

24th February 1954

Dear Sirs,

Re: No. 322F, Changi Road

I am in receipt of your letters of the 10th
and 18th instant.

It appears that your clients have not
placed before you the full facts.

10

I send herewith the copy of a letter
written by my client to yours on the 29th January
1954 and the copy of a letter written by me
to your clients on the 1st February 1954.

Yours faithfully,
Sd. K.K. BEZBORUAH.

M/s. Richard Chuan Hoe Lim & Co.,
Advocates & Solicitors,
Singapore.

20

Enclos:

Letter - Assistant Water Engineer (East),
C.S. Bickerstaff, to Dr. H.L. Bannerji
dated 6th July 1956

EXHIBITS

Letter
Assistant
Water
Engineer
(East), C.S.
Bickerstaff
to Dr. H.L.
Bannerji
6th July
1956

CSB/TKH 7

It is requested that the
following number be quoted
in reply to this letter

No.

All communications to be addressed to
The Water Engineer,
Private Bag,
G.P.D.
Singapore 1

10

Dr. H.L. Bannerji,
Kurau Clinic,
322F, Changi Road,
Singapore, 14.

Dear Sir,

I write to inform you that this Department
intends to carry out certain work with regards to
metering the water service to the top floor of
your premises.

20

As access can only be gained through the
ground floor at your address, and in order to
avoid any confusion or misunderstanding, I should
appreciate your agreement to admit this
Department's work-men, when this work is to be
undertaken.

Yours faithfully,

Sd: C.S. Bickerstaff
ASST. WATER ENGINEER (EAST)
(C.S. Bickerstaff)

30

7.7.56

L10

EXHIBITS

Letter - K.K. Bezboruah to Messrs. Chin
Cheng Realty Limited dated 18th April 1957

Letter
K.K.
Bezboruah to
Messrs. Chin
Cheng Realty
Limited
18th April
1957

K.K. BEZBORUAH
Advocate & Solicitor
Telephone No. 31262

21, Battery Road,
2nd Floor,
Singapore 1.

Your Ref:
Ref: 658/B/CS/L

18th April, 1957

Dear Sirs,

In pursuance of the provisions in that behalf
contained in the lease dated 30th July 1953 and
made between yourselves of the one part and my
client Dr. Hirendra Lal Bannerji of the other
part, I hereby on his behalf request you to
grant to my client a re-newed lease of the
premises demised by the said lease for the
further term of four years from the expiration
of the term granted by the said lease and upon
the terms and conditions contained in the said
lease including the covenant for renewal.

10

20

My client agrees to accept such renewed
lease and to do all such acts and things as
under the provisions of the said lease ought to
be done by my client in relation to the grant
of such lease.

Yours faithfully,
Sd. K.K. BEZBORUAH.

Messrs. Chin Cheng
Realty Limited,
No. 13 South Canal Road,
Singapore, 1.

30

Solicitor for
Dr. Hirendra Lal Bannerji

Received lease - letter

L1

Letter - Messrs. R.C.H. Lim & Co. to
Dr. Bannerji dated 23rd April 1957

EXHIBITS

RICHARD CHUAN HOE LIM & CO. 1st Floor,
ADVOCATES AND SOLICITORS 34 MARKET STREET,
SINGAPORE.
Tel Nos. 22580, 6543 & 83528

Letter
Messrs.
R.C.H. Lim
& Co. to
Dr.
Bannerji
23rd April
1957

RICHARD C.H. LIM FOR PROMPT ATTENTION
CUTHBERT F.J. ESS CE/TBC
PLEASE QUOTE OUR REFERENCE

10

23rd April, 1957

Dear Sir,

Re: No. 322F, Changi Road

20

As Solicitors for Messrs. Chin Cheng Realty Limited, we are instructed that our clients wish to instal a water meter on the ground floor of the above premises for the tenant upstairs, and we therefore apply to you for permission to allow the workmen of the City Council Water Department to enter upon the said ground floor for the said purpose.

Please let us hear from you.

Yours faithfully,

Sgd.: R.C.H. Lim & Co.

Dr. Hirendra Lal Bannerji,
No. 322F, Changi Road,
Singapore.

A.R. Registered

L40

EXHIBITS

Letter - Bezboruah to Messrs. R.C.H.
Lim & Co. dated 22nd May, 1957

Letter
Bezboruah to
Messrs.
R.C.H. Lim &
Co.
22nd May 1957

K.K. BEZBORUAH
Advocate and Solicitor

Tel. No. 31262

21 Battery Road,
2nd Floor,
Singapore, 1.

Your Ref: CE/TBE
Ref. 658/B/CS/L

22nd May, 1957

Dear Sirs,

Re: No. 322F Changi Road

10

I act for Dr. Hirendra Lal Bannerji and refer to your letter to him of the 23rd April 1957.

I send herewith copy of letter written by me to your clients dated 18th April 1957 to which I have received no reply. Would you please let me know if I may send you the draft of the renewed lease for your approval.

My client will deal with the matter raised in your letter of the 23rd April 1957 after the renewed lease is granted.

20

Yours faithfully,
Sd. K.K. BEZBORUAH

Messrs. Richard Chuan Hoe Lim & Co.,
No. 34 Market Street,
Singapore.

Encl.

Letter - Messrs. R.C.H. Lim & Co. to
Bezboruah dated 27th May, 1957

EXHIBITS

RICHARD CHUAN HOE LIM & CO.
ADVOCATES AND SOLICITORS
Tel Nos. 22580, 6543 & 83528

1st Floor,
34 MARKET STREET,
SINGAPORE.

Letter
Messrs.
R.C.H. Lim
& Co. to
Bezboruah
27th May
1957

RICHARD C.H. LIM
CUTHBERT F.J. ESS

FOR PROMPT ATTENTION
CE/TBC/358-57

PLEASE QUOTE OUR REFERENCE

27th May, 1957

10 2.30 p.m.
28.5.57

Dear Sir,

Re: No. 322F, Changi Road

We acknowledge receipt of your letter of
the 22nd instant enclosing us a copy of your
letter dated 18th April, 1957, addressed direct
to our clients.

20 We shall be glad if you will forward for our
inspection your client's copy of the original
agreement before we write you further on the
matter. Our clients have mislaid their copy of
the said agreement.

Yours faithfully,

Sgd.: R.C.H. Lim & Co.

Mr. K.K. Bezboruah,
Singapore.

EXHIBITS

Letter - Bezboruah to Messrs. R.C.H.
Lim & Co. dated 29th May, 1957

Letter
Bezboruah to
Messrs.
R.C.H. Lim
& Co.

29th May 1957 CE/TBC/358-57
658/B/CS/L

29th May, 1957

Dear Sirs,

I acknowledge receipt of your letter of the
27th instant.

As I do not have the original lease which is
with my client, I send herewith a copy thereof.

As the lease is registered (No. 166 in
volume 1163) it may be inspected at the
Registration of Deeds office.

10

Yours faithfully,

Sd.: K.K. Bezboruah

M/s. Richard Chuan Lim & Co.,
Market Street,
Singapore.

Letter - Messrs. R.C.H. Lim & Co.
to Bezboruah dated 4th June, 1957

EXHIBITS

RICHARD CHUAN HOE LIM & CO. 1st Floor,
ADVOCATES AND SOLICITORS 34 MARKET STREET,
SINGAPORE
Tel Nos. 22580, 6543 & 83528

Letter
Messrs.
R.C.H.
Lim & Co. to
Bezboruah
4th June
1957

RICHARD C.H. LIM FOR PROMPT ATTENTION
CUTHBERT F.J. ESS CE/TBC/358-57
PLEASE QUOTE OUR REFERENCE

10 3.45 pm 4th June, 1957
4/6/57

Dear Sir,

Re: No. 322F, Changi Road

We thank you for your letter of the 29th
May, 1957 enclosing copy of the Original lease
which is returned herewith.

We forward herewith draft Renewal for your
approval.

Yours faithfully,

Sgd.: R.C.H. Lim & Co.

20 Mr. K.K. Bezboruah,
Singapore.

Encl:

EXHIBITS

Letter - Messrs. R.C.H. Lim & Co.
to Bezboruah dated 17th June, 1957

Letter
Messrs.
R.C.H. Lim
& Co. to
Bezboruah
17th June,
1957

RICHARD CHUAN HOE LIM & CO. 1st Floor,
ADVOCATES AND SOLICITORS 34 MARKET STREET,
SINGAPORE
Tel. Nos. 22580, 6543 & 83528

RICHARD C.H. LIM FOR PROMPT ATTENTION
CUTHBERT F.J. ESS CE/TBC/358-57
PLEASE QUOTE OUR REFERENCE

18/6/57
3.10 pm

17th June, 1957

10

Dear Sir,

Re: No. 322F, Changi Road

We have seen our clients on your letter of the 7th instant and are instructed to inform you that our clients have agreed to give your client a 10 year lease of the above premises with an option for a further 10 years, on your client agreeing to permit the City Council to enter upon the said premises and instal a water meter for the tenant upstairs.

20

Please confirm when we shall send you a draft lease for approval.

Yours faithfully,

Sgd.: R.C.H. Lim & Co.

Mr. K.K. Bezboruah,
Singapore.

EXHIBITS

Letter
Messrs.
Oehlers & Co.
to Messrs.
R.C.H. Lim
& Co.
9th July,
1957

Letter - Messrs. Oehlers & Co. to
Messrs. R.C.H. Lim & Co. dated
9th July, 1957

FBO/s.

9th July, 1957

Messrs. Richard Chuan Hoe Lim & Co.,
SINGAPORE.

Dear Sirs,

Your Ref: CE/TBC/358-57.

Re: No. 322F, Changi Road.

10

We are now acting for Dr. Hirendra
Lal Bannerji, the Lessee of the above premises,
in the place of Mr. K.K. Bezboruah.

With reference to your letter dated
17th June, 1957, addressed to Mr. K.K.
Bezboruah, we are instructed to send you
herewith draft lease, in duplicate, for your
approval.

Yours faithfully,

Encl.

20

L49

Letter - Messrs. R.C.H. Lim & Co. to
Messrs. Oehlers & Co. dated 11th July,
1957

EXHIBITS

Letter
Messrs.
R.C.H.
Lim & Co.
to Messrs.
Oehlers
& Co.
11th July,
1957

RICHARD CHUAN HOE LIM & CO. 1st Floor,
ADVOCATES AND SOLICITORS 34 MARKET STREET,
SINGAPORE

Tel. Nos. 22580, 6543 & 83528

RICHARD C.H. LIM
CUTHBERT F.J. ESS

FOR PROMPT ATTENTION
CE/TBC/358-57
PLEASE QUOTE OUR REFERENCE

11th July, 1957

Received
12/7/57
10 am

Dear Sirs,

Re: No. 322F, Changi Road

We acknowledge receipt of your letter dated
the 9th instant enclosing us draft lease re the
above.

The draft lease is returned herewith duly
approved as amended.

Yours faithfully,

Sgd.: R.C.H. Lim & Co

Messrs. Oehlers & Company,
No. 21, Bonham Building,
Singapore.

Encl.

EXHIBITS

Letter
Messrs.
Oehlers & Co.
to Messrs.
R.C.H. Lim
& Co.
12th July,
1957

Letter - Messrs. Oehlers & Co. to
Messrs. R.C.H. Lim & Co. dated
12th July, 1957

3

FBO/s.

12th July, 1957

Your Ref: CE/TBC/358-57.

Messrs. Richard Chuan Hoe Lim & Co.,
SINGAPORE.

Dear Sirs,

10

Re: No. 322F, Changi Road.

We thank you for your letter of the 11th instant returning to us draft lease approved by you as amended.

The amendment is not fully agreed to. There is the possibility in the near future that these premises will come under the Rural Board, in which event the assessment will be decreased. The amendment should therefore provide also for the event of a decrease of assessment.

20

Your proviso is therefore amended to read as follows:-

"Provided however that if the assessment on the said premises shall at any time within the said period be increased or decreased then and in such event the said rent shall also be proportionately increased or decreased accordingly."

We trust that you will agree to this amendment. On hearing from you we will proceed to have the lease engrossed for execution.

30

Yours faithfully,

Letter - Messrs. R.C.H. Lim & Co. to
Messrs. Oehlers & Co. dated 15th July,
1957

EXHIBITS

Letter
Messrs.
R.C.H. Lim
& Co. to
Messrs.
Oehlers &
Co.
15th July
1957

RICHARD CHUAN HOE LIM & CO. 1st Floor
ADVOCATES AND SOLICITORS 34 MARKET STREET,
SINGAPORE

Tel. Nos. 22580, 6543 & 83528

RICHARD C.H. LIM
CUTHBERT F.J. ESS

CE/TBC/358-57

15th July, 1957

Received
15/7/57

10

Dear Sirs,

Re: No. 322F, Changi Road

With reference to your letter of the 12th
instant we are instructed to inform you that our
clients agree to the suggested amendment.

Yours faithfully,

20

Sgd.: R.C.H. Lim & Co.

Messrs. Oehlers & Company,

Singapore.

EXHIBITS

Letter
Messrs.
Oehlers & Co.
to Messrs.
R.C.H. Lim
& Co.
18th July
1957

Letter - Messrs. Oehlers & Co. to
Messrs. R.C.H. Lim & Co. dated
18th July, 1957

3

FBO/s.

18th July, 1957

Your Ref: CE/TBC/358-57

Messrs. Richard Chuan Hoe Lim & Co.,
SINGAPORE.

Dear Sirs,

10

Re: No. 322F, Changi Road

We thank you for your letter of the 15th
instant.

We forward to you herewith the original
and counterpart of the Lease engrossed for
execution by your clients and return to us.

Kindly let us have these back before
Tuesday next as our client's only free day is
Tuesday when he will come to our office to
execute the Lease.

20

Yours faithfully,

Enclos.

L53

Letter - Messrs. Oehlers & Co. to
Messrs. R.C.H. Lim & Co. dated
22nd July, 1957

EXHIBITS

Letter
Messrs.
Oehlers &
Co. to
Messrs.
R.C.H. Lim
& Co.
22nd July,
1957

3

FBO/s.

22nd July, 1957

Your Ref: CE/TBC/358-57

10

Messrs. Richard Chuan Hoe Lim & Co.,
SINGAPORE.

Dear Sirs,

Re: No. 322F, Changi Road

Reference our letter of the 18th instant,
we shall be glad if you will kindly return to us
the original and counterpart of the Lease by
noon tomorrow as our client will be calling at
our office to execute the same.

20

If your clients have not yet executed the
Lease we will send it back to you after our client
has executed the same.

Thanking you,

Yours faithfully,

L54

EXHIBITS

Letter
Messrs.
R.C.H. Lim
& Co. to
Messrs.
Oehlers &
Co.
23rd July,
1957

Letter - Messrs. R.C.H. Lim & Co. to
Messrs. Oehlers & Co. dated 23rd July,
1957

RICHARD CHUAN HOE LIM & CO.
ADVOCATES AND SOLICITORS

1st Floor,
34 MARKET STREET,
SINGAPORE

Tel. Nos. 22580, 6543 & 83528

RICHARD C.H. LIM
CUTHBERT F.J. ESS

WC/TRC/358-57

23rd July, 1957

10

Dear Sirs,

Re: No. 322F, Changi Road

With reference to your letter of the 22nd
instant we return herewith both copies of the
Lease in respect of the above premises duly
executed by our clients.

Kindly let us have one copy after
completion.

Yours faithfully,

Sgd.: R.C.H. Lim & Co.

20

Messrs. Oehlers & Company,

Singapore.

Encl:

L55

Draft Lease between Chin Cheng Realty
Limited and Hirendra Lal Bannerji

EXHIBITS

Approved as amended

Sgd.: R.C.H. Lim & Co.
10/7/57

Draft Lease
between
Chin Cheng
Realty
Limited and
Hirendra
Lal
Bannerji

10 THIS LEASE is made the _____ day of _____
One thousand nine hundred and fifty-
seven (1957) Between CHIN CHENG REALTY LIMITED
whose registered office is at No. 13 South Canal
Road, Singapore, (hereinafter called "the
Landlords" which expression shall where the context
admits include the reversioner for the time being
expectant upon the term hereby created) of the
one part and HIRENDRA LAL BANNERJI of No. 322-F,
Changi Road, Singapore, Medical Practitioner,
(hereinafter called "the Tenant" which expression
shall where the context so admits include his
assigns) of the other part.

WITNESSETH as follows :-

20 1. In consideration of the rent and the
Tenant's covenants hereinafter reserved and
contained the Landlords hereby demise unto the
Tenant ALL that the premises known as No. 322-F,
Changi Road situate in Singapore in a block of shop
houses standing at the junction of Changi Road and
Telok Kurau Road together with the yard and a room
at the back thereto belonging (hereinafter called
"the demised premises") TO HOLD the demised
30 premises unto the Tenant for the term of TEN years
from the 1st day of August, 1957, PAYING THEREFOR
monthly during the said term the rent of Dollars
ONE HUNDRED AND TEN (\$110-00) the first payment
thereof to be made on the 1st day of August,
1957, and subsequent payments to be made between
the 1st and the 7th day of every English Calendar
month. *

EXHIBITS

Draft Lease
between
Chin Cheng
Realty
Limited and
Hirendra
Lal
Bannerji

2. The Tenant for himself and his assigns covenants with the Landlords as follows :-

(a) To pay the reserved rents on the days and in the manner hereinafter provided;

(b) To permit the Landlords and their agents twice a year at reasonable times to enter upon and view the condition of the demised premises;

(c) To pay all City Council charges for electricity, gas and water supplied to the said premises;

10

(d) To keep the said premises in tenantable repair condition and so to deliver up to the Landlords on the expiration of this lease (reasonable wear and tear excepted);

3. The Landlords hereby covenant with the Tenant as follows :-

(a) That the Tenant paying the rent hereby reserved and observing and performing the several covenants and stipulations herein on his part contained shall peaceably hold and enjoy the demised premises during the said term without any interruption by the Landlords or any person rightfully claiming under or in trust for them;

20

(b) To pay all rates taxes assessments and outgoings payable by law in respect of the demised premises, other than those referred to in Clause 2(a) above;

(c) That the Landlords will on the written request of the Tenant made three calendar months before the expiration of the term hereby created and if there shall not at the time of such request be any existing breach or non-observance of any of the covenants on the part of the Tenant hereinbefore contained at the expense of the Tenant grant to him a lease of the demised premises for a further term of TEN years from the expiration of the said term at the same rent and containing the like covenants and provisos as are herein contained including the present covenant for renewal.

30

40

4. Provided always and it is expressly agreed as follows :-

(a) The Tenant shall have the right to assign his estate in the demised premises or to sublet the demised premises or any part thereof;

EXHIBITS

Draft Lease
between
Chin Cheng
Realty
Limited and
Hirendra
Lal
Bannerji

10

(b) If the rents hereby reserved or any part thereof shall be unpaid for twenty one days after demand in writing or if any covenant on the Tenant's part herein shall not be performed or observed or if the Tenant or other person in whom for the time being the term hereby created shall be vested shall become bankrupt or enter into any composition with his creditors then and in any of the said cases it shall be lawful for the Landlords at any time to re-enter upon the demised premises or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to the right of action of the Landlords in respect of any breach of the Tenant's covenants herein contained.

20

IN WITNESS whereof the Landlords have caused its Common Seal to be hereunto affixed and the Tenant has hereunto set his hand and seal the day and year first above written.

The Common Seal of CHIN CHENG)
REALTY LIMITED was hereto)
affixed pursuant to a resolu-)
tion of the Board of Directors)
of the said Company in the)
presence of :-)

30

Director.

Secretary.

SIGNED, SEALED AND DELIVERED by)
the abovenamed HIRENDRA LAL)
BANNERJI in the presence of :-)

A photocopy of page 1 of this document is numbered as p.155A.

*Approved as amended
10/7/57*

THIS LEASE is made the _____ day of _____ One thousand nine hundred and fifty seven (1957) Between CHIN CHENG REALTY LIMITED whose registered office is at No.13 South Canal Road, Singapore, (hereinafter called "the Landlords" which expression shall where the context admits include the reversioner for the time being expectant upon the term hereby created) of the one part and HIRENDRA LAL BANNERJI of No.322-F, Changi Road, Singapore, Medical Practitioner, (hereinafter called "the Tenant" which expression shall where the context so admits include his assigns) of the other part.

WITNESSETH as follows :-

1. In consideration of the rent and the Tenant's covenants hereinafter reserved and contained the Landlords hereby demise unto the Tenant ALL that the premises known as No.322-F, Changi Road situate in Singapore in a block of shop houses standing at the junction of Changi Road and Telok Kurau Road together with the yard and a room at the back thereto belonging (hereinafter called "the demised premises") TO HOLD the demised premises unto the Tenant for the term of TEN years from the 1st day of August, 1957, PAYING THEREFOR monthly during the said term the rent of Dollars ONE HUNDRED AND TEN (\$110-00) the first payment thereof to be made on the 1st day of August, 1957, and subsequent payments to be made between the 1st and the 7th day of every English Calendar month.

It is hereby agreed that all the premises mentioned shall be included in the lease and the rent shall also be included

2. The Tenant for himself and his assigns covenants with the Landlords as follows :-

- (a) To pay the reserved rents on the days and in the manner hereinafter provided;
- (b) To permit the Landlords and their agents twice a year at reasonable times to enter upon and view the condition of the demised premises;
- (c) To pay all City Council charges for electricity, gas and water supplied to the said premises;
- (d) To keep the said premises in tenantable repair

EXHIBITS

Draft Lease
between
Chin Cheng
Realty
Limited and
Hirendra
Lal
Bannerji

I, _____ an Advocate
and Solicitor of the Supreme Court of the Colony
of Singapore, practising in the Island of
Singapore, hereby certify that on the
day of _____ A.D. 1957, the Common Seal of
CHIN CHENG REALTY LIMITED was duly affixed to the
within written instrument at Singapore in my
presence in accordance with the regulations of
the said Company (which regulations have been
produced and shown to me).

10

WITNESS my hand this
day of _____ 1957.

ON this _____ day of
A.D. 1957, before me, FREDERICK BERNARD OEHLERS,
an Advocate and Solicitor of the Supreme Court of
the Colony of Singapore, practising in the Island
of Singapore, personally appeared HIRENDRA LAL
BANNERJI who of my own personal knowledge I know
to be the identical person whose name "
_____ " is subscribed to the within
written instrument and acknowledged that he had
voluntarily executed this instrument at Singapore.

20

WITNESS my hand.

Letter - Messrs. Oehlers & Co. to
Messrs. R.C.H. Lim & Co. dated
23rd September, 1957

EXHIBITS

Letter
Messrs.
Oehlers &
Co. to
Messrs.
R.C.H. Lim
& Co.
23rd
September,
1957

FBO/CK/L
3
23rd September, 1957

Messrs. Richard Chuan Hoe Lim & Co.,
Singapore.

Dear Sirs,

10

Your Ref: WC/TBC/358-57

Re: No. 322F, Changi Road

We send you herewith the duplicate copy of
the Lease dated 23rd day of July, 1957, (regd.
in Volume 1276 No. 94) made between Chin Cheng
Realty Limited of the one part and Hirendra Lal
Bannerji of the other part duly registered.

Kindly acknowledge receipt of same.

Yours faithfully,

Encl.

L61

EXHIBITS

Dr.
Bannerji's
letters of
Notice sent
in 1967 to
Chin Cheng
Realty
Limited

Dr. Bannerji's letters of Notice sent
in 1967 to Chin Cheng Realty Limited
the Landlords for renewal of lease of
322-F Changi Road, his clinic premises

Copy of carbon copy in handwriting.

TO: Secretary, Chin Chen Realty Ltd,
13 South Canal Road, S'pore 1.

Dated: 3.1.67

Dear Sir,

Subject:- Lease for premises no
322F Changi rd.

10

In lease dated 23.7.57 registered in volume
1276 no. 94 - I was given the option of
extending the lease for a further period of 10
years - by making written request to Chin Cheng
Realty Ltd.

This letter may please be regarded as such a
letter of request and an extension granted.

Please reply in due course and on hearing
from you - I will ask my Lawyer to take necessary
legal steps.

20

Yours faithfully,

sd/ Hirendra Lal Bannerji.
(Dr. H.L. Bannerji.)

Dated: 20.4.67

EXHIBITS

TO: The Secretary, Chin Cheng Realty Ltd.
13 South Canal road, Singapore 1.

Dr.
Bannerji's
letters of
Notice sent
in 1967 to
Chin Cheng
Realty
Limited
(Contd.)

Dear Sir,

Subject:- Lease for premises no. 322-F
Changi road, Singapore 14.

I draw your attention to my letter of
3.1.67 requesting you to grant extension of lease
for a further period of 10 years for the above
premises as provided for in lease dated 23.7.57
registered in volume 1276 no. 94 for the above
premises.

10

I have not heard so far from you, can I have
a reply please.

Yours faithfully,

(Dr. H.L. Bannerji)

EXHIBITS

Letter
Messrs.
Oehlers &
Co. to Chin
Cheng Realty
Limited
1st June,
1967

Letter - Messrs. Oehlers & Co. to
Chin Cheng Realty Limited dated
1st June, 1967

RM/CH

REGISTERED A.R.

1st June, 1967

Dear Sirs,

re No. 322-F Changi Road, Singapore.

We act for Dr. Hirendra Lal Bannerji of No.
322-F Changi Road, Singapore.

10

In pursuance to Clause 3 (c) of the Lease
dated the 23rd day of July, 1957 and made between
yourselves of the one part and our client of the
other part (Registered in Volume 1276 No. 94), we
are instructed by our client to request you to
grant to him a renewed lease of the above
premises demised by the said lease for the
further period of ten years from the expiration
of the term granted by the said lease and upon
the terms and conditions in the said lease
contained and our client agrees to accept such
renewed lease and to do all such acts and things
as under the provisions of the said lease ought
to be done by him in relation to the grant of
such lease.

20

Yours faithfully,

Messrs. Chin Cheng Realty Limited,
No. 13 South Canal Road,
Singapore.

c.c. Client.

30

Letter - Messrs. Oehlers & Co. to
Chin Cheng Realty Limited dated
15th August, 1967

EXHIBITS

Letter
Messrs.
Oehlers &
Co. to Chin
Cheng Realty
Limited
15th August,
1967

RM/CH/WK

15th August 1967.

Dear Sirs,

re: No. 322-F, Changi Road, S'pore.

We refer to the telephone conversation this
afternoon in respect of the above matter.

10

In case you mislaid our letter of the 1st
June 1967 we forward herewith a copy of same. We
have now been instructed by our client to prepare
a further lease and shall be glad to know the
name of your solicitors to enable us to forward
the lease.

Yours faithfully,

Messrs. Chin Cheng Realty Limited,
No. 13 South Canal Road,
Singapore.

EXHIBITS

Letter
Messrs.
Oehlers & Co.
to Chin Cheng VR/WK/
Realty
Limited
27th
September,
1967

Letter - Messrs. Oehlers & Co. to
Chin Cheng Realty Limited dated
27th September, 1967

27th September, 1967.

Dear Sirs,

re: No. 322-F, Changi Road, Singapore

We refer to our letters of the 1st June and
15th August 1967 and shall be glad to have an
early reply.

Yours faithfully,

10

Messrs. Chin Cheng Realty Ltd.,
No. 13, South Canal Road,
Singapore.

Letter
Messrs.
Oehlers & Co.
to Chin Cheng
Realty
Limited
5th December,
1967

Letter - Messrs. Oehlers & Co. to
Chin Cheng Realty Limited dated
5th December, 1967

RM/EC

5th December, 1967.

Dear Sirs,

re: No. 322-F Changi Road, S'pore

We refer you to our previous letters of the
1st June, 1967, 15th August 1967 and 27th
September 1967 and we cannot understand your
silence on the matter.

20

We enclose herewith our client's cheque for
\$110/- being rent for December 1967 payable in
advance.

Kindly let us have your receipt in due course
and reply to our earlier letters.

Yours faithfully,

Messrs. Chin Cheng Realty Ltd.,
No. 13 South Canal Road, Singapore.

30

Encl: cheque No. L921228 drawn on
Mercantile Bank Ltd. dated 4.12.67.

Letter - Messrs. Oehlers & Co. to Ko Seng
Gie, Co Teck Siang & Chin Cheng Realty
Limited dated 15th December 1967

EXHIBITS

Letter
Messrs.
Oehlers & Co
to Ko Seng
Gie, Co
Teck Siang &
Chin Cheng
Realty
Limited
15th
December,
1967

RM/CH/EC

15th December, 1967.

Dear Sir,

re: No. 322-F Changi Road, Singapore

We act for Dr. Hirendra Lal Bannerji of No.
322-F Changi Road, Singapore.

10 On the 1st June, 1967 we wrote to Messrs.
Chin Cheng Realty Limited of No. 13 South Canal
Road, Singapore, giving them notice of our client's
request for renewal of the Lease dated the 23rd
day of July, 1957 in respect of the above premises.
We have received no reply to our said letter
inspite of our having sent them two reminders.

20 Our client understands that you are one of
the Directors of the above company and he has
instructed us to forward herewith a copy of our
letter dated the 1st June, 1967 addressed to the
company for your information.

Our client can go to Court to enforce his
rights under Clause 3(c) of the Lease dated the
23rd day of July 1957 for the Lease to be renewed
for a further period of ten years in view of the
silence on the part of the company in not replying
to our letters but our client wishes to avoid any
Court proceedings if this can be avoided.

30 We shall be pleased if you will kindly give
this matter your kind attention and direct the
company to give us its reply as soon as possible.

Yours faithfully,

Ko Seng Gie Esq.,
No. 52 Blair Road, Singapore.

Ko Teck Siang Esq.,
No. 3 Cuscaden Road, Singapore.

Messrs. Chin Cheng Realty Ltd.
No. 13 South Canal Road,
Singapore.

40 c.c. client.

EXHIBITS

Letter - Messrs. Oehlers & Co. to
Chin Cheng Realty Limited dated
19th December, 1967

Letter
Messrs.
Oehlers & Co.
to Chin Cheng
Realty
Limited
19th
December,
1967

RM/CH/EC

19th December, 1967

Dear Sirs,

re: No. 322-F Changi Road
Singapore

With reference to your Mr. Tan Poh Thong's
in erview at our office on the 16th instant and
as requested by him we enclose a copy of the
Lease dated the 23rd day of July, 1957.

10

Kindly acknowledge receipt.

Yours faithfully,

Messrs. Chin Cheng Realty Ltd.,
No. 13 South Canal Road,
Singapore.

Encl:

c.c. client.

Letter - Messrs. R.C.H. Lim & Co. to
Messrs. Murugason & Co. dated
22nd December, 1967

EXHIBITS

Letter
Messrs.
R.C.H. Lim
& Co. to
Messrs.
Murugason
& Co.
22nd
December,
1967

RICHARD CHUAN HOE LIM & CO. 1st Floor,
ADVOCATES AND SOLICITORS 34-A MARKET STREET,
SINGAPORE.

Commissioner for Oaths
Notary Public EL/CT/LL

General Office Tel: 71427

22nd Dec., 1967

10

Dear Sirs,

re: No. 322-F Changi Road, Singapore

Your letter of the 19th instant reference RM/CH/EC has been handed to us by Messrs. Chin Cheng Realty Limited with instructions to reply thereto.

Our client instructs us that on or about the first of June 1967 you wrote to our client on behalf of your client requesting for renewal of a lease relating to the above premises for a further term of 10 years in pursuance of Clause 3(c) of the agreement made between our respective client dated the 23rd July 1957. We note that the said Clause 3(c) states:-

20

"That the Landlord will on the written request of the tenant made three months before the expiration of the term hereby granted and if there shall not at any time of such request be any existing breach of non-observance of any of the covenants on the part of the tenant hereinbefore contained, at the expense of the tenant grant to him a lease of the demised premises for a further term of 10 years from the expiration of the said term at the same rent and containing the like covenants and provisoes as are herein contained including the present covenant for renewal."

30

As your client only requested for a renewal on the 1st June 1967 which is not 3 months before the expiration of the term of the lease granted under the said lease dated the 23rd July 1957, our client has instructed us that they are not prepared to grant such further lease to your client.

40

This is also to serve as notice to your client

EXHIBITS

Letter
Messrs.
R.C.H. Lim
& Co. to
Messrs.
Murugason
& Co.
22nd
December,
1967
(Contd.)

that unless your client vacates the above premises and returns the premises to our client vacant, our client shall have no alternative but to take actions against your client as unnecessary.

Yours faithfully,

Sgd.: R.C.H. Lim & Co.

M/s. Murugason & Co.,
51-B Market Street,
Singapore.

Stamped

Date: 23-12-67

Time: 9-15

Intld:

10

Letter - Messrs. Murugason & Co. to
Messrs. R.C.H. Lim & Co. dated
27th December, 1967

EXHIBITS

Letter
Messrs.
Murugason
& Co. to
Messrs.
R.C.H. Lim
& Co.
27th
December,
1967

EL/CT/LL
RM/CH/EC

27th December, 1967.

Dear Sirs,

re: No. 322-F Changi Road, Singapore

10 We have seen our client on your letter of
the 22nd instant.

Our client informs us that on the 3rd
January, 1967 he himself wrote to your clients for
the renewal of the Lease and on the 20th April,
1967 he sent your clients a reminder but your
clients have not replied to him. Copies of these
two letters are enclosed herewith and you may have
inspection of the duplicate copies of letters at
any time during office hours.

20 Our client has duly complied with Clause 3(c)
of the Lease dated the 23rd day of July, 1957 and
in the circumstances he cannot vacate the above
premises.

We shall be glad to know whether your clients
will grant him a renewed lease of the above
premises demised by the said Lease for the
further period of ten years from the expiration of
the term granted by the said Lease otherwise we
have instructions to apply to Court compelling
your clients to grant the renewal of the Lease.

30 Yours faithfully,

Messrs. R.C.H. Lim & Co.
Singapore.

c.c. Client.

EXHIBITS

Letter
Messrs.
R.C.H. Lim
& Co. to
Messrs.
Murugason
& Co.
11th
January,
1968

Letter - Messrs. R.C.H. Lim & Co. to
Messrs. Murugason & Co. dated
11th January, 1968

RICHARD CHUAN HOE LIM & CO.
ADVOCATES AND SOLICITORS

Commissioner for Oaths
Notary Public

Tel: 71427 - 74543

Bank of Singapore
Building,
1st Floor,
34-A MARKET STREET,
SINGAPORE

Our Ref: EL/GO/CT/13-68
Your Ref: RM/CH/EC

10

11th Jan. 1968

Dear Sirs,

re: No. 322-F Changi Road

Referring to your letter of the 10th instant,
we write to inform you that our clients are now
negotiating with your client direct.

Yours faithfully,

Sgd.: R.C.H. Lim & Co.

Messrs. Murugason & Co.,
Singapore.

20

Stamped

Date: 12-1-68
Time: 9-20
Intld: Illegible

L85

Letter - Messrs. Murugason & Co. to
Messrs. R.C.H. Lim & Co. dated
15th January, 1968

EXHIBITS

Letter
Messrs.
Murugason
& Co. to
Messrs.
R.C.H. Lim
& Co.
15th
January,
1968

EL/GO/CT/13-68
RM/EC

15th January, 1968.

Dear Sirs,

re: No. 322-F Changi Road

10 We are in receipt of your letter of the 11th
instant upon which we have seen our client.

Our client says that he has forwarded his
current month's rent to your clients. So far
your clients have not issued the rent receipt
for same nor contacted our client as stated in
your letter under reply.

Can we hear from you as to the present
position.

Yours faithfully,

20 Messrs. R.C.H. Lim & Co.,
Singapore.

c.c. Client.

EXHIBITS

Letter
Messrs.
Murugason
& Co. to
Messrs.
R.C.H. Lim
& Co.
6th
February,
1968

Letter - Messrs. Murugason & Co. to
Messrs. R.C.H. Lim & Co. dated
6th February, 1968

EL/GO/CT/13-68
RM/CH

6th February, 1968

Dear Sirs,

re No. 322-F Changi Road

Further to our letter of the 15th ultimo,
we enclose herewith our client's cheque for
\$110/- in favour of your clients being rent for
the current month.

10

We shall be obliged if you will kindly send
us your clients' rent receipt by return.

Yours faithfully,

Messrs. R.C.H. Lim & Co.,
Singapore.

Encl:

c.c. Client

Letter - Messrs. Murugason & Co. to
Messrs. R.C.H. Lim & Co. dated
3rd June, 1969

EXHIBITS

Messrs.
Murugason
& Co. to
Messrs.
R.C.H. Lim
& Co.
3rd June, 1969. 3rd June,
1969

CCW/TPS/P/13-68
RM/CH/EC

3rd June, 1969. 3rd June,
1969

Dear Sirs,

re: 322-F Changi Road, Singapore

10

With reference to your letter of the 6th
ultimo, we return herewith your receipt No. 1147
for deletion of the words "Without Prejudice".

We enclose herewith our client's cheque for
\$110/- being rent for the current month.

Yours faithfully,

Messrs. R.C.H. Lim & Co.,
Singapore.

Encl.
c.c. Client.

EXHIBITS

Letter - Messrs. R.C.H. Lim & Co.
to Messrs. Murugason & Co. dated
6th June, 1969

Letter
Messrs.
R.C.H. Lim
& Co. to
Messrs.
Murugason
& Co.
6th June,
1969

RICHARD CHUAN HOE LIM & CO.,
ADVOCATES AND SOLICITORS
Commissioner for Oaths
Notary Public

Bank of Singapore
Building,
34-A MARKET STREET,
SINGAPORE.

Tel: 984501/2
72580

Our Ref: CCW/MT/P/13/69
Your Ref: RM/CH/EC

6th June, 1969.

10

Dear Sirs,

re: No. 322-F, Changi Road, Singapore

We thank you for your letter of the 3rd instant together with your client's cheque for the sum of \$110/- being rent for the current month. Enclosed herewith is our official receipt for the payment of rent of the above mentioned premises marked with the words "Without Prejudice."

20

Yours faithfully,

Sgd.: R.C.H. Lim & Co.

Messrs. Murugason & Co.,
Singapore.

Enc:

Stamped

Date: 9-6-69

Time: 9.30

Intld: Illegible

L144

Letter - Messrs. Murugason & Co. to
Messrs. R.C.H. Lim & Co. dated
1st July, 1969

EXHIBITS

Letter
Messrs.
Murugason
& Co. to
Messrs.
R.C.H. Lim
& Co.
1st July,
1969

CCW/MT/P/13/69
RM/CH

1st July, 1969

Messrs. R.C.H. Lim & Co.,
Singapore.

Dear Sirs,

10

re No. 322-F Changi Road

With reference to your letter of the 6th
ultimo, we return herewith your receipt No. 1467
for deletion of the words "Without Prejudice".

We enclose our client's cheque for \$110/-
being rent of the above premises for the current
month.

Yours faithfully,

c.c. Client

EXHIBITS

Letter - Dr. Bannerji to Chin Cheng
Realty Limited dated 2nd November 1970

Letter
Dr.
Bannerji to
Chin Cheng
Realty
Limited
2nd
November,
1970

, Singapore 14.

Dated: 2nd November 1970.

Chin Cheng Realty Ltd.,
13 South Canal road, Singapore 1.

Dear Sirs,

Herewith cheque for \$200 for rent for
Nov'70 for 322-F & 322-G Changi road. Please
acknowledge receipt.

10

I have received the rent receipt for Oct'70
for 322-F Changi road which is not marked
'without prejudice' as hitherto starting Jan'68.

I should like to remind you that the request
for renewal for 10 years of the lease for 322-F
Changi road, made by me on 3rd January 1967 and
20th April 1967 and subsequently by my lawyer
Murugason & Co on 1st June 1967 and thereafter;
in pursuance of clause 3(c) of the lease dated
23rd July 1957 (Registered in volume 1276 - no.
94) has not been granted yet. If it is your
present intention to do so, please let me know
and I will ask my lawyers to prepare the renewal
documents.

20

Yours faithfully,

(Dr. H.L. Bannerji.)

Letter - Chin Cheng Realty Limited
to Dr. Bannerji dated 12th November,
1970

EXHIBITS

Letter
Chin Cheng
Realty
Limited to
Dr.
Bannerji
12th
November,
1970

CHIN CHENG REALTY (PTE.) LTD.
No. 13, South Canal Road,
Singapore, 1.

Tel: 92775

Date 12th November 1970.

10 Dr. H.L. Bannerji,
322-F Changi Road,
Singapore, 14.

Dear Sir,

Re: 322-F Changi Road

We thank you for your letter dated 2nd
November, 1970. We have decided to make a new
agreement with you for the lease of the above
premises subject to the following conditions:-

- 20
- (1) The new agreement lasts for five years.
 - (2) With the new agreement being signed the
old agreement is no more binding.
 - (3) Three months notice from the tenant is
necessary for the renewal of the
agreement and the terms of the renewed
agreement should be decided by further
negotiation.

Other than the above the terms of the new
agreement will be similar to the old one.

30 Kindly let us know whether you accept the
above agreement as soon as possible. Thanking
you,

Yours faithfully,

CHIN CHENG REALTY (PTE.) LTD.

Sgd.: Illegible

EXHIBITS

Letter - Messrs. Chan Goh See to
Dr. Bannerji dated 26th January,
1973

Letter
Messrs.
Chan Goh See
to Dr.
Bannerji
26th
January,
1973

ROOM 904, 9th FLOOR MAXWELL HOUSE, MAXWELL
ROAD, SINGAPORE 2 TEL: 913700

CHAN GOH & DAVID SEE

NOTARY PUBLIC COMMISSIONERS FOR OATHS &
SOLICITORS

Dr. H.L. Bannerji
No. 322-F Changi Road,
Singapore 14.

A.R. REGISTERED

10

Your Reference	Our Reference	Date
-	DS/el	26th January 1973

Dear Sir/Sirs/Madam,

re: No. 322-F, Changi Road

We act for Messrs. Chin Cheng Realty Pte. Ltd. of
Rooms 824/827, Supreme House, Penang Road,
Singapore 9, your landlords of the above premises
which you hold of them as tenant thereof on a
monthly tenancy at a rental of \$ 110-00 per month.

20

We are instructed by our clients to give you
notice to quit and deliver up to our clients
vacant possession of the said premises, and we
enclose herewith a Notice to Quit by way of
service on you.

The purpose of serving you with the said Notice
to Quit is that our clients intend to increase
the present current rent of \$ 110-00 to \$ 330-00
per month with effect from the 1st day of March
1973.

30

If you are agreeable to the abovementioned
increase, will you please confirm by signing on
the duplicate copy of this letter attached
herewith and returning the same to us for our
clients' record.

TAKE NOTICE that should you not agree to the

abovementioned increase and continue to occupy the said premises after the expiration of the said Notice to Quit, you will be liable to pay double rent for the period you hold over and action to recover possession of the premises will also be commenced against you.

Yours faithfully,

Sgd.: Chan, Goh & David See

10 enc.

I confirm and agree to the abovementioned increase

EXHIBITS

Letter
Messrs.
Chan Goh
See to Dr.
Bannerji
26th
January,
1973
(Contd.)

EXHIBITS

Letter - Messrs. Chan Goh & David See
to Dr. Bannerji dated 26th January 1973

Letter
Messrs. Chan
Goh & David
See to Dr.
Bannerji
26th
January,
1973

Chan Goh & David See
NOTARY PUBLIC COMMISSIONERS
FOR OATHS ADVOCATES & SOLICITORS
Room 904,9th Floor
Maxwell House
Maxwell Road
Singapore 2

OUR REF: DS/el

26th January 1973

A.R. REGISTERED POST

NOTICE TO QUIT

10

To: Dr. H.L. Bennerji
322-F, Changi Road,
Singapore.

Re: No. 322-F, Changi Road, Singapore.

As SOLICITORS for and on behalf of Messrs.
Chin Cheng Realty Pte. Ltd. of Room 824/827,
Supreme House, Penang Road, Singapore, the owners
(your landlord) of the abovementioned premises, we
hereby give you notice and demand and require of
you that you do on the 28th February 1973 (or at
the expiration of the month of your tenancy which
will expire next after the end of one calendar
month from the time of the service of this
Notice) quit and deliver up to them vacant
possession of the said premises which your hold of
them as tenant thereof at a rental of \$110-00 per
month.

20

AND TAKE NOTICE that in case of any refusal
or neglect on your part to comply with this Notice
and Demand an action for ejection or other legal
proceedings will be commenced against you without
any further notice.

30

DATED this 26th day of January 1973

Solicitors for the above-
named.

Sgd.:
Chan Goh & David See

Letter - Dr. Bannerji to Messrs. Chan Goh
& David See dated 1st February, 1973

EXHIBITS

Registered post.

Dr. H.L. Bannerji.
Kurau clinic,
322-F Changi road, Singapore 14
Dated 1st February 1973

Letter
Dr.
Bannerji to
Messrs.
Chan Goh &
David See
1st
February,
1973

Messrs. Chan, Goh & David See
Room 904, 9th floor, Maxwell House,
Maxwell road, Singapore 2.

10

Dear sirs,

Re: 322-F Changi road,
Your ref: DS/el dated 26th January 1973.

I am in receipt of the above quoted letter and the enclosure. I draw your attention to: (1) (a) My letters dated 3rd Jan 1967 and 20th April 1967 to Messrs. Chin Cheng Realty ltd, requesting renewal of lease for 322-F Changi road, dated 23rd July 1957 (registered in volume 1276 no. 94).

20

(b) Murugason & Co.'s letter dated 27th December 1967 to Messrs. R.C.H. Lim & Co, acting for Chin Cheng Realty - then, enclosing copies of the above two letters and inviting inspection of their duplicates at any time during office hours.

(2) Murugason & Co.'s letter for renewal of lease to Messrs. Chin Cheng Realty, dated 1st June 1967 and failing to get any reply, to the directors of Chin Cheng Realty, each separately on 15th Dec 1967.

30

Also Murugason & Co.'s letter to Mr. R. C.H. Lim & Co. for the same renewal at various dates upto July 1969.

(3) My letter to Chin Cheng Realty dated 2nd Nov 1970 and their reply dated 12th Nov 1970 suggesting unacceptable new terms for renewal of lease.

The lease has not been renewed yet.

(4) According to the terms of the lease- a copy of which was supplied to Chin Cheng Realty, at their request - by Murugason & Co. on 19th Dec

40

EXHIBITS

Letter
Dr.
Bannerji to
Messrs.
Chan Goh &
David See
1st
February,
1973
(Contd.)

1967, rent shall be \$110 a month, except and if assessment of the premises 322-F be increased or decreased, when rent shall be proportionately increased or decreased. I have not been notified of any increase in the assessment of the premises.

Will you please therefore be good enough to let me know by at least a week before the next rent payment falls due, particulars of the increase in assessment such as

- (a) Date or dates of increase of assessment,
- (b) Amount of increase of assessment,
- (c) Whether and if any objections against increase of assessment were lodged and whether and when such increase has been finalised.

Will you be also good enough to take steps to renew the lease as requested in the past.

Yours faithfully,

(Dr. H.L. Bannerji.)

STAMP

Pos R & P 1-W 1504
POSTAL SERVICES DEPARTMENT, SINGAPORE

Date
Stamp

No. 9788 Addressed to:-
Chan, Goh & David See

10

20

Letter - Messrs. L.A.J. Smith to Messrs.
Chan Goh & David See dated February 10th
1973

EXHIBITS

Letter
Messrs.
L.A.J.
Smith to
Messrs.
Chan Goh &
David See
February
10th, 1973

C O P Y

L.A.J. SMITH
Advocate & Solicitor
Telephone: 95771

18-H, Battery Road,
Singapore, 1.

Your Ref: LAJS/BL/893/73

Our Ref: February 10, 1973

10 Messrs. Chan Goh & David See,
Singapore.

Dear Sirs,

re: No. 322-F Changi Road, Singapore

I am instructed by Dr. H.L. Bannerji of 322-F
Changi Road, Singapore, 14, that recently you
have issued a Notice to Quit.

20 You will appreciate that these premises are
held under a Lease and that Dr. Bannerji exercised
his option of renewal of the said Lease in 1967
in accordance with the terms thereof.

Dr. Bannerji is holding under the Lease
which will expire in 1977.

Yours faithfully,

Sgd.: L.A.J. Smith

c.c. Client.

EXHIBITS

Letter - Chin Cheng Realty Limited to
Dr. Bannerji dated 15th March, 1974

Letter
Chin Cheng
Realty
Limited to
Dr.
Bannerji
15th March,
1974

CHIN CHENG REALTY (PTE.) LTD.
SUPREME HOUSE
Nos. 824-827, 8th FLOOR PENANG ROAD,
TEL: 28327

NTS/AL.

Singapore, 15th March, 1974

Dr. Hirendra Lal Bannerji,
322F, Changi Road,
Singapore.

"REGISTERED"

10

Dear Sir,

Re:- No.322F, Changi Road, Singapore.

We write to inform you that the Comptroller of Property Tax, Singapore, has increased the Annual Value of the abovementioned premises from \$1320-00 to \$2880-00 with effect from the 11th March 1974. A photo-stat copy of the Notice under Section 18(2) of the Property Tax Act (Cap.144) issued by the Comptroller is enclosed herewith for your perusal.

20

The Annual Value of \$2880-00 is based on the monthly rent of £240-00.

In accordance with the terms under Clause 1 of the Lease dated the 23rd day of July 1957 made between our Company as the Landlord of the one part and your goodself as the Tenant of the other part (Registered in Volume 1276 No. 94) the rent for the abovementioned premises will be increased to \$240-00 per month with effect from the 11th March, 1974. As you have paid the sum of \$110-00 to us, please let us have your cheque for \$88.06 being the difference between the old rental and the new rental, which is made up as follows:-

30

Rent for period 1.3.74 to 10.3.74	
@ \$110-00 per month (10 days)	... \$ 35-48
Rent for period 11.3.74 to 31.3.74	
@ \$240-00 per month (21 days)	162-58
	<u>\$198-06</u>
Less: rent paid for period 1.3.74	
to 31.3.74 @ \$110-00 p.m.	110-00
	<u>\$ 88-06</u>

40

Yours faithfully,
CHIN CHENG REALTY (PTE.) LTD.

Encl: Sgd.: Illegible Director.
Received 18.2.74 Sgd.: Illegible

Letter - Messrs. L.A.J. Smith to Chin
Cheng Realty Limited dated 23rd March
1974

EXHIBITS

Letter
Messrs.
L.A.J.
Smith to
Chin Cheng
Realty
Limited
23rd March,
1974

C O P Y

L.A.J. SMITH
Advocate & Solicitor

18-H Battery Road,
Singapore, 1.
Tel:95771

KTS/AL.

LAJS/GN/1374/74

10

23rd March, 1974.

BY REGISTERED A.R.

M/s. Chin Cheng Realty (Pte.) Ltd.,
Supreme House,
Nos. 824-827, 8th Floor,
Penang Road,
Singapore, 9.

Dear Sirs,

Re: No. 322F, Changi Road, Singapore

20

Your letter dated 15th March, 1974 addressed
to Dr. H.L. Bannerji has been handed to us by Dr.
Bannerji with instructions to reply thereto.

30

We note that the Annual Value has been
increased from \$1320/- to \$2880/-. We also notice
that the increase in the monthly rental is based on
Clause 1 of the Lease which reads as follows: "In
consideration ----- paying -----
provided however that if the assessment on the said
premises shall at any time within the said period
be increased or decreased then and in such event
the said rent shall also be proportionately
increased or decreased accordingly."

In our view a proportionate increase should
be based on the following formula:

40

Previous Assessment per month @ 36% of \$110/-	= \$39.60
New Assessment per month @ 36% of \$240/-	= \$86.40
Increase in Assessment is \$86.40 - \$39.60	= \$46.80

EXHIBITS

Letter
Messrs.
L.A.J. Smith
to Chin
Cheng Realty
Limited
23rd March,
1974
(Contd.)

The new monthly rental should therefore in accordance with the provisions of Clause 1 be \$110 + \$46.80 = \$156.80.

Sgd.: L.A.J. Smith

108

- 2 -

The amount of increase for the period 11.3.74 to 31.3.74 is therefore \$31.70. A cheque for the amount is enclosed herewith. Kindly acknowledge receipt of the same and confirm that the new monthly rental after the increase in assessment would be \$156.80.

10

Yours faithfully,

Sgd.: L.A.J. Smith

Encl. Hongkong & Shanghai Banking
Corporation's cheque No. A100126.

c.c. Client

Letter - Messrs. Chan Goh & David See to
Messrs. L.A.J. Smith dated 4th April 1974

EXHIBITS

ROOM 904, 9th FLOOR, MAXWELL HOUSE, MAXWELL ROAD,
SINGAPORE 2 TEL: 913700

CHAN, GOH & DAVID SEE
NOTARY PUBLIC COMMISSIONERS FOR OATHS
ADVOCATES & SOLICITORS

Letter
Messrs.
Chan Goh &
David See
to Messrs.
L.A.J.
Smith
4th April,
1974

L.A.J. Smith, Esq.
18-H Battery Road
Singapore 1

10

Your Reference	Our Reference	Date
LAJS/GN/1374/74	DS/jl/74	4th April, 74

Dear Sir,

re: No. 322F, Changi Road, Singapore

Your letter dated 23rd March, 1974 addressed to our clients, M/s Chin Cheng Realty (Pte) Ltd has been handed to us for our attention.

We are looking into the question of increase of rental and also, into your proposals made under cover of your letter dated 19th February, 1973 and would revert to you in due course.

In the meantime, we are holding your client's cheque for the said sum of \$31.70.

Yours faithfully,

Sgd.: Illegible

10/4/74
10.35 am

20

sum of \$4,080/- on behalf of Madam Ho Ging
Ling in respect of No. 322-G Changi Road,
Singapore. Please acknowledge receipt.

EXHIBITS

Letter
Messrs.
L.A.J. Smith
to Messrs.
Allen Yau
3rd April,
1976
(Contd.)

10

Letter - Messrs. Allen Yau to Messrs.
L.A.J. Smith dated 9th April, 1976

Letter
Messrs.
Allen Yau
to Messrs.
L.A.J. Smith
9th April,
1976

ALLEN YAU
ADVOCATES & SOLICITORS
28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS)
SINGAPORE, 1

Tel: /75438

20

Our Ref: AY/M/TYS/1628/76
Your Ref: LAJS/BL/893/73

9th April 1976

L.A.J. Smith Esq.,
Singapore

Dear Sir,

re: Premises known as No. 322-G Changi
Road

30

We acknowledge receipt of your letter and
enclosure to us of the 3rd instant and have taken
our Clients' instructions thereon.

40

Enclosed herewith is our Clients' official
receipt for the sum of \$4,080.00 being payment of
rental in respect of No. 322-G Changi Road for the
period 1st April 1974 to 31st March 1976 at
\$170.00 per month. Our Clients further instruct us
that rental in respect of the abovementioned
premises is payable at the beginning of every
month and in the circumstances, we shall be
obliged if you will kindly instruct your client to
make payment of the rental for the current month,
as soon as possible.

EXHIBITS

As requested in your said letter, we enclose herewith all the uncashed cheques tendered by Dr. Bannerji.

Letter
Messrs.
Allen Yau
to Messrs.
L.A.J. Smith
9th April,
1976
(Contd.)

Yours faithfully,

Sgd.: Allen Yau

Enc.
c.c. Clients

Letter
Messrs.
L.A.J. Smith
to Messrs.
Allen Yau
14th April,
1976

Letter Messrs. L.A.J. Smith to Messrs.
Allen Yau dated 14th April, 1976

10

C O P Y

L.A.J. SMITH

14th April, 1976

M/s. Allen Yau,
28-C, North Canal Road,
Singapore.

Dear Sirs,

Re: No. 322-F Changi Road, Singapore

I am acting for Dr. H.L. Bannerji.

I would refer to my letter of April 3, 1976 in which I suggested issuing your clients a fresh cheque in respect of 322-F, Changi Road.

20

These are premises of which my client is a tenant under an agreement in writing renewable every ten years.

The rent of these premises was forwarded regularly monthly to your clients along with the rent for the premises of which his wife Madam Ho Ging Ling is a tenant (322-G, Changi Road).

You have now returned to us all the cheques except one, namely that issued on the 1st January, 1975 (HSBC Cheque No. 003705).

30

I enclose herewith our client's cheque for \$3,951.70 in respect of No. 322-F Changi Road. This is the rent from April 1974 to April 1976 plus additional rent from the 11th March, 1974 to 31st March, 1974 (\$31.70).

We trust this is in order. Kindly acknowledge

receipt and let us have the cheque not yet returned if your clients have it or let us know if it has been lost.

RENT FOR APRIL, 1976

In your letter of the 9th April, 1976, you asked that payment of this rent be made as soon as possible.

The cheque for \$170/- being rent for No. 322-G Changi Road was forwarded direct to your clients on 5th April, 1976. Our client has not yet received the rent receipt.

Perhaps you will be good enough to refer your clients to this matter for their immediate attention.

Yours faithfully,

sgd. L.A.J. SMITH

Encl. (cheque for \$3,951.70)
c.c. client

EXHIBITS

Letter
Messrs.
L.A.J. Smith
to Messrs.
Allen Yau
14th April,
1976
(Contd.)

10

EXHIBITS

Letter - Messrs. Allen Yau to Messrs.
L.A.J. Smith dated 20th April, 1976

Letter
Messrs.
Allen Yau to
Messrs.
L.A.J. Smith
20th April,
1976

ALLEN YAU
ADVOCATES & SOLICITORS
28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS)
SINGAPORE, 1.

Tel: 982859/75348

Our ref: AY/M/TYS/1628/76
Your ref: LAJS/GN/893/73

20th April 1976

10

L.A.J. Smith Esq.,
Singapore

Dear Sir,

re: No. 322-F Changi Road, Singapore

We acknowledge receipt of your letter dated the 14th instant and the enclosed cheque for \$3,951.70. We are taking our Clients' instructions thereon and shall be writing to you again as soon as we hear from them.

Yours faithfully,

20

Sgd.: Allen Yau

c.c. Clients

Copy to Client - 22/4/76.

Recd. 22/4/76

Letter - Messrs. Allen Yau to Messrs.
L.A.J. Smith dated 21st May, 1976

EXHIBITS

Letter
Messrs.
Allen Yau to
Messrs.
L.A.J. Smith
21st May
1976

ALLEN YAU
ADVOCATES & SOLICITORS
28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS)
SINGAPORE, 1.

Tel: 982859/75348

Our ref: AY/TYS/1628/76
Your ref: LAJS/GN/893/73

21st May 1976

L.A.J. Smith Esq.,
Singapore

Dear Sir,

re: No. 322-G Changi Road, Singapore

We thank you for your letter dated the 5th
May 1976.

Our Clients deny that your client Madam Ho
was given any assurance at any time that she would
not be asked to leave the premises unless she
wanted to. Our instructions are that your client
took a monthly tenancy of the said premises as she
well knew.

We are further instructed to inform you that
our Clients are not interested in the proposition
contained in your letter to our Clients' previous
solicitors dated the 19th February 1973.

We enclose herewith our Clients' receipt for
the rent for the current month. On our Clients'
instructions, we return herewith your client Dr.
Bannerji's two cheques for \$3,951.70 and \$156.80
respectively being rent tendered in respect of
premises at No. 322-F Changi Road, Singapore.

Yours faithfully,

Sgd.: Allen Yau

Enc.
c.c. Clients

EXHIBITS

Letter - Dr. Bannerji to Chin Cheng
Realty Limited dated 22nd April,
1977

Letter
Dr.
Bannerji to
Chin Cheng
Realty
Limited
22nd April,
1977

BY A.R. REGISTERED

Dr. H.L. Bannerji,
Kurau Clinic,
322-F, Changi Road,
Singapore, 14.

Dear Sirs,

Re: Lease for premises 322-F Changi
Road, between Chin Cheng Realty
(Pte.) Ltd., the landlords and Dr.
Hirendra Lal Bannerji, the tenant,
registered in volume 1276 No. 94.

10

In pursuance of the provisions in that behalf
contained in the lease dated the 23rd July, 1957
and made between Chin Cheng Realty (Pte.) Ltd.
(yourselves) as lessors and Hirendra Lal Bannerji
(myself) as lessee of the premises demised by the
said lease and thereafter at my request duly
renewed for a further period of 10 years which
said term will expire on the 31st July 1977 I do
hereby request you to grant to me a renewed lease
of the premises for a further term of 10 years
from the expiration of the renewed term aforesaid
and upon the terms and conditions in the said
lease contained including a covenant for renewal
and I agree to accept such renewed lease and to
do all such acts and things as under the provisions
of the said lease ought to be done by the lessee
in relation to the grant of such lease.

20

30

Dated the 22nd day of April, 1977.

Sgd.: Hirendra Lal Bannerji

HIRENDRA LAL BANNERJI (LESSEE)

To:

Messrs. Chin Cheng Realty (Pte.) Ltd.,
Room 1705, 17th Floor,
Orchard Towers,
Orchard Road,
Singapore, 9.

Letter - Messrs. Allen Yau to Dr. Bannerji
dated 1st July, 1977

EXHIBITS

Letter
Messrs.
Allen Yau to
Dr.
Bannerji
1st July,
1977

ALLEN YAU
ADVOCATES & SOLICITORS
28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS)
SINGAPORE, 1.

Tel: 982859/75438

1st July 1977

10 Our ref: AY/1628/76/011

Dr. Hirendra Lal Bannerji,
Kurau Clinic,
322-F, Changi Road,
Singapore.

A.R. REGISTERED

Dear Sir,

re: No. 322-F, Changi Road, Singapore

We act for Chin Cheng Realty (Pte.) Ltd. your
landlords of the abovementioned premises.

20 We are instructed to refer you to our Clients'
letter to you dated the 15th March 1974, a copy of
which is enclosed herewith, for your easy
reference. It will be seen from the said letter
that you were informed that the annual value of the
said premises was increased from \$1,320.00 to
\$2,880.00 with effect from the 11th March 1974.
In view of the increased assessment, the rental
payable by you after such date is \$240.00. The
figure is arrived at by doing the following
calculation:

30
$$110 \times \frac{2880}{1320} = 240$$

or by taking $\frac{1}{12}$ of 2880 = 240 (just as 110

is $\frac{1}{12}$ of 1320).

As you are now indebted to our Clients in the
sum of \$9,360.00 made up as follows:-

Cont'd 2/.....

EXHIBITS

ALLEN YAU

Continuation No. 2

Letter
Messrs. Allen
Yau to Dr.
Bannerji
1st July,
1977
(Contd.)

Dr. Hirendra Lal Bannerji,
Singapore.

Arrears of rental from March
1974 to June 1977 @ \$240.00
per month ... \$9,360.00

we are instructed to and do hereby demand that you
do within seven (7) days from the date hereof
forward us a cheque for the said amount failing
which our Clients will take such steps against
you as the circumstances may warrant, without
further reference to you.

10

Yours faithfully,

Sgd.: Allen Yau

c.c. Clients.

Enc.

Received
4/7/77

Letter - Dr. Bannerji to Messrs. Allen Yau
dated 4th July, 1977

EXHIBITS

KURAU CLINIC TEL: 401977
322-F Changi Road, Singapore 14.
DR. H.L. BANNERJI, M.B., B.S.

Letter
Dr.
Bannerji to
Messrs.
Allen Yau
4th July,
1977

Dated: 4th July 1977

Allen Yau, Advocates and solicitors,
28-C North Canal road, 3rd and 4th floor,
Singapore 1.

10 Dear sir,

Re: 322-F Changi road, Singapore 14.

I have this day received your letter no.
AY/1628/76/011 dated 1st July 1977.

According to the terms of the lease referred
to in Chin Cheng Realty's letter of the 15th March
1974, a copy of which you very kindly enclosed,
increase in rental is proportionate not to the
increase in annual value but to the increase in
assessment, which is 36% of the annual value.

20 Calculated on this basis the increase in
rental payable comes to \$46.80 per month, which
together with the old rent of \$110 makes \$156.80
not \$240 as stated in your letter.

A cheque for the amount had been sent every
month to your clients but they did not cash the
cheques. If the landlords so wish I am willing to
send a cheque for the total amount due from March
1974 on the basis of \$156.80 per month, on return
of all cheques sent to them so far.

30 I also draw your attention to my counsel Mr.
L.A.J. Smith's letter no. LAJS/GN/1374/74 of 23rd
March 1974 sent to your clients in this connection.

Yours faithfully,

(Dr. H.L. Bannerji.)

EXHIBITS

Letter - Messrs. Allen Yau to Dr. Bannerji
dated 7th July, 1977

Letter
Messrs.
Allen Yau to
Dr.
Bannerji
7th July,
1977

ALLEN YAU
ADVOCATES & SOLICITORS,
28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS)
SINGAPORE, 1.

Tel: 982859/75438

Our ref: AY/TYS/1628/76

7th July 1977

10

Dr. H.L. Bannerji,
322-F Changi Road,
Singapore 14

A.R. REGISTERED

Dear Sir,

re: No. 322-F Changi Road, Singapore

We refer to your letter dated the 4th July 1977.

We are well aware of the terms of the lease and also the views expressed by your solicitor Mr. L.A.J. Smith in his letter to our Clients dated 23rd March 1974. We do not however agree with his views.

20

We have in our previous letter explained to you how we arrived at the rental of \$240.00 per month. This is the rental which our Clients say should be paid to them from the 11th March 1974.

Our instructions are therefore to demand that you let us have a cheque for \$9,360.00 being the arrears of rental for March 1974 to June 1977 together with a cheque for \$240.00 in payment of the current month's rent.

30

Please take notice that unless we receive the sum of \$9,600.00 within seven (7) days from the date hereof, our Clients will take such steps against you as the circumstances may warrant without further reference to you.

In the meantime, we return herewith the following cheques which you had forwarded to our

Received
9.7.77

Cont'd..2/

ALLEN YAU

CONTINUATION No. 2/

EXHIBITS

Clients in purported payment of the rent:-

Letter
Messrs.
Allen Yau
to Dr.
Bannerji
7th July,
1977
(Contd.)

	<u>Date</u>	<u>HSBC Cheque No.</u>	<u>Amount</u>
	2.6.76	151045	\$ 156.80
	2.7.76	235251	156.80
	3.8.76	235256	156.80
	1.9.76	235258	156.80
	1.10.76	235268	156.80
	4.11.76	235274	156.80
10	2.12.76	306355	156.80
	1.1.77	306361	156.80
	2.2.77	306368	156.80
	2.3.77	306370	156.80
	1.4.77	306375	156.80
	5.5.77	388729	156.80
	3.6.77	388731	156.80
	2.7.77	388738	156.80

20 On the 21st May 1976, we returned to your solicitor Mr. L.A.J. Smith two of your cheques for \$3,951.70 and \$156.80 respectively being purported tender of rent for the period 11th March 1974 to May 1976.

Yours faithfully,

Sgd.: Allen Yau

Enc.
c.c. Clients.

EXHIBITS

Letter - Dr. Bannerji to Messrs. Allen Yau
dated 13th July, 1977

Letter
Dr.
Bannerji to
Messrs.
Allen Yau
13th July,
1977

Dr. H.L. Bannerji,
Kurau clinic,
322-F Changi road,
Singapore 14.

Dated: 13th July 1977

Allen Yau, Advocates & solicitors,
28 - C North Canal Road, (3rd & 4th floors)
Singapore 1.

10

Dear sir,

Re: 322-F Changi road, Singapore 14

I am in receipt of your letter no.
AY/TYS/1628/76 dated 7th July 1977 and the cheques.

I cannot agree with your clients'
interpretation of the clause.

I have always been willing to pay whatever
amount is due. My interpretation has been before
your clients, their previous solicitors and
yourselves for some considerable time.

20

Now when I call for renewal of lease you
claimed rent as a basis which is disputed.

I am prepared to pay under protest and
subject to recovery in case of my construction
not previously denied, being judicially
determined as correct.

I am herewith attaching a cheque for
\$9,360.00 and another for \$240 as asked in your
above quoted letter.

There is another matter which has been
outstanding for a long time and to which I should like
to draw your attention is, my counsel Mr. L.A.J.
Smith's letter no. LAJS/GN/893/13 dated 14th April
1976, in which he pointed out that a cheque (no.
003705 of HSBC) dated 1st January 1975, was not
returned and he requested that it either be
returned or declared as lost by your clients,
please look into the matter.

30

Yours faithfully,
(Dr. H.L. Bannerji.)

40

Letter - Messrs. Allen Yau to Dr. Bannerji
dated 19th July 1977

EXHIBITS

ALLEN YAU
ADVOCATES & SOLICITORS
28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS)
SINGAPORE, 1.

Letter
Messrs.
Allen Yau
to Dr.
Bannerji
19th July,
1977

Tel: 982589/75348

19th July 1977

Our ref: AY/1628/76/011

10 Dr. H.L. Bannerji,
No. 322-F Changi Road,
Singapore 14.

Dear Sir,

re: No. 322-F Changi Road, Singapore

We thank you for your letter dated the 13th
July 1977.

20 We are taking our Clients' instructions on
whether they are prepared to accept your payment
made under protest and in relation to your cheque
dated the 1st January 1975. We shall revert to
you as soon as we have obtained such instructions.

In the meantime, we are holding your two
cheques for \$240.00 and \$9,360.00 respectively.

Yours faithfully,

Sgd.: Allen Yau

c.c. Clients.

EXHIBITS

Letter - Messrs. L.A.J. Smith to
Messrs. Chin Cheng Realty Limited
dated 21st July, 1977

Letter
Messrs.
L.A.J. Smith
to Messrs.
Chin Cheng
Realty
Limited
21st July,
1977

LAJS/GN/1374/74

21st July, 1977.

M/s. Ching Cheng Realty (Pte.) Ltd.,
Room 1705, 17th floor,
Orchard Towers,
Orchard Road,
Singapore, 9.

10

Dear Sirs,

Re: 322-F Changi Road, Singapore 14.

I am acting for Dr. Bannerji in respect of
the abovementioned premises.

Dr. Bennerji exercised his option for a new
lease to take place from the 1st August, 1967 on
the 3rd day of January, 1967. So far the actual
lease has not been executed. I enclose herewith a
lease duly executed by Dr. Bannerji for your
immediate attention and execution.

20

Dr. Bannerji also by notice to you dated the
22nd day of April, 1977 exercised his option for
a renewal of this lease for a further 10 years.

So far you have not forwarded to Dr.
Bannerji a lease for his execution.

Kindly forwarded one within seventy-two (72)
hours.

Yours faithfully,

Encl.

c.c. Client.

30

Letter - Messrs. Allen Yau to Dr. Bannerji
dated 22nd July, 1977

EXHIBITS

ALLEN YAU
ADVOCATES & SOLICITORS
28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS)
SINGAPORE, 1.

Letter
Messrs.
Allen Yau
to Dr.
Bannerji
22nd July,
1977

Tel: 982589/75348
Our ref: AY/TYS/1628/76

2nd July 1977

10

Dr. H.L. Bannerji,
No. 322-F Changi Road,
Singapore 14

REGISTERED

Dear Sir,

re: No. 322-F Changi Road, Singapore

We write further to our letter to you dated
the 19th July 1977.

Our Clients have not been able to locate your
cheque dated 1st January 1975 and in the
circumstances, we are instructed to ask you to
treat the same as lost.

20

We are further instructed to inform you that
our Clients are not prepared to accept payment
under protest. We therefore return herewith your
two cheques dated 13th July 1977 for \$9,360.00
and \$240.00 respectively. Our instructions are to
inform you that unless you make payment of the
rentals due to our Clients without any pre-
conditions, our Clients will be compelled to
terminate the tenancy and take such steps as they
may be advised to recover all arrears of rental
due and payable to them.

30

Yours faithfully,

Sgd.: Allen Yau

Enc.
c.c. Clients

EXHIBITS

Two cheques both payable to Messrs. Chin Cheng Realty. First for Singapore \$9,360, and second for Singapore \$240 13th July, 1977

Two cheques both payable to Messrs. Chin Cheng Realty. First for Singapore \$9,360 and second payable for Singapore \$240 dated 13th July, 1977

Not negotiable / *Cancelled*

The Hongkong and Shanghai Banking Corporation
 Collyer Quay Office, Singapore 48-40-01
 Stamp duty paid
 Date 13.7.1977
 Chin Cheng Realty (Pte) Ltd. Singapore
 Dollars Nine thousand three hundred and \$9360/only sixty only.
 Sgd.: Hirendra Lal Bannerji

10

388739 Stamped
Dr. H.L. Bannerji.
141-811315-001

Not negotiable / *Cancelled*

The Hongkong and Shanghai Banking Corporation
 Collyer Quay Office, Singapore 48-40-01
 Stamp duty paid
 Date 13.7.1977
 Chin Cheng Realty (Pte) Ltd., Singapore
 Dollars Two hundred and forty only \$240/only
 Sgd.: Hirendra Lal Bannerji

20

388740 Stamped
Dr. H.L. Bannerji
141-811315-001

Letter - Dr. Bannerji to Chin Cheng
Realty Limited dated 1st August
1977

EXHIBITS

Letter
Dr.
Bannerji to
Chin Cheng
Realty
Limited
1st August,
1977

KURAU CLINIC
322-F Changi Road, Singapore 14

TEL: 401977

Dated: 1st of August 1977.

10 Manager, Chin Cheng Realty (Pte) Ltd.,
Room 1705, 17th floor,
Orchard Towers,
Orchard Road,
Singapore 9.

Dear sirs,

Re: 322-F Changi road, Singapore 14.

Herewith please find cheque for \$240 as rent
for 322-F Changi road, for month of August 1977
rendered under protest and subject to recovery in
case my construction of rent clause is judicially
determined as correct.

20 Please acknowledge receipt.

Yours faithfully,

(Dr. H.L. Bannerji.)

EXHIBITS

Notice to Quit - Messrs. Allen Yau to
Dr. Bannerji dated 3rd August, 1977

Notice to
Quit
Messrs.
Allen Yau
to Dr.
Bannerji
3rd August,
1977

ALLEN YAU
ADVOCATES & SOLICITORS
28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS)
SINGAPORE, 1.

TEL: 982859/75348

Our ref: AY/TYS/1628/76

Dr. H.L. Bannerji,
No. 322-F Changi Road,
Singapore 14

A.R. REGISTERED

10

NOTICE TO QUIT

Dear Sir,

re: No. 322-F Changi Road, Singapore

As solicitors for and on behalf of Chin Cheng Realty Private Limited of 1705, 17th Floor, Orchard Towers, Orchard Road, Singapore, the owners (your landlord) of the abovementioned premises, we hereby give you notice and demand and require of you that you do on the 31st day of August 1977 quit and deliver up to them vacant possession of the said premises which you hold of them as tenant thereof at a rental of \$240.00 per month.

20

AND TAKE NOTICE that in case of any refusal or neglect on your part to comply with this Notice and Demand an action for ejection or other legal proceedings will be commenced against you without any further notice.

30

Dated this 3rd day of August 1977.

Sgd.: Allen Yau

Solicitors for the abovenamed
Chin Cheng Realty Pte. Ltd.

c.c. Clients

Received 4.8.77
Sgd.: H.L. Bannerji.

Letter - Messrs. Allen Yau to Dr. Bannerji
and cheque payable Singapore \$240 to Chin
Cheng Realty Limited from Dr. Bannerji
5th August, 1977

EXHIBITS

Letter
Messrs.
Allen Yau to
Dr.
Bannerji and
cheque
payable
Singapore
\$240 to
Chin Cheng
Realty
Limited from
Dr. Bannerji
5th August,
1977

ALLEN YAU
ADVOCATES & SOLICITORS,
28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS)
SINGAPORE, 1.

10 TEL: 982859/75348
Our ref: AY/TYS/1628/76 5th August 1977

Dear Sir,

re: No. 322-F Changi Road

We are instructed by Chin Cheng Realty
(Private) Limited to return to you your cheque
for \$240.00 in purported tender of rent subject
to certain conditions for the month of August
1977.

20 Our Clients are not prepared to accept the
rent subject to conditions and your purported
tender is moreover unacceptable for the further
reason that the arrears of rental have not been
paid.

Yours faithfully,

Sgd.: Allen Yau

Enc.

c.c. Clients

The Hongkong and Shanghai Banking Corporation
Collyer Quay Office, Singapore 48-40-01

Stamp duty paid

Date 1.8.1977

30 Chin Cheng Realty (Pte) Ltd.
Dollars Two hundred and forty only \$240/only

Sgd.: Hirendra Lal
Bannerji

388742 Stamped
Dr. H.L. Bannerji.
141-811315-001

EXHIBITS

Letter
Messrs.
L.A.J. Smith
to Messrs.
Allen Yau
16th August,
1977

Letter - Messrs. L.A.J. Smith to
Messrs. Allen Yau dated 16th August
1977

AY/TYS/1628/76
LAJS/GN/1374/74

16th August, 1977.

Messrs. Allen Yau,
28-C, North Canal Road,
(3rd & 4th Floors),
Singapore, 1.

10

Dear Sirs,

Re: Suit No. 2187 of 1977

On going through your Defence I notice in paragraph 5 you alleged that despite repeated requests the Plaintiff has not duly paid and/or tendered the proper rental payments in accordance with the said Lease since March 1974.

Kindly state:

1. The date or dates on which the said requests were made;
2. whether the said requests were in writing or verbal;
3. if in writing identify the letters concerned or other documents.

20

Paragraph 6

In this paragraph you alleged that a notice was given dated 3rd April, 1977. Please state if this notice was in writing or verbal and if in writing identify the document.

Also please state if the said notice was monthly, yearly or otherwise.

30

Kindly furnish the said particulars within seven (7) days.

Yours faithfully,

c.c. Client.

Letter - Messrs. Allen Yau to Messrs.
L.A.J. Smith dated 18th August, 1977

EXHIBITS

Letter
Messrs.
Allen Yau
to Messrs.
L.A.J. Smith
18th August,
1977

ALLEN YAU
ADVOCATES & SOLICITORS,
28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS)
SINGAPORE, 1.

TEL: 982859/75438

10 Our ref: AY/TYS/1628/76
Your ref: LAJS/GN/1374/74

18th August 1977

L.A.J. Smith Esquire,
Singapore

Dear Sir,

re: Suit No. 2187 of 1977

We refer to your letter dated the 16th
August 1977.

20 The date of the notice referred to in
paragraph 6 should be the 3rd August 1977 and not
the 3rd April 1977 which is a typographical error.
We are accordingly amending the defence and will
be serving a copy thereof on you very shortly.

We shall be filing the particulars under
paragraph 5 in answer to your request.

Yours faithfully,

Sgd.: Allen Yau

19/8/77

12.30 p.m.

copy to client 23/8/77

EXHIBITS

Letter - Dr. Bannerji to Messrs. Allen Yau
dated 2nd December 1977

Letter

Dr.

Bannerji to
Messrs.

Allen Yau

2nd

December,

1977

KURAU CLINIC
322-F Changi Road, Singapore 14.

TEL: 401977

Dated: 2nd Dec 1977

Allen Yau, Advocates and Solicitors,
Suite 804/806, 8th floor, Manhattan House,
151 Chin Swee Road, Singapore 3.

Dear sir,

Re: 322-F Changi road.

10

I am sending herewith a cheque for
\$10,800 (Ten thousand and eight hundred dollars)
as rent upto and including December 1977 for the
above premises.

This is rendered under protest and subject to
recovery, if my interpretation of the rent clause
of the lease is judicially determined to be
correct.

Yours faithfully,

(Dr. H.L. Bannerji.)

20

Letter - Messrs. Allen Yau to Dr. Bannerji plus cheque payable to Chin Cheng Realty Limited for \$10,800 and signed by Dr. Bannerji dated 3rd December, 1977

EXHIBITS

Letter Messrs. Allen Yau to Dr. Bannerji plus cheque payable to Chin Cheng Realty Limited for \$10,800 and signed by Dr. Bannerji 3rd December, 1977

ALLEN YAU
Advocates & Solicitors

Suite 804/806,
8th floor, Manhattan House
151, Chin Swee Road,
Singapore 3.
Tel: 981035 (3 lines)

10 Our ref: AY/TYS/1628/76

3rd December 1977

Dr. H.L. Bannerji,
322-F Changi Road,
Singapore 14

Dear Sir,

re: No. 322-F Changi Road

We refer to your letter dated the 2nd December 1977.

20

We are instructed to and return herewith your cheque for \$10,800.00. Our Clients are not prepared to accept the same in view of the conditions under which such purported tender is made.

Yours faithfully,

Sgd.: Allen Yau

Enc.

c.c. Clients

30

The Hongkong and Shanghai Banking Corporation
Collyer Quay Office, Singapore 48-40-01

Stamp duty paid

Date 2.12.1977

Chin Cheng Realty (Pte) Ltd.
Dollars Ten thousand eight hundred \$10800/only
only C^o

Sgd.: Hirendra Lal
Bannerji

678427

Stamped
Dr. H.L. Bannerji.
141-811315-001

EXHIBITS

Letter - Dr. Bannerji to Messrs. Allen Yau
dated 2nd May, 1978

Letter

Dr.

Bannerji to
Messrs.
Allen Yau
2nd May 1978

KURAU CLINIC
322-F Changi Road, Singapore 14

TEL: 401977

Dated 2nd May 1978

Allen Yau, Advocates & Solicitors,
Suite 804/806, 8th floor, Manhattan House,
151 Chin Swee Road, Singapore 3.

Dear sir,

Re: 322-F Changi road.

10

I am herewith sending a cheque for \$12,000/-
(Dollars Twelve thousand only) as rent for the
above premises up to and including May 1978.

This is rendered under protest and subject to
recovery, if my interpretation of the rent clause
of the lease is judicially determined to be
correct.

Yours faithfully,

(Dr. H.L. Bannerji.)

Letter - Messrs. Allen Yau to Dr. Bannerji
plus cheque to Chin Cheng Realty for
Singapore \$12,000 signed by Bannerji,
dated 5th May, 1978

EXHIBITS

Letter
Messrs.
Allen Yau to
Dr. Bannerji
plus cheque
to Chin
Cheng
Realty for
Singapore
\$12,000
signed by
Bannerji
5th May,
1978

ALLEN YAU
ADVOCATES & SOLICITORS,
SUITE 804/806, 8th FLOOR,
MANHATTAN HOUSE,
151, CHIN SWEE ROAD,
SINGAPORE 3.

10

TEL: 981035

5th May 1978

Our ref: AY/1628/76/011

Dr. H.L. Bannerji,
322-F Changi Road,
Singapore 14.

Dear Sir,

re: No. 322-F Changi Road

We refer to your letter dated the 2nd May
1978.

20

We are instructed to and return herewith your
cheque for \$12,000. Our Clients are not prepared
to accept the same in view of the conditions under
which such purported tender is made.

Yours faithfully,

Sgd.: Allen Yau

Enc.

c.c. Clients

30

The Hongkong and Shanghai Banking Corporation
Collyer Quay Office, Singapore 48-40-01

Stamp duty paid

Date 2.5.1978

Chin Cheng Realty (Pte) Ltd.,
Dollars Twelve thousand only. \$12000/ only

946226

Sgd.: Hirendra Lal Bannerji

Dr. H.L. Bannerji.

141-811315-001

EXHIBITS

Letter
Messrs.
L.A.J. Smith
to Prime
Realty
Property
Limited
10th May,
1978

Letter - Messrs. L.A.J. Smith to Prime
Realty Property Limited dated 10th May,
1978

LAJS/GN/1374/75

10th May, 1978.

M/s. Prime Realty Pte. Ltd.,
Suite 1705, 17th Floor,
Orchard Towers,
400, Orchard Road,
Singapore, 9.

10

Dear Sirs,

Re: 322-F, Changi Road, Singapore.

I am acting for Dr. H.L. Bannerji in Suit No. 2187 of 1977 an action for specific performance for the renewal of the Lease registered at the Registry of Deeds dated 4th August, 1953.

The premises are held by Dr. Bannerji under this Lease which is a 10 year Lease renewable every ten years at Dr. Bannerji's option.

The original rent payable by Dr. Bannerji was the sum of \$110.00 per month. This could only be increased in accordance with the terms of the Lease. Currently Chin Cheng Realty (Pte.) Ltd., are claiming a sum in excess of that which they are entitled to under the Lease.

20

However, as an interim measure and pending the final outcome of the litigation Dr. Bannerji is tendering the rents on the basis claimed by Chin Cheng Realty (Pte.) Ltd., with the reservation that in the event that Dr. Bannerji's interpretation is correct the rent will be refunded.

30

Chin Cheng Realty (Pte.) Ltd. through their Solicitors Allen Yau refused to accept the rent on this basis.

This letter is written to you because it has come to Dr. Bannerji's notice that certain other parties in the same building owned by Chin Cheng Realty (Pte.) Ltd. have been requested to pay their rent to your company.

...2/-

40

We presume that Chin Cheng Realty (Pte) Ltd. have give you notice of Dr. Bannerji's position.

Letter
Messrs.
L.A.J. Smith
to Prime
Realty
Property
Limited
10th May,
1978
(Contd.)

This letter however puts you on notice of the Lease and the litigation.

Should you be intending to buy this property or intending to sell it or dispose of it you should inform the persons likely to be affected by this Lease of its existence and also the litigation.

10

Yours faithfully,

c.c. Client.

EXHIBITS

Letter
Messrs.
David See to
Dr. Bannerji
plus cheque
payable to
Chin Cheng
Realty
Limited for
\$12,240 from
Bannerji
28th June,
1978

Letter - Messrs. David See to Dr. Bannerji
plus cheque payable to Chin Cheng Realty
Limited for \$12,240 from Bannerji dated
28th June, 1978

DAVID SEE & COMPANY Suite 804/806, 8th Floor,
Advocates & Solicitors Manhattan House,
No. 151 Chin Swee Road,
Singapore 3.
Tel: 981035

REGISTERED

10

Our Ref: DS:AL: 28th June 1978.

Dr. H.L. Bannerji,
c/o Kurau Clinic
No. 322-F Changi Road,
Singapore 14.

Dear Sir,

re: No. 322F Changi Road, Singapore

We are acting for Messrs. Chin Cheng Realty Pte.
Ltd. in the above matter in place of Messrs. Allen
Yau, and your letter dated 1st June 1978 has been
handed to us for our attention.

20

We are instructed to and do hereby return your
cheque for \$12,240.00 as our clients are not
prepared to accept the same in view of the
conditions under which the purported tender is
made. In any event, the amount purportedly
tendered by you is incorrect.

Yours faithfully,

Sgd.: David See & Co.

enc:

30

c.c. clients.

The Hongkong and Shanghai Banking Corporation
Collyer Quay Office, Singapore 48-40-01

Stamp duty paid

Date 1/6/1978

Chin Cheng Realty (Pte) Ltd.
Dollars Twelve thousand two hundred \$12240/-
& forty only

Sgd.: Hirendra Lal Bannerji

Letter - Messrs. L.A.J. Smith to Messrs.
David See & Co. dated 4th July, 1978

EXHIBITS

Letter
Messrs.
L.A.J. Smith
to Messrs.
David See
& Co.
4th July,
1978

DS:AL
LAJS/GN/1374/74

4th July, 1978.

Messrs. David See & Co.,
Suite 804/808. 8th Floor,
Manhattan House,
No. 151 Chin Swee Road,
Singapore, 3.

10

Dear Sirs,

Re: No. 322F Changi Road, Singapore

Your letter of the 28th June, 1978 returning
Dr. Bannerji's cheque of \$12,240.00 in respect of
the abovementioned premises which is sent to you
conditionally has been handed to me with
instructions to reply.

As far as we are aware this amount is the
correct amount on calculations made by Allen Yau.

20

Would you be good enough to let us know what
you say is the correct figure and why it is the
correct figure.

Yours faithfully,

c.c. Client.

EXHIBITS

Letter
Messrs.
L.A.J. Smith
to Messrs.
David See &
Co.
10th July,
1978

Letter - Messrs. L.A.J. Smith to
Messrs. David See & Co. dated
10th July, 1978

DS/AL/0138/78
LAJS/GN/1374/74

10th July, 1978.

Messrs. David See & Co.,
Suite 804/808, 8th Floor,
Manhattan House,
No. 151 Chin Swee Road,
Singapore, 3.

10

Dear Sirs,

Re:1.Suit No. 434 of 1978 (formerly
D.C. Summons No. 4724 of 1977)
2.Suit No. 2187 of 1977
3.No. 322F Changi Road, Singapore.

I would refer to my letter of the 4th July,
1978.

In your letter of the 28th June, 1978 when
returning a cheque for the rent you stated the
amount was incorrect.

20

I have asked you what you maintain is the
correct rent and the reasons for so saying.

This request is made because the rent as
forwarded was the rent as claimed though we
disputed it. Now apparently you have another
figure. Please clarify.

Yours faithfully,

c.c. Client.

Indenture made on 14th July 1978 and registered on 17th July 1978 between Chin Cheng Realty Limited, Prime Realty, and Moh Seng Realty

EXHIBITS

Indenture made on 14th July 1978 and registered on 17th July 1978 between Chin Cheng Realty Limited, Prime Realty and Moh Seng Realty

Registered on the 17th July 1978 at 11.20 a.m. under Lot 340-22 Mukim 26 in accordance with statement presented in Volume 2115 Page 444 No. 80

10

Sgd.: Illegible
Registrar of Deeds
Singapore

20

THIS INDENTURE is made the 14th day of July One thousand nine hundred and seventy-eight (1978) Between CHIN CHENG REALTY (PTE) LIMITED, a Company incorporated in the Republic of Singapore and having its registered office at Suite 1705, 17th floor, Orchard Towers, Orchard Road, Singapore (hereinafter called "the Vendor") of the first part, PRIME REALTY PTE. LTD., a Company incorporated in the Republic of Singapore and having its registered office at Suite 1705, 17th floor, Orchard Towers, Orchard Road, Singapore (hereinafter called "the Original Purchaser") of the second part and MOH SENG REALTY (PTE) LIMITED a Company incorporated in the Republic of Singapore and having its registered office at No. 14, Lorong 32, Gaylang, Singapore (hereinafter called "the Sub-Purchaser") of the third part.

30

WHEREAS the Vendor is seised for an estate in fee simple in possession free from incumbrances of the land and premises described in the First Schedule hereto and has agreed to sell the same to the Original Purchaser at the price of \$2,190,000.00.

AND WHEREAS the Original Purchaser has since agreed to resell the said land and premises to the Sub-Purchaser at the price of \$2,220,000.00.

40

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of Dollars Two million two hundred and twenty thousand (\$2,220,000.00) paid by the Sub-Purchaser on or before the execution of these presents as to Dollars Two million one hundred and ninety thousand (\$2,190,000.00) part thereof to the Vendor by the direction of the Original Purchaser (the receipt whereof the Vendor hereby acknowledges) and as to Dollars Thirty

EXHIBITS

Indenture
made on 14th
July 1978
and
registered
on 17th
July 1978
between Chin
Cheng Realty
Limited,
Prime Realty
and Moh Seng
Realty
(Contd.)

thousand (\$30,000.00) the balance thereof
to the Original Purchaser (the payment and
receipt of which sums of \$2,190,000.00 and
\$30,000.00 making together the said sale price of
\$2,220,000.00 and \$30,000.00 making together the
said sale price of \$2,220,000.00 the Original
Purchaser hereby acknowledges) the Vendor at the
request and by the direction of the Original
Purchaser hereby conveys and the Original
Purchaser hereby conveys and confirms unto the
Sub-Purchaser ALL the land and premises described
in the First Schedule hereto TO HOLD the same unto
the Sub-Purchaser in fee simple.

10

AND the Vendor hereby acknowledges the
right of the Sub-Purchaser to production of the
several documents of title specified in the Second
Schedule hereto and to delivery of copies thereof
and undertakes with the Sub-Purchaser for the safe
custody of the same.

IN WITNESS WHEREOF the Vendor and the
Original Purchaser have caused their respective
Common Seals to be hereunto affixed the day and
year first above written.

20

THE FIRST SCHEDULE ABOVE REFERRED TO

ALL THAT piece of land situate in the
District of Siglap in the Island of Singapore
estimated according to Government Resurvey to
contain an area of 2650.6 square metres
(28,531 square feet) and marked on the Government
Resurvey Map as Lot 340-22 of Mukim XXVI WHICH
said piece of land forms part of the land comprised
in Grant No. 1.

30

TOGETHER with the houses erected thereon
and known as Nos. 276, 276A, 278, 278A, 280, 280A,
282, 282A, 284, 284A, 286, 286A, 288, 288A, 290,
290A, 292, 292A, 294, 294A, 296, 296A, 298, 298A,
300, 300A, 302, 302A, 304, 304A, 306, 306A, 308,
308A, 310, 310A, 312 and 312A, Changi Road,
Singapore.

THE SECOND SCHEDULE ABOVE REFERRED TO

40

31st December - CONVEYANCE: Edward Louis Gordon to
1886 Armogum Annamalsi (Registered in
Volume IX No. 73).

EXHIBITS

- 31st December 1886 - MORTGAGE: Armogum Annamalai to Edward Louis Gordon (Registered in Volume IX No. 74). Indenture made on 14th July 1978 and registered on 17th July 1978 between Chin Cheng Realty Limited, Prime Realty and Moh Seng Realty (Contd.)
- 22nd January 1902 - CONVEYANCE OF EQUITY OF REDEMPTION: Armogum Annamalai to Edward Louis Gordon (Registered in Volume CLXXII No. 80).
- 10 15th February 1902 - CONVEYANCE: Edward Louis Gordon to Abraham Frankel (Registered in Volume CLXXIII No. 162).
- 12th October 1903 - CONVEYANCE: Abraham Frankel to Seng Heng Guan (Registered in Volume CCXVI No. 19).
- 12th October 1903 - CONVEYANCE: Abraham Frankel to Shaik Sahid Bin Omar Bin Abdullah Bin Omar Makarim (Registered in Volume CCCXL No. 142).
- 20 27th September- 1911 STATUTORY MORTGAGE: Shaik Sahid Bin Omar Bin Abdullah Bin Omar Makarim to Abraham Frankel (Registered in Volume CCCXL No. 175) with STATUTORY RECONVEYANCE dated 6th June 1912 (Registered in Volume CCCL No. 155) endorsed thereon.
- 30 10th December 1949 - CONVEYANCE: Omar Bin Sayeed Makarim, Abdullah Bin Sayeed Makarim and Salim Bin Thaha Mather to Syed Ibrahim bin Omar Alsagoff (Registered in Volume 1057 No. 142).
- 10th December 1949 - FURTHER CHARGE: Syed Ibrahim Bin Omar Alsagoff to The Hongkong and Shanghai Banking Corporation (Registered in Volume 1059 No. 16).
- 40 4th December 1951 - CONVEYANCE: The Hongkong and Shanghai Banking Corporation 1st part, Syed Ibrahim Bin Omar Alsagoff 2nd part and the Vendor 3rd part (Registered in Volume 1119 No. 20).

EXHIBITS

Indenture
made on 14th
July 1978
and
registered
on 17th
July 1978
between Chin
Cheng Realty
Limited,
Prime Realty
and Moh Seng
Realty
(Contd.)

The COMMON SEAL OF CHIN CHENG REALTY)
(PTE) LIMITED was hereunto affixed)
in the presence of:-)

COMMON SEAL
OF CHIN
CHENG
REALTY
(PTE) LTD.

sd. Ko Teck Siang (In Chinese)

Director.

sd. Chan Sin Kay

Secretary.

The COMMON SEAL of PRIME REALTY)
PTE. LTD., was hereunto affixed in)
the presence of:-)

COMMON SEAL
OF PRIME
REALTY PTE.
LTD.

10

sd. Ko Oon Soon

Director

sd. Chua Lay Ling

Secretary

I, DAVID TAR SEE, an Advocate and
Solicitor of the Supreme Court of the Republic of
Singapore practising in Singapore hereby certify
that on the 14th day of July A.D. 1978, the Common
Seal of CHIN CHENG REALTY (PTE) LIMITED was duly
affixed to the within-written instrument at
Singapore in my presence in accordance with the
regulations of the said Company (which regulations
have been produced and shown to me).

20

WITNESS my hand this 14th day of July
A.D. 1978.

sd. David Tar See

I, DAVID TAR SEE, an Advocate and
Solicitor of the Supreme Court of the Republic of
Singapore practising in Singapore hereby certify
that on the 14th day of July A.D. 1978, the Common
Seal of PRIME REALTY PTE. LTD. was duly affixed to
the within-written instrument at Singapore in my
presence in accordance with the regulations of the
said Company (which regulations have been
produced and shown to me).

30

WITNESS my hand this 14th day of July A.D. 1978.

sd. David Tar See

I, DAVID TAR SEE, the Solicitor for PRIME REALTY PTE. LTD. (the Original Purchaser) hereby certify that the place of incorporation of PRIME REALTY PTE. LTD. as abovementioned specified in the within instrument has been verified from the Certificate of Incorporation No. 185/1978 produced and shown to me, and is found to be correct.

Dated this 14th day of July A.D. 1978.

10

sd. David Tar See

I, KO OON SOON, a Director of PRIME REALTY PTE. LTD. hereby certify that all Members and all Directors of the above Company are Singapore Citizens.

Dated this 14th day of July A.D. 1978.

sd. Ko Oon Soon
Director
PRIME REALTY PTE. LTD.

Signed in the presence of:-

20

sd. David Tar See
Advocate & Solicitor
Singapore

I, DAVID TAR SEE, the Solicitor for MOH SENG REALTY (PTE) LIMITED (the Sub-Purchaser) hereby certify that the place of incorporation of MOH SENG REALTY (PTE) LIMITED as abovementioned specified in the within instrument has been verified from the Certificate of Incorporation No. 1047/1978 produced and shown to me, and is found to be correct.

30

Dated this 14th day of July A.D. 1978.

sd. David Tar See

EXHIBITS
Indenture
made on 14th
July 1978
and
registered
on 17th
July 1978
between
Chin Cheng
Realty
Limited,
Prime Realty
and Moh Seng
Realty
(Contd.)

EXHIBITS

Indenture
made on 14th
July 1978
and
registered
on 17th
July 1978
between
Chin Cheng
Realty
Limited,
Prime Realty
and Moh Seng
Realty
(Contd.)

I, HOON MOH HENG, Director of MOH SENG REALTY (PTE) LIMITED hereby certify that all Members of the above Company are Singapore Citizens only and that although provisions have been made in the Articles of Association for Singapore Companies as defined therein to be Members of the Company, the membership of the Company does not include any such Singapore Companies.

I also certify that all Directors of MOH SENG REALTY (PTE) LIMITED are Singapore Citizens.

10

Dated this 14th day of July A.D. 1978.

sd. Hoon Moh Heng (In Chinese)
Director
MOH SENG REALTY (PTE) LIMITED

Signed in the presence of:-

sd. David Tar See
Advocate & Solicitor
Singapore

Stamped

20

CANCELLED

THE WITHIN LAND
HAS BEEN BROUGHT UNDER THE PROVISIONS
OF THE LAND TITLES ACT
CERTIFICATE OF TITLE VOL. 212 FOL. 99

Dated 18.4.1979

Certified
enrolled in the Registry of Deeds at Singapore
Witness my hand and seal this 18th day of
March 1980

30

sd. Illegible
Deputy Registrar of Deeds
Singapore

Stamped REGISTRAR OF DEEDS
SINGAPORE

Indenture between Chin Cheng Realty, Prime
Realty, and Moh Seng Realty dated 4th
August, 1978

EXHIBITS

Indenture
between
Chin Cheng
Realty,
Prime
Realty and
Moh Seng
Realty
4th August,
1978

10 THIS INDENTURE is made the 4th day of
August One thousand nine hundred and seventy-
eight (1978) Between CHIN CHENG REALTY (PTE)
LIMITED, a Company incorporated in the Republic
of Singapore and having its registered office at
Suite 1705, 17th floor, Orchard Towers, Orchard
Road, Singapore (hereinafter called "the
Vendor") of the first part, PRIME REALTY PTE.
LTD., a Company incorporated in the Republic of
Singapore and having its registered office at
Suite 1705, 17th floor, Orchard Towers, Orchard
Road, Singapore (hereinafter called "the Original
Purchaser") of the second part and MOH SENG REALTY
(PTE) LIMITED, a Company incorporated in the
Republic of Singapore and having its registered
20 office at No. 14, Lorong 32, Geylang, Singapore
(hereinafter called "the Sub-Purchaser") of the
third part.

WHEREAS the Vendor is seized for an
estate in fee simple in possession free from
incumbrances of the land and premises described
in the First Schedule hereto and has agreed to sell
the same to the Original Purchaser at the price of
\$2,080,000.00.

30 AND WHEREAS the Original Purchaser has
since agreed to resell the said land and premises
to the Sub-Purchaser at the price of \$2,100,000.00.

40 NOW THIS INDENTURE WITNESSETH that in
consideration of the sum of Dollars Two million and
one hundred thousand (\$2,100,000.00) paid by the
Sub-Purchaser on or before the execution of these
presents as to Dollars Two million and eighty
thousand (\$2,080,000.00) part thereof to the
Vendor by the direction of the Original Purchaser
(the receipt whereof the Vendor hereby acknowledges)
and as to Dollars Twenty thousand (\$20,000.00)
the balance thereof to the Original Purchaser
(the payment and receipt of which sums of
\$2,080,000.00 and \$20,000.00 making together the
said sale price of \$2,100,000.00 the Original
Purchaser hereby acknowledges) the Vendor at the
request and by the direction of the Original
Purchaser hereby conveys and the Original Purchaser
hereby conveys and confirms unto the Sub-Purchaser
ALL the land and premises described in the First
Schedule hereto TO HOLD the same unto the

EXHIBITS

Sub-Purchaser in fee simple.

Indenture
between
Chin Cheng
Realty,
Prime
Realty and
Moh Seng
Realty
4th August,
1978
(Contd.)

AND the Vendor hereby acknowledges the right of the Sub-Purchaser to production of the several documents of title specified in the Second Schedule hereto and to delivery of copies thereof and undertakes with the Sub-Purchaser for the safe custody of the same.

IN WITNESS WHEREOF the Vendor and the Original Purchaser have caused their respective Common Seals to be hereunto affixed the day and year first above written.

10

THE FIRST SCHEDULE ABOVE REFERRED TO

ALL that piece of land situate in the District of Siglap in the Island of Singapore estimated according to Government Resurvey to contain an area of 2593.3 square metres (27,914 square feet) and marked on the Government Resurvey Map as Lot 340-23 of Mukim XXVI WHICH said piece of land forms part of the land comprised in Grant No. 1.

20

TOGETHER with the houses erected thereon known as Nos. 314, 314A, 316, 316A, 318, 318A, 320, 320A, 322, 322A, 322B, 322C, 322D, 322E, 322F, 322G, 324, 324A, 324B, 324C, 324D, 324E, 324F, 324G, 324H, 324J, 324K, 324L, 324M, 324N, 324P, 324Q, 324R, 324S, 324T and 324U, Changi Road, Singapore.

THE SECOND SCHEDULE ABOVE REFERRED TO

31st December 1886 - CONVEYANCE: Edward Louis Gordon to Armogum Annamalai (Registered in Volume IX No. 73).

30

31st December 1886 - MORTGAGE: Armogum Annamalai to Edward Louis Gordon (Registered in Volume IX No. 74).

22nd January 1902 - CONVEYANCE OF EQUITY OF REDEMPTION: Armogum Annamalai to Edward Louis Gordon (Registered in Volume CLXXII No. 80).

15th February 1902 - CONVEYANCE: Edward Louis Gordon to Abraham Frankel (Registered in Volume CLXXIII No. 162).

40

EXHIBITS

- 12th October 1903 - CONVEYANCE: Abraham Frankel to Seng Heng Guan (Registered in Volume CCXVI No. 19).
- 12th October 1903 - STATUTORY MORTGAGE: Seng Heng Guan to Abraham Frankel (Registered in Volume CCXVI No. 20).
- 10 27th September 1911 - CONVEYANCE: Abraham Frankel to Shaik Sahid Bin Omar Bin Abdullah Bin Omar Makarim (Registered in Volume CCCXL No. 142).
- 20 27th September 1911 - STATUTORY MORTGAGE: Shaik Sahid Bin Omar Bin Abdullah Bin Omar Makarim to Abraham Frankel (Registered in Volume CCCXL No. 175) with STATUTORY RECONVEYANCE dated 6th June 1912 (Registered in Volume CCCL No. 155) endorsed thereon.
- 10th December 1949 - CONVEYANCE: Omar Bin Sayeed Makarim, Abdullah Bin Sayeed Makarim and Salim Bin Thaha Mathar to Syed Ibrahim bin Omar Alsagoff (Registered in Volume 1057 No. 142).
- 30 10th December 1949 - FURTHER CHARGE: Syed Ibrahim Bin Omar Alsagoff to The Hongkong and Shanghai Banking Corporation (Registered in Volume 1059 No. 16).
- 4th December 1951 - CONVEYANCE: The Hongkong and Shanghai Banking Corporation 1st part, Syed Ibrahim Bin Omar Alsagoff 2nd part and the Vendor 3rd part (Registered in Volume 1119 No. 20).

EXHIBITS

Indenture between Chin Cheng Realty, Prime Realty and Moh Seng Realty 4th August, 1978 (Contd.)

The COMMON SEAL of CHIN CHENG REALTY) (PTE) LIMITED was hereunto affixed) in the presence of)

The Common Seal of Chin Cheng Realty (PTE) Limited Singapore

sd. Illegible

Director

sd. Illegible

Secretary

The COMMON SEAL of PRIME REALTY PTE.) LTD. was hereunto affixed in the) presence of)

The Common Seal of Prime Realty (Pte) Ltd.

10

sd. Illegible

Director

sd. Illegible

Secretary

I, DAVID TAR SEE, an Advocate and Solicitor of the Supreme Court of the Republic of Singapore practising in Singapore hereby certify that on the 3rd day of August A.D. 1978 the Common Seal of CHIN CHENG REALTY (PTE) LIMITED was duly affixed to the within written instrument at Singapore in my presence in accordance with the regulations of the said Company (which regulations have been produced and shown to me).

20

WITNESS my hand this 3rd day of August A.D. 1978

sd. David Tar See

I, DAVID TAR SEE, an Advocate and Solicitor of the Supreme Court of the Republic of Singapore practising in Singapore hereby certify that on the 3rd day of August A.D. 1978 the Common Seal of PRIME REALTY PTE. LTD. was duly affixed to the within written instrument at Singapore in my presence in accordance with the regulations of the said Company (which regulations have been produced and shown to me).

30

WITNESS my hand this 3rd day of August A.D. 1978

sd. David Tar See

I, DAVID TAR SEE, the Solicitor for PRIME REALTY PTE. LTD. (the Original Purchaser) hereby certify that the place of incorporation of PRIME REALTY PTE. LTD. as abovementioned specified in the within instrument has been verified from the Certificate of Incorporation No. 185/1978 produced and shown to me, and is found to be correct.

Dated this 3rd day of August A.D. 1978

10 sd. David Tar See

EXHIBITS
Indenture
between
Chin Cheng
Realty,
Prime
Realty and
Moh Seng
Realty
4th August,
1978
(Contd.)

I, KO OON SOON, a Director of PRIME REALTY PTE. LTD. hereby certify that all Members and all Directors of the above Company are Singapore Citizens.

Dated this 3rd day of August A.D. 1978

sd. Ko Oon Soon
Director
PRIME REALTY PTE. LTD.

Signed in the presence of:-

20 David Tar See
Advocate & Solicitor
Singapore

I, DAVID TAR SEE, the Solicitor for MOH SENG REALTY (PTE) LIMITED (the Sub-Purchaser) hereby certify that the place of incorporation of MOH SENG REALTY (PTE) LIMITED as abovementioned specified in the within instrument has been verified from the Certificate of Incorporation No. 1047/1978 produced and shown to me, and is found to be correct.

30

Dated this 4th day of August A.D. 1978

sd. David Tar See

EXHIBITS

Indenture
between
Chin Cheng
Realty,
Prime
Realty and
Moh Seng
Realty
4th August,
1978
(Contd.)

I, HOON MOH HENG a Director of MOH SENG REALTY (PTE) LIMITED, hereby certify that all Members of the above Company are Singapore Citizens only and that although provisions have been made in the Articles of Association for Singapore Companies as defined therein to be Members of the Company, the membership of the Company does not include any such Singapore Companies.

I also certify that all directors of MOH SENG REALTY (PTE) LIMITED are Singapore Citizens.

10

Dated this 4th day of August A.D. 1978

sd. Hoon Moh Heng (In Chinese)
Director
MOH SENG REALTY (PTE) LIMITED

Signed in the presence of:-

David Tar See
Advocate & Solicitor
Singapore

Stamp \$2.600/-
Date 4-8-78
Mk: 26
Lot 340-23

Additional stamp \$6.600/-
20.3.79

20

Stamped

Registered on the 5th August 1978
at 10-50 a.m. under Lot 340-23
Makim 26 in accordance with state-
ment 2116
Page 935 No. 145

sd. Illegible

30

Stamped

Certified to be a true copy of a
document enrolled in the Registry of
Deeds at Singapore.
Witness my hand and seal this 18th
day of March 1980

sd. Illegible
Deputy Registrar of Deeds
Singapore

Stamped
Registrar
of Deeds
Singapore

40

Letter - Messrs. L.A.J. Smith to Messrs.
Wee Swee Teow & Co. dated 19th August
1978

EXHIBITS

Letter
Messrs.
L.A.J.
Smith to
Messrs. Wee
Swee Teow &
Co.
19th August,
1978

LAJS/BL/1374/74

August 19, 1978

M/s. Wee Swee Teow & Co.,
Singapore.

Dear Sirs,

Lot 340-22 in Mukim 26, Siglap

10 I am acting for Dr. Hirendra Lal Bannerji who has commenced proceedings in Suit No. 2187 of 1977 against Chin Cheng Realty (Pte.) Ltd. for specific performance of an agreement for a Lease.

I enclose herewith copy of the Lis Pendens made in the proceedings.

I have also filed a Caveat and Notice of this Caveat is entered at the Registry of Deeds.

20 I have been given to understand that you are acting for Moh Seng Realty (Pte.) Ltd. of No. 14, Lorong 32, Gaylang, Singapore, 14, who bought Lot 340-23, a block of terrace houses in which is situated my client's premises No. 322-F Changi Road.

We also understand that your clients bought the adjoining block of terrace houses, namely, Lot 340-22.

30 Originally the tenants other than my client were given notice that the premises (both blocks) are sold to Prime Realty Pte. Ltd. a Company which is closely connected with Chin Cheng Realty (Pte.) Ltd.

Subsequently, several of the tenants have been given notice that Moh Seng Realty Pte. Ltd. have bought the property and indeed Notices to Quit have been given.

40 I understand that your clients have been given notice of my client's position in fact and of course they have notice of my client's position from the Caveat, the Lis Pendens and the facts of possession.

EXHIBITS

-2-

Letter
Messrs.
L.A.J.
Smith to
Messrs. Wee
Swee Teow &
Co.
19th August,
1978
(Contd.)

I write to inquire what your clients' attitude is to my client's claim to the Lease. As if this is disputed by your clients, it seems to me that your clients will have to be joined in the proceedings as defendants.

We have not been given Notice specifically of any of the Transfers directly by Prime Realty or by your clients.

Further on a search being made at the Registry of Dees, we find that your clients are not registered as owners and I imagine they cannot be registered as owners because of my client's rights and the Lis Pendens.

10

Please let me hear from you as soon as possible.

Yours faithfully,

Encl. (copy of Lis Pendens)

c.c. David See & Co.
" Clients.

20

Letter - Messrs. L.A.J. Smith to Messrs.
David See & Co. dated 19th August 1978

EXHIBITS

Letter
Messrs.
L.A.J.
Smith to
Messrs.
David See
& Co.
19th August,
1978

DS:AL:0138/78
LAJS/BL/1374/74

August 19, 1978

M/s. David See & Co.,
Singapore.

Dear Sirs,

Lot 340-22 in Mukim 26, Siglap
Re: No. 322F Changi Road
Suit No. 2187 of 1977

10

I enclose herewith copy of a letter I have
today written to M/s. Wee Swee Teow & Co.

I wonder if you will be good enough to let me
know what the present position is, as no doubt you
will appreciate it may be necessary for me to make
an application to Court to join Prime Realty and
Moh Seng Realty as Defendants in the Suit.

20

On the other hand, as no steps have been taken
by Prime Realty or Moh Seng Realty to notify my
client of a change of ownership of the block and
consequently change of the Landlord, it may be that
322F has been excluded from the sale pending
resolution of the litigation.

Yours faithfully,

Encl.
c.c. Client.

EXHIBITS

Receipt of
Chin Cheng
Realty
Limited of
\$12,720 from
Dr. Bannerji
31st August,
1978

Receipt of Chin Cheng Realty Limited of
\$12,720 from Dr. Bannerji dated 31st
August, 1978

1705, 17th Floor,
Orchard Towers,
Orchard Road,
Singapore, 9

No. 8935

CHIN CHENG REALTY (PTE) LTD.
Nos. 824-827, 8TH FLOOR, SUPREME HOUSE,
PENANG ROAD, SINGAPORE, 9.

10

Received from Dr. H.L. Bannerji
the sum of Dollars Twelve thousand Seven hundred
and twenty only
being rent of No. 322F Changi Road Road
Street
for the period from 11/7/74-10/7/78 \$12,480/-
11/7/78-12/8/78 240/-
\$12,720/- Singapore 31st August 1978

Collector
CHIN CHENG REALTY (PTE) LTD. Landlord
SEE CONDITIONS OF TENANCY ENDORSED ON REVERSE

20

Cash/Cheque sd. Illegible

Letter - Messrs. Wee Swee Teow & Co. to
Messrs. L.A.J. Smith dated 22nd August
1978

EXHIBITS

Letter
Messrs. Wee
Swee Teow
& Co. to
Messrs.
L.A.J. Smith
22nd August,
1978

WEE SWEE TEOW & CO.
ADVOCATES & SOLICITORS

KONG HOA BUILDING
FOURTH FLOOR
2 GEORGE STREET
SINGAPORE 1
TEL: 92966

10 OUR REF: CWK/WL/LH/243/78(B)
YOUR REF: LAJS/BL/1374/74 22nd August, 1978.

L.A.J. Smith, Esq.,
Singapore.

Dear Sirs,

re: Lot 340-22 of Mk. 26

We acknowledge the receipt of your letter of
the 19th instant together with enclosure.

20 We confirm that M/s. David See & Co. are
acting for Moh Seng Realty Pte. Ltd. in connection
with premises No. 322F, Changi Road. Kindly
communicate with them direct on this matter.

Yours faithfully,

Sd. Wee Swee Teow & Co.

c.c. M/s. David See & Co.

Copy to David See & Co.) 23/8/78 23/8/78
" " Client) at 9.40 a.m.

Letter - Messrs. L.A.J. Smith to Messrs.
David See & Co. dated 23rd August 1978

EXHIBITS

Letter
Messrs. L.A.J.
Smith to
Messrs.
David See &
Co.
23rd August,
1978

DS:AL:0138:78

LAJS/BL/1374/74

August 23, 1978.

M/s. David See & Co.,
Singapore.

Dear Sirs,

Lot 340-22 in Mukim 26, Siglap

Re: No. 322F Changi Road

Suit No. 2187 of 1977

I have now heard from M/s. Wee Swee Teow & C
and I enclose herewith copy of their letter. I see th
this has been copied to you.

Would you be good enough to let me know
exactly what has happened in this matter.

My letter of August 19, 1978, refers.

Yours faithfully,

Encl. (copy letter)

c.c. Client.

Letter - Messrs. David See & Co. to
Dr. Bannerji dated 28th August 1978

EXHIBITS

DAVID SEE & COMPANY

A.R. REGISTERED

DAVID SEE & COMPANY
Advocates & Solicitors,
Suite 804/808, 8th Floor,
Manhattan House,
Chin Swee Road,
Singapore, 3.

Letter
Messrs.
David See
& Co. to
Dr. Bannerji
28th August,
1978

DS:AL:

28th August 1978

10 Dr. Hirendra Bannerji,
No. 322F, Changi Road,
Singapore 14.

Dear Sir,

re: No. 322F Changi Road, Singapore

20 We act for Messrs. Moh Seng Realty (Pte) Limited,
and are instructed to inform you that by a
Conveyance made on the 4th day of August 1978,
the above-described property has been conveyed by
Chin Cheng Realty Pte. Limited and Prime Realty
Pte. Ltd. to them.

We are also instructed by our clients to and do
hereby give you notice that all future rentals
commencing from the 1st day of September 1978
should be paid promptly on the due date to us as
solicitors for Messrs. Moh Seng Realty (Pte)
Limited.

You should also pay arrear of rent for the period
from 11th August to 31st August 1978 to us as
solicitors for Messrs. Prime Realty Pte. Ltd.

30 Yours faithfully,

Sgd.: David See & Company

c.c. 1. M/s Moh Seng Realty (Pte) Ltd.
2. M/s Prime Realty Pte. Ltd.
3. M/s L.A.J. Smith

EXHIBITS

Letter - Messrs. David See & Co. to
Messrs. L.A.J. Smith dated 28th August
1978

Letter
Messrs.
David See
& Co. to
Messrs.
L.A.J. Smith
28th August,
1978

DAVID SEE & COMPANY
Advocates & Solicitors

Suite 804/808, 8th Floor
Manhattan House,
No.151 Chin Swee Road
Singapore 3
Tel: 981035

BY HAND

OUR REF: DS:AL:0138:78
YOUR REF: LAJS/BL/1373/74

28th August 1978

10

Messrs. L.A.J. Smith,
No. 18H Battery Road,
Singapore 1.

30/8/78
at 10.45 a.m.

Dear Sirs,

re: Lot 340-22 of Mukim 26
No. 322F Changi Road,
Suit No. 2187 of 1977

We refer to your letters dated 19th and 23rd August
1978 and regret the delay in replying thereto due
to pressure of work.

20

We are instructed to inform you that by a
Conveyance made on the 4th day of August 1978
between Chin Cheng Realty Pte. Ltd. of the first
part, Prime Realty Pte. Ltd. of the second part
and Moh Seng Realty Pte. Ltd. of the third part,
the above-described property has been conveyed to
Messrs. Moh Seng Realty Pte. Ltd. The parties
have notice of the Lis Pendens registered against
No. 322F Changi Road, Singapore.

30

We enclose herewith a copy of our Notice of Transfer
of property of even date to your client for your
information.

We are also instructed to inform you that our
clients Messrs. Prime Realty Pte. Ltd. and Messrs.
Moh Seng Realty Pte. Ltd. have agreed to be bound
by the decision of the above action between Chin
Cheng Realty Pte. Ltd. and your client.

Yours faithfully,
Sgd.: David See & Company
Enc.

40

c.c. 1. M/s Chin Cheng Realty Pte. Ltd.
2. M/s Prime Realty Pte. Ltd.
3. M/s Moh Seng Realty Pte. Ltd.
copy to client 30/8/78

Letter - Messrs. L.A.J. Smith to Messrs.
David See & Co. dated 30th August 1978

EXHIBITS

DS:AL:0138:78

LAJS/GN/1374/74

30th August, 1978.

Letter
Messrs.
L.A.J.
Smith to
Messrs.
David See &
Co.
30th August,
1978

Messrs. David See & Co.,
Suite 804/808, 8th Floor,
Manhattan House,
No. 151, Chin Swee Road,
Singapore, 3.

Dear Sirs,

Re: Lot 340-22 of Mukim 26
No. 322F Changi Road,
Suit No. 2187 of 1977

I am much obliged to you for your
letter of the 28th August, 1978 received
today the 30th August, 1978 at 10.45 a.m.

In the circumstances I think it is
necessary for me to join both Prime
Realty Pte. Ltd. and Moh Sang Realty
Pte. Ltd. as Defendants in the Suit.

Yours faithfully,

c.c. Client.

EXHIBITS

Letter - Messrs. L.A.J. Smith to Messrs.
David See & Co. dated 31st August 1978

Letter
Messrs.
L.A.J. Smith
to Messrs.
David See &
Co.
31st August,
1978

DS:AL:0138:78
LAJS/GN/1374/74

31st August, 1978

M/s. David See & Co.,
Singapore.

Dear Sirs,

Re: Lot 340-22 of Mikim 26
No. 322F Changi Road,
Suit No. 2187 of 1977

10

I am obliged to you for your letter of the 28th August, 1978.

I did ask you in my letter of the 23rd August 1978 exactly what has happened as I want to take appropriate steps.

The Notice of Transfer which you forwarded to my client is far from clear except as to the position arising from the 1st September, 1978.

In the first week of August, 1978 my client made out a cheque in the name of Chin Cheng Realty Pte. Ltd. and sent it to your firm. This was sent to you on the usual basis as understood up to date.

20

The rent therefore for the month of August, 1978 has in fact been paid.

As you are Solicitors for Chin Cheng Realty Pte. Ltd., Prime Realty Pte. Ltd. and Moh Seng Realty (Pte.) Ltd. perhaps you would be good enough to make the necessary adjustment in accordance with the terms of your letter.

30

We should also like to know why you suggest that there are any arrears of rent. The rent under the Lease is payable in advance in the first week of the month and was so paid. Further, you may explain why if the property was conveyed to Moh Seng Realty (Pte.) Ltd. on the 4th August, 1978 by Chin Cheng Realty Pte. Ltd. and Prime Realty Pte. Ltd. rent is payable to Prime Realty Pte. Ltd. from the 11th August to 31st August, 1978.

Yours faithfully,

40

c.c. Client

Letter - Dr. Bannerji to Messrs. David See
& Co. dated 1st September, 1978

EXHIBITS

Letter
Dr. Bannerji
to Messrs.
David See &
Co.
1st
September,
1978

KURAU CLINIC
322-F Changi Road, Singapore 14.

TEL: 401977

Dated: 1st Sept 1978

David See & Company,
Suite 804/808, 8th floor, Manhattan House,
151 Chin Swee Road, Singapore 3.

Dear Sir,

10

Re: 322-F Changi road.

Should be
28th

I received your letter no. DS:AL dated 18th
August 1978 yesterday morning.

I am attaching herewith a cheque for \$240
made out in the name of Moh Seng Realty (Pte) Ltd.
as rent for September 1978.

This is rendered under protest and subject to
recovery, if my interpretation of the rent clause
of the lease is judicially determined to be
correct.

20

As regards the last paragraph of your letter,
you have not explained in this or any other previous
letters as to when and in what manner Prime Realty
Pte. Ltd. came into the picture apropos 322-F
Changi road, nor have you explained what this
arrears of rent is about. Rent for August 1978
was paid by a cheque dated 3rd August 1978 as
required under the terms of the lease.

Yours faithfully,

(Dr. H.L. Bannerji)

EXHIBITS

Letter
Messrs.

L.A.J. Smith
to Messrs.
David See &
Co.
12th
September,
1978

Letter - Messrs. L.A.J. Smith to Messrs.
David See & Co. dated 12th September 1978

DS:AL:0138:78

LAJS/GN/1374/74

12th September, 1978.

M/s. David See & Co.,
Singapore.

Dear Sirs,

Re: Lot 340-22 of Mikim 26
No. 322F Changi Road,
Suit No. 2187 of 1977

I wrote to you on the 31st August,
1978 regarding the abovementioned matter.

Would you be good enough to forward
to me a receipt for the rent which was
received by Chin Cheng Realty Pte. Ltd.
and also clarify the position.

Yours faithfully,

c.c. Client.

Letter - Messrs. L.A.J. Smith to Messrs.
David See & Co. dated 18th October 1978

EXHIBITS

DS:AL:0138:78
LAJS/GN/1374/74

18th October, 1978

Letter
Messrs.
L.A.J.
Smith to
Messrs.
David See
& Co.
18th
October,
1978

Messrs. David See & Co.,
Singapore.

Dear Sirs,

10 Re: Lot 340-23 of Mukim 26
No. 322F Changi Road,
Suit No. 2187 of 1977

I would refer to my letter of the 12th
September, 1978 requesting you to forward to me a
receipt for the rent which was received by Chin
Cheng Realty Pte. Ltd.

To date I have not had an answer from your
firm and my client is perturbed at the course
these proceedings are taking.

20 I have been directed to refer you to Section
4 of the Premiums on Leases Act and to request
that your clients Chin Cheng Realty Pte. Ltd. do
forthwith make out a receipt in accordance with
the terms thereof.

I am also instructed to call your attention
to the error in the correspondence of the lot
number. No. 322F Changi Road is situated at Lot
No. 340-23 of Mukim 26.

Yours faithfully,

c.c. Client.

EXHIBITS

Letter - Messrs. L.A.J. Smith to Messrs.
David See & Co. dated 18th October 1978

Letter
Messrs.
L.A.J.
Smith to
Messrs.
David
See & Co.
18th
October,
1978

DS:AL:0138:78

LAJS/GN/1374/74

18th October, 1978.

Messrs. David See & Co.,
Singapore.

Dear Sirs,

Re: Lot 340-23 of Mukim 26
No. 322F Changi Road,
Moh Seng Realty (Pte.) Ltd.
Suit No. 2187 of 1977

I now understand from my client, Dr. Bannerji that he is prepared to accept Prime Realty Pte. Ltd. and Moh Seng Realty (Pte.) Ltd.'s undertaking to agree to be bound by the decision in the action between Chin Cheng Realty Pte. Ltd. and my client.

Should they want to make any representation in this action through yourselves we would have no objection.

I am instructed that the rent for September and October, 1978 was forwarded to you by cheques payable to Moh Seng Realty (Pte.) Ltd. It would appear that Moh Seng Realty (Pte.) Ltd. have not cashed the cheque for the rent for September. My client does not have his statement for October and will not know if the rent for October has been cashed.

In any event he has not received a rent receipt.

I am instructed to request that Moh Seng Realty (Pte.) Ltd. do furnish a receipt in accordance with Section 4 of the Premiums on Leases Act.

Yours faithfully,

c.c. Client.

Letter - Dr. Bannerji to Messrs. David See
& Co. dated 3rd January 1979

EXHIBITS

KURAU CLINIC
322-F Changi Road, Singapore 14.

TEL: 401977

Dated: 3rd Jan 1979

David See & Company,
Suite 804/808, 8th floor, Manhattan House,
151 Chin Swee Road, Singapore 3.

Letter
Dr. Bannerji
to Messrs.
David See
& Co.
3rd
January,
1979

Dear sir,

10

Re: 322-F Changi road.

I am sending herewith a cheque for \$240 made
out in favour of Moh Seng Realty (Pte) Ltd. as
rent for January 1979 for the above premises.

This is rendered under protest and subject to
recovery, if my interpretation of the rent clause
of the lease is judicially determined to be correct.

Yours faithfully,

(Dr. H.L. Bannerji.)

EXHIBITS

Letter - Dr. Bannerji to Messrs. David See
& Co. dated 1st February 1979

Letter
Dr. Bannerji
to Messrs.
David See
& Co.
1st
February,
1979

KURAU CLINIC
322-F Changi Road, Singapore 14.

TEL: 401977

Dated: 1st Feb 1979

David See & Company,
Suite 804/808, 8th floor, Manhattan House,
151 Chin Swee Road, Singapore 3.

Dear sir,

Re: 322-F Changi road.

10

I am sending herewith a cheque for \$240 made
in favour of Moh Seng Realty (Pte) Ltd, as rent
for February 1979 for the above premises.

This is rendered under protest and subject
to recovery, if my interpretation of the rent
clause of the lease is judicially determined to be
correct.

Yours faithfully,

(Dr. H.L. Bannerji.)

Letter - Messrs. David See & Co. to Messrs.
L.A.J. Smith dated 7th February, 1979

EXHIBITS

DAVID SEE & COMPANY
Advocates & Solicitors

3rd Floor,
First Life Building,
96C, Robinson Road,
Singapore 1.
Tel: 2225355

Letter
Messrs.
David See &
Co. to
Messrs.
L.A.J. Smith
7th
February,
1979

Our Ref: MRM:AL:0138:78(CC)
Your Ref: LAJS/GN/1374/74

10 7th February 1979.

Stamped

Messrs. L.A.J. Smith,
Battery Road,
Singapore 1.

BY HAND - URGENT

Dear Sirs,

re: Lot 340-23 of Mukim 26
No. 322F Changi Road, Singapore
Suit No. 2187 of 1977

We refer to the above matter.

20 Our witness, Datuk Ko Teck Siang, the Managing
Director of Chin Cheng Realty Pte. Ltd., is
presently away in Hongkong on business
extingencies and related matters and is not
expected back until April, 1979. In the
circumstances, we may not be able to proceed to
trial until his return. Please let us know whether
you have any objections to adjourning the day of
the trial to a date after April 1979.

30 On the other hand, as the issues in this matter
are limited to an argument and interpretation of
Clauses 1 and 3(c) of the Lease, we would be able
to proceed as presently scheduled if you are
agreeable to dispensing with the witnesses.

Please let us hear from you at your earliest
convenience.

40 We have received your client's tender of rent under
protest for the current month. We have forwarded
the same to our clients, the present owners of the
abovementioned property, and as soon as we receive
the receipt in respect thereof, we shall forward
the same to you. Needless to reiterate the said
rent is accepted without prejudice to the action

EXHIBITS

for recovery of possession.

Letter
Messrs.
David See
& Co. to
Messrs.
L.A.J.
Smith
7th
February,
1979
(Contd.)

Yours faithfully,

Sgd.: David See & Co.

c.c. clients

Copy to Client - 7/2/79

Stamped

Recd. 7/2/79
at 3.05 p.m.

施
達
大
律
師
公
司

DAVID SEE & COMPANY

Advocates & Solicitors
Commissioner for Oaths

David T. See 施達
M.R. Marar
Tony W.T. Tan

新加坡中街九十六號
第一層樓
電話
二二五三五六
(三線)

3rd Floor, First Life Building,
96C, Robinson Road,
Singapore 1.
Tel: 2225355 (3 Lines)
Cable: LEGASEE, Singapore

Our Ref: MRM/MM/0138/78 (CC)

Your Ref: LAJS/BL/1374/74

Letter - Messrs. David See
& Co. to Messrs. L.A.J.
Smith dated 15th February,
1979

15th February, 1979

Messrs L.A.J. Smith
18-H, Battery Road,
Singapore 1.

Dear Sirs,

Re: Lot 340-23 of Mukim 26
No. 322F, Changi Road, Singapore
Suit No. 2187 of 1977

-- EXHIBITS

Letter
Messrs.
David See
& Co. to
Messrs.
L.A.J.
Smith
15th
February,
1979

**

We refer to the above matter and enclose herewith our clients' official receipt for the rent tendered by your client for the period 1st September, 1978 to 28th February, 1979.

The writer appeared today before the Assistant Registrar in Chambers and the above matter has been adjourned for further mention on the 26th day of April, 1979.

Yours faithfully,

David See Ho:

17/2/79
C 10.30

copy to client

EXHIBITS

Moh Seng Realty Limited receipt for Singapore \$1440 from Dr. Bannerji February 13th, 1979

Moh Seng Realty Limited receipt for Singapore \$1440 from Dr. Bannerji dated February 13th, 1979

Rent Receipt M No. 1046

MOH SENG REALTY (PTE) LTD.
No. 14, LORONG 32, GEYLANG, SINGAPORE 14.

WITHOUT PREJUDICE

Date February 13, 1979

Received from Dr. H.L. BANNERJI the sum of Dollars One thousand four hundred and forty only being payment of rent of No. 322 Changi Road Singapore for the period 1st day of September 1978 to the 28th day of Feb. 1979 10

Stamped
MOH SENG REALTY (PTE) LTD.

\$1,440/-
Cheques No.

Hongkong & Shanghai Banking Corpn.	1) 946236	(4) 946244	20
	2) 946239	(5) 946246	
	3) 946242	(6) 946249	

Letter - Chin Cheng Realty Limited to
Messrs. Wee Swee Teow & Co. dated
5th May, 1979

EXHIBITS

Letter
Chin Cheng
Realty
Limited to
Messrs. Wee
Swee Teow
& Co.
5th May,
1979

CHIN CHENG REALTY (PTE.) LTD.
17th Floor, Unit 1705 Orchard Towers
No. 400 Orchard Road, Singapore, 9.
TEL: 2353166/7

Singapore, 5th May 1979

10 Messrs. Wee Swee Teow & Company,
Kong Hoa Building,
4th floor, George Street,
Singapore, 1.

Dear Sirs,

Re: High Court Suit No. 2187 of 1977
No. 322F Changi Road, Singapore

We understand that you act for the beneficial
owners of the abovementioned property.

20 We write in relation to the above case, High Court
Suit No. 2187 of 1977, in which we are nominally
the plaintiffs.

We have no objection to your acting for us
nominally so long as it is clearly understood
that we shall not be responsible for payment of
your costs and disbursements. If you are prepared
to act for us on this basis, we shall require an
indemnity from your clients as to the payment
of your costs and disbursements for acting in the
abovementioned Suit.

30 We shall be pleased to hear from you as soon as
you have obtained your clients' instructions
thereon.

Yours faithfully,

Sgd.: Illegible
Director.

KTS/mw

Stamped

WEE SWEE TEOW & CO.

ADVOCATES & SOLICITORS
NOTARY PUBLIC & COMMISSIONER FOR OATHS

KONG HOA BUILDING . FOURTH FLOOR
2 GEORGE STREET . SINGAPORE 1
TEL: 82866 (3 LINES)

魏瑞朝大狀師公司

PO GUAN HOCK.	傅源福
HUI SHUN YUN nee YEUNG.	許傳舜
HUANG LUL	黃 星
GIAM CHIN TOON	嚴 振 忠
TAN CHING TIONG	陳 鎮 坤
Legal Assistant:	陳 登 基
CHAN WENG KEE	

光華大廈(五樓)
喬治街二號新加坡第一郵區
電話：九二九六六

OUR REF: GCT/AC/295/79

30th May, 1979.

YOUR REF: LAJS/GN/1374/74

Letter - Messrs. Wee Swee Teow
& Co. to Messrs. L.A.J. Smith
dated 30th May, 1979

EXHIBITS

Letter
Messrs. Wee
Swee Teow
& Co. to
Messrs.
L.A.J. Smith
30th May,
1979

M/s, L.A.J. Smith,
Singapore.

Dear Sirs,

Re: Suit No. 2187 of 1977

We refer to the above matter and to the telephone conversation between your Mr. Smith and our Mr. Giam.

As indicated to you on the telephone, we have a new point of law to raise. In order not to take you by surprise and in an effort to see whether the matter can be amicably settled, we are setting out the point briefly in this letter for you to consider and to let us have your views thereon.

For purposes of argument, we assume (without admitting or conceding) the covenant in the Lease is a covenant for the perpetual renewal for terms of 10 years subject to the condition that your client gives a 3 months notice in writing of his intention before the expiry of each term.

The first renewal for 10 years was due on the 1st August, 1967 and the second renewal for another 10 years was due on 1st August, 1977. However, the Planning Act 1960 provides that all Leases exceeding 7 years would be deemed to be sub-division. Please refer to the definition of "subdivide" in the said Act. Further s. 9(3) of the Planning Act states that no person shall subdivide any land unless the conditions therein have been complied with, and s. 9(9) provides that any person who contravenes the said sub-section is guilty of an offence under the Act.

From the above, it would follow that after the coming into force of the Planning Act in 1960, all Leases more than 7 years must comply with the Act otherwise the parties who carry out the subdivision will

*Copy to client
5/6/79*

....2/-

f

30.5.1979.

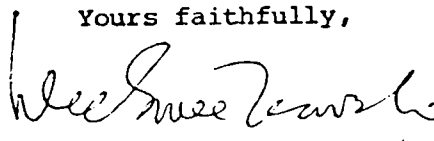
be guilty of an offence. Compliance with the Planning Act would render the "sub-division" registrable. Otherwise, the subdivision would not be registrable. It would follow from this that the Lease in the present case cannot be registered as it was not made in accordance with the Planning Act 1960. The Lease was granted before the Planning Act came into force and the parties had never anticipated the present position nor was it the intention anywhere that the then owners had agreed to subdivide the part of the land occupied by your client.

In the circumstances, we feel that the Lease has been frustrated by operation of law. As courts do generally lean against interpreting a perpetual renewal clause, we do feel that our clients have a good defence.

If you agree with us on this point, there would not be any necessity for the parties to take any further steps in order not to incur costs. However, as you have indicated, in equity your client may be entitled to some relief. Perhaps we could negotiate a settlement in the form of some monetary compensation.

If you are not agreeable to the above, then we propose to apply for an amendment to the Defence and you may have to consider amending your Reply. We hope to hear from you early.

Yours faithfully,

EXHIBITS

Letter
Messrs.
Wee Swee
Teow &
Co. to
Messrs.
L.A.J.
Smith
30th May,
1979
(Contd.)

EXHIBITS

Letter - Moh Seng Realty to Chin Cheng
Realty Limited dated 31st May 1979

Letter
Moh Seng
Realty to
Chin Cheng
Realty
Limited
31st May,
1979

MOH SENG REALTY (PTE) LTD.
No. 14, LORONG 32, GEYLANG,
SINGAPORE, 14.
TEL: 401282

Date, 31st May 1979

Chin Cheng Realty (Pte) Ltd.,
Unit 1705, 17th Floor,
Orchard Towers,
No. 400, Orchard Road,
Singapore 9.

10

Dear Sirs,

re: Suit No. 2187 of 1977 -
No. 322F, Changi Road

We refer to the above matter and to your
letter dated 5th May, 1979 addressed to Messrs.
Wee Swee Teow & Co.

We hereby confirm that we will indemnify
you in respect of Messrs. Wee Swee Teow & Co.'s
costs and disbursements incurred or to be
incurred in respect of the above suit.

20

Yours faithfully,

MOH SENG REALTY (PTE) LTD.

Sgd.:

(In Chinese)
Director

C.C.
M/s. Wee Swee Teow & Co.

荷蘭朝大律師公司

WEE SWEE TEOW & CO.

ADVOCATES & SOLICITORS
NOTARY PUBLIC & COMMISSIONER FOR OATHS

SUITE 2701, 27TH FLR., OCBC CENTRE
CHULIA STREET, SINGAPORE 0104
TELS. 92966, 92967, 92968, 916522

PO GUAN HOCK.
HUI SHUN YUN nee YEUNG.
HUANG LUI.
GIAM CHIN TOON
TAN CHING TIONG
Legal Assistant:
CHAN WENG KEE

傅源福
許揚舜
黃錫
嚴振忠
陳稱仲
陳榮基

Letter - Messrs. Wee
Swee Teow & Co. to
Messrs. L.A.J. Smith
dated 17th October
1979

華廈二十七樓...七〇一室
朱然街，新加坡〇一〇四郵區
電話：九二九六六，九二九六七
九二九六八，九一五五二二

EXHIBITS

OUR REF: GCT/AC/295/79
YOUR REF: LAJS/GN/1374/74

17th October, 1979.

Letter
Messrs. Wee
Swee Teow
& Co. to
Messrs.
L.A.J.
Smith
17th
October,
1979

L. A. J. Smith, Esq.,
Singapore.

Dear Sir,

Re: Suit No. 2187 of 1977

We refer to the above matter and to your letter dated
8th September, 1979.

We propose to amend the Defence to include the defence of
limitation which will read as follows:-

- (a) "The Defendant says that the Plaintiff's right of
action if any, accrue from the 1st August, 1967
for a period of 6 years in accordance with s. 6
of the Limitation Act, Chapter 10. In the
premises, the Plaintiff's alleged cause of action
herein is barred by the said s. 6 of the Limitation
Act."

We believe the above would be sufficiently clear for you to
consider a reply to us.

Yours faithfully,

Wee Swee Teow

Letter - Messrs. L.A.J. Smith to Messrs.
Wee Swee Teow & Co. dated 19th October
1979

EXHIBITS

Letter
Messrs.
L.A.J.
Smith to
Messrs.
Wee Swee
Teow & Co.
19th
October,
1979

GCT/AC/295/79

LAJS/GN/1374/74

19th October, 1979.

**Messrs. Wee Swee Teow & Co.,
Singapore.**

Dear Sirs,

Re: Suit No. 2187 of 1977

I am much obliged to you for your letter of the
17th October, 1979.

Your plea of limitations in this case does not
specify what you are relying on. Your plea is nothing more
than a bare statement that the Plaintiff's claim is barred
by limitations.

If you are relying on a breach of contract please
specify:-

1. the breach complained of;
2. when and how the breach is alleged to have occurred;
3. if the breach is contained in a document identify the
document or documents;
4. if verbal the time and place when it occurred, the
parties present, the exact words used or the gist
thereof.

Yours faithfully,

c.c. Client.

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WEE SWEE TEOW & CO.

ADVOCATES & SOLICITORS
NOTARY PUBLIC & COMMISSIONER FOR OATHS

PO GUAN HOCK.
HUI SHUN YUN nee YE UNQ.
HUANG LUI.
GIAM CHIN TOON
TAN CHING TIONG
Legal Assistant:
CHAN WENG KEE

傅源和
許揚舜
黃立
嚴振忠
陳錦仲
陳榮基

Letter - Messrs. Wee
Swee Teow & Co. to
Messrs. L.A.J. Smith
dated 20th December
1979

SUITE 2701, 27TH FLR., OCBC CENTRE
CHULIA STREET, SINGAPORE 0104
TELS: 92966, 92967, 92968, 915522

華廈二十七樓·二七〇一室
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電話：九二九六六·九二九六七
九二九六八·九一五五二二

EXHIBITS

OUR REF: GCT/IQ/295/79
YOUR REF: LAJS/GN/1374/74

20th December 1979

Letter
Messrs.
Wee Swee
Teow & Co.
to Messrs.
L.A.J.
Smith
20th
December
1979

L. A. J. Smith, Esq.,
Singapore.

Dear Sir,

Re: Suit No. 2187 of 1977

We refer to your letter dated 19th October, 1979 and apologise for the delay in replying.

We do not understand paragraph 3 of your letter as you are requesting for particulars of the breach complained of from the Defendant. The Defendant does not admit to any breach of contract and says that if there is any breach as alleged by the Plaintiff, the breach would have occurred on the 1st August, 1967 when the Defendant failed to execute a further lease in favour of the Plaintiff. Hence, the plea that the right of action accrue from the 1st August, 1967.

However, to make the point clearer for you, we now propose to plead the defence of limitation as follows:-

allegedly "The Defendant says that the Plaintiff's right of action, if any, accrue from the 1st August, 1967 when the Defendant/failed to grant the Plaintiff the said further term and that more than six (6) years have elapsed before action herein was commenced. In the premises, the Plaintiff's alleged course of action herein is barred by s.6 of the Limitation Act."

We look forward to hear from you.

Yours faithfully,

Wee Swee Teow & Co.

Recd 21/12/79

200

copy to client 21/12/79

Letter - Messrs. L.A.J. Smith to Messrs.
Wee Swee Teow & Co. dated 9th January,
1980

GTC/IQ/295/79

LAS/BL/1374/74

EXHIBITS

Letter
Messrs.
L.A.J. Smith
to Messrs.
Wee Swee
Teow & Co.
9th
January,
1980

January 9, 1980.

Messrs. Wee Swee Teow & Co.,
Singapore.

Dear Sirs,

Suit No. 2187 of 1977
Hirendra Lal Bannerji
vs.
Chin Chee Realty (Pte.) Ltd.

I am much obliged to you for your letter of the
20th December, 1979.

I am now back from the United Kingdom and note
that the case is for fixing in Chambers on the 17th January,
1980.

I have your letter of the 20th December, 1979.

Please be good enough to restore the Summons for
Directions immediately with a view to amending your defence
as this must be pleaded specifically and in my view precisely
with particulars and a reply depends on what you allege.

We do not allege any breach other than when you
refused to execute the leases I sent. The lease was
specifically acknowledged and affirmed by your clients.

If there is a defence such as you allege which in
my view does not apply to a tenant in possession under a
lease there are further questions to argue and to plead.

Yours faithfully,

c.c. Client.

新
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WEE SWEE TEOW & CO.

ADVOCATES & SOLICITORS
NOTARY PUBLIC & COMMISSIONER FOR OATHS

PO QUAN NOCK.
MUI SHUN YUN nee YEUNG.
HUANG LUI.
GIAM CHIN TOON
TAN CHING TIONG

Legal Assistant:
CHAN WENG KEE

傅 漢 福
許 錦 雲
黃 麗
嚴 振 元
陳 錦 坤

陳 永 基

Letter - Messrs. Wee
Swee Teow & Co. to
Messrs. L.A.J. Smith
dated 31st January,
1981

SUITE 2701, 27TH FLR., OCBC CENTRE
CHULIA STREET, SINGAPORE 0104
TELS 92966, 92967, 92968, 915622

EXHIBITS

Letter
Messrs. Wee
Swee Teow &
Co. to
Messrs.
L.A.J.
Smith
31st
January,
1981

OUR REF: GCT/AC/295/79
YOUR REF: LAJS/GN/1374/74

31st January, 1981.

URGENT

L. A. J. Smith Esq.,
Singapore.

Dear Sir,

Re: No. 322-F, Changi Road.

We refer to the above matter.

Our clients have informed us that the annual value of the property was increased from \$2,880-00 to \$3,840-00 from January 1979 to 9th November, 1979. The said annual value was again increased from 10th November, 1980 to \$9,600-00. We forward herewith copies of the property tax receipts paid by our clients in respect of the property tax from 2nd January, 1979 to 31st December, 1980 based on the annual value of \$3,840-00. We are also enclosing copy of the Notice of Revision of annual value dated 10th November, 1980 for your perusal.

In the circumstances, your client will have to pay the sum of \$3,269-30 based on the revised increases made up as follows:-

1.1.1979 to 9.11.1980 (22 months 9 days) based on annual value at \$3,840-00 or at \$320-00 per month	\$7,136-00
10.11.1980 to 31.1.1981 (2 months 20 days) based on annual value at \$9,600-00 or \$800-00 per month	\$2,133-30
	\$9,269-30

Less:

Amount paid by your client at \$240-00 per month from 1.1.1979 to 31.1.1981 (25 months)	\$6,000-00
	\$3,269-30

31/1/81

We shall be obliged if you could kindly request your client to let us have his cheque for the sum of \$3,269-30 being the arrears and to tender the sum of \$800-00 per month from 1st February, 1981.

c.c. clients.

Yours faithfully,

by Mr. Chan to
2/2/81

EXHIBITS

Letter
Messrs. L.A.J. Smith to
Messrs. Wee Swee Teow & Co.
dated 10th February 1981

GCT/AC/295/79

LAJS/GN/1374/74

URGENT

10th February, 1981.

M/s. Wee Swee Teow & Co.,
Advocates & Solicitors,
Singapore.

Dear Sirs,

Re: 322-P, Changi Road

We refer to your letter of the 31st January, 1981.

Dr. Bannerji is extremely surprised not to have received any notification of an increase in the assessment of the premises and in turn any notification that an additional sum was payable monthly.

As you know on our interpretation of the clause the rent is only increased to the extent of the actual amount payable by your clients by way of property tax i.e. the assessment. However, on your interpretation you suggest that if the annual value of the premises is increased the rent is increased to the extent of the annual value.

Inspite of all this my client pending the determination of his rights is prepared to pay the sums of money requested but under protest and on the understanding that they will be recoverable in the event of our interpretation of the Lease being up-held.

Your letter arrived too late to take action on the February rent. However, on hearing from you that you accept this is the position my client will forward his cheque for the amount you request and the amount for February. Please treat this matter urgently.

Yours faithfully,

c.c. Client.

Letter - Messrs. Wee Swee Teow & Co. to
Messrs. L.A.J. Smith dated 12th February
1981

EXHIBITS

Letter
Messrs.
Wee Swee
Teow &
Co. to
Messrs.
L.A.J.
Smith
12th
February,
1981

齊
瑞
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狀
師
公
司

WEE SWEE TEOW & CO.

ADVOCATES & SOLICITORS
NOTARY PUBLIC & COMMISSIONER FOR OATHS

SUITE 2701, 27TH FLR., OCBC CENTRE
CHULIA STREET, SINGAPORE 0104
TELS: 92966, 92967, 92968, 915522

PO GUAN HOCK	傅 海 福
HUI SHUN YUN <i>nee</i> YEUNG	許 煇 容 翁
HUANG LUI	黃 麗
GIAM CHIN TOON	嚴 振 忠
TAN CHING TIONG	陳 錫 坤
Legal Assistant: CHAN WENG KEE	陳 永 基

華廈二十七樓·二七〇一室
朱烈街·新加坡〇一〇四郵區
電話：九二九六六·九二九六七
九二九六八·九一五五二二

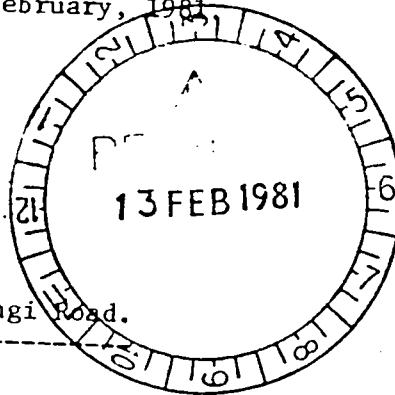
OUR REF: GCT/AC/295/79
YOUR REF: LAJS/GN/1374/74

12th February, 1981

L.A.J. Smith, Esq.,
Singapore.

Dear Sir,

Re: No. 322-F, Changi Road.



We thank you for your letter of the
10th February, 1981.

We confirm the dispute as laid down in
paragraph 3 of your letter.

Our clients have no objection to
receiving the increased rental paid under
protest on the understanding that they will
be recoverable in the event that your
interpretation of the Lease is up-held by the
Court.

Please let us hear from you.

c.c. clients.

Yours faithfully,

*copy to client
14/2/81*

Wee Swee Teow

Tel. No. ~~2221211~~ Ext: 2239922

Our ref: SCC/FK/C/17355

Your ref: CWK/WL/L11/2164/80

Date: 20 March 1981

LAND TITLES REGISTRY,
2nd Floor, National Development Building,
Maxwell Road,
Singapore 0106.
Republic of Singapore

Letter - Land Titles Registry
to Messrs. Wee Swee Teow & Co.
dated 20th March, 1981

EXHIBITS

Letter
Land Titles
Registry to
Messrs. Wee
Swee Teow
& Co.
20th
March,
1981

M/s Wee Swee Teow & Co
Advocates & Solicitors
Suite 2701, 27th Floor
OCBC Centre
Chulia Street
Singapore 0104

APPROVED PLAN (G) IN D.C.990/49/II
DATED 31.3.80
LOT 340-23 MUKIM XXVI AT
CHANGI ROAD/TELOK KURAU ROAD

We refer to your letter dated 2.1.81 requesting direction under section 13 of the Land Titles Act and forwarding the title-deeds therein mentioned.

2 We note that the abovementioned land is still subject to a Lis Pendens under an Order of Court registered in Vol. 2167 No. 194 in the Registry of Deeds. As we are considering bringing the said land under the provisions of the Land Titles Act pursuant to section 13(2)(b) of the Act, please let us know whether any action is being taken by you or your clients with regard to the Lis Pendens and whether you will be able to obtain an Order of Court to discharge the same and have a caveat lodged at the Land Titles Registry should we decide to issue a qualified Certificate of Title for the land.

Yours faithfully


MRS S C CHAN
for REGISTRAR OF TITLES

cc:

M/s Moh Seng Realty (Pte) Ltd
No. 14 Lorong 32, Geylang
Singapore 1438

M/s Oversea Chinese Banking Corporation Ltd
OCBC Centre, Chulia Street
Singapore 0104

Controller of Housing

Letter - Messrs. Wee Swee Teow & Co
to Messrs. L.A.J. Smith - 27th March
1981

EXHIBITS

Letter -
Messrs. Wee
Swee Teow &
Co to
Messrs.L.A.J.
Smith - 27th
March 1981

WEE SWEE TEOW & CO. Suite 2701, 27th Flr.
ADVOCATES & SOLICITORS OCBC Centre
NOTARY PUBLIC & Chulia Street,
COMMISSIONER FOR OATHS Singapore 0104

Our ref: GCT/AC/295/79
Your ref: LAJS/GN/1374/74 27th March, 1981.

10 L.A.J. Smith Esq.,
Singapore.

Dear Sir,

Re: No. 322-F, Changi Road.

We refer to the above matter.

The Registrar of Titles intends to bring the land under the provisions of the Land Titles Act pursuant to section 13(2)(b) of the Act. A copy of the Registrar's letter dated 20th March, 1981 is enclosed for your easy reference.

20 In view of the fact that Lis Pendens only apply to Common Law titles, the Registrar has written to enquire whether we could get the Lis Pendens discharged and then have a Caveat lodged at the Land Titles Registry after the issue of a Certificate of Title.

May we hear from you as soon as possible.

Yours faithfully,

Sgd. Wee Swee Teow & Co.

c.c. clients.

30 12/5/77
registered on 13/5/77

RECEIVED
28 MAR 1981
copy to client
30/3/81

EXHIBITS

Letter,
Messrs.L.A.J.
Smith to Messrs.
Wee Swee Teow
& Co. - 30th
March 1981

Letter, Messrs. L.A.J. Smith to
Messrs. Wee Swee Teow & Co. -
30th March 1981

GCT/AC/295/79

LAJS/GN/1374/74

30th March, 1981.

M/s. Wee Swee Teow & Co.,
Singapore.

Dear Sirs,

Re: No. 322-F, Changi Road

We are obliged to you for your letter of the
27th March, 1981.

We have filed a Caveat against the property
which is sought to be brought under the Land Titles Act
on the 10th May, 1977. We enclose herewith a photocopy
of the Caveat so filed which you may refer to the Land
Titles Registry.

Yours faithfully,

Encl.

c.c. Client.

Letter, Land Titles Registry to
Messrs. L.A.J. Smith - 20th April
1981

EXHIBITS

Letter,
Land Titles
Registry to
Messrs.L.A.J.
Smith - 20th
April 1981

Tel. No. 223922

Our ref:
CJM/JO/C.17355

Your ref:
LAJS/GN/1374/74

LAND TITLES REGISTRY
2nd Floor, National Development
Building,
Maxwell Road, Singapore 0106
Republic of Singapore

10 Date: 20 April 1981

Mr L A J Smith
Advocate & Solicitor
Suites 1508-1509
Straits Trading Building
9 Battery Road
Singapore 0104

Dear Sir

20 APPROVED PLAN (G) IN DC 990/49/II DATED 31.3.1980
LOT 340-23 MUKIM XXVI AT CHANGI ROAD/TELOK KURAU
ROAD

We refer to your letter of 30th March 1981.

2 As you have already lodged a caveat against
Flat No. 322-F, Changi Road on behalf of your
client at the Land Titles Registry, such caveat will
be duly notified on the original of the qualified
Certificate of Title when issued for Lot 340-23
Mukim XXVI.

30 3 However, I have to inform you that the
aforesaid qualified Certificate of Title will only
be issued subject to our approval of the title to
the said land and also after the expiration of the
Lis Pendens Order (registered in Vol 2167 No 194
in the Registry of Deeds).

Yours faithfully

Sgd.
MRS J M CHOO
for REGISTRAR OF TITLES
cc

40 M/s Wee Swee Teow & Co
(Ref. CWK/WL/LH/2164/80)
Advocates & Solicitors
Suites 2701, 27th floor
OCBC Centre, Chulia Street
Singapore 0104

RECEIVED
21 APR 1981
copy to client
21/4/81

M/s Moh Seng Realty (Pte) Ltd
No. 14 Lorong 32, Geyland, Singapore 1438

Letter, Messrs. Wee Swee Teow &
Co to Dr Bannerji - 10th April
1981

WEE SWEE TEOW & CO.

ATTORNEYS & SOLICITORS
PUBLIC & COMMISSIONER FOR OATHS

SUITE 2701, 27TH FLR., OCBC CENTRE
CHULIA STREET, SINGAPORE 0104
TELS: 92966, 92967, 92968, 918822

EXHIBITS

Letter,
Messrs. Wee
Swee Teow &
Co to Dr
Bannerji
10th April
1981

MOCK.	傅海福
YUN AND YEUNG.	許博安
W.	黃 錫
Y TOON	嚴振忠
Y TONG	陳 偉 仲
OHM	
Q KEE	陳 榮 基
HUAN	楊 冰 全

第 二 十 七 樓 · 二 七 〇 一 室
朱 利 亞 街 · 新 加 坡 〇 一 〇 四 郵 區
電 話 : 九 二 九 六 六 · 九 二 九 六 七
九 二 九 六 八 · 九 一 五 五 二 二

GCT/AC/295/79

10th April, 1981.

YOUR REF:

Dr. H. L. Bannerji,
No. 322-F, Changi Road,
Singapore 1441.

Dear Sir,

Re: No. 322-F, Changi Road.

We thank you for your letter of the 2nd April, 1981.

We forward herewith receipt duly amended. We must apologise for the oversight. Your rents were paid up to March, 1981. Our clients will be letting you have the receipt for the rental for April 1981 in due course.

In the meantime, we regret that we would have to trouble you again for another recalculation. Our letter dated 31st January, 1981 stated that the annual value was increased from \$2,880-00 to \$3,840-00 from 1st January, 1979 to 9th November, 1980. In fact the annual value of \$3,840-00 should have been from 1st January, 1978 and not 1st January, 1979. We forward herewith a copy of letter dated 27th March, 1981 we received from the Comptroller of Property Tax which confirms the position.

In the circumstances, there would be due to our clients the sum of \$960-00 made up as follows:-

Rent based on annual value of \$3,840-00 (\$320-00 per month) from 1.1.1978 to 31.12.1978 (12 months)	\$3,840-00
---	------------

Less:

Amount of rentals paid by you from 1.1.1978 to 31.12.1978 based on annual value of \$2,880-00 (\$240-00 per month)	\$2,880-00
	<u> </u>
	\$ 960-00

Not Copy because provided for 11.9.782/-

EXHIBITS

Letter,
Messrs. Wee
Swee Teow &
Co to Dr
Bannerji
10th April
1981
(cont'd)

WEE TEOW & CO.

10.4.1981

We shall be obliged if you could kindly let us have the said sum of \$960-00 as soon as possible.

We must apologise again for the inconvenience which was caused because our clients' records were incomplete.

Yours faithfully,



c.c. clients.

EXHIBITS

Letter,
Messrs.L.A.J.
Smith to
Messrs. Wee
Swee Teow & Co.
21st April
1981

Letter, Messrs. L.A.J. Smith to
Messrs. Wee Swee Teow & Co.
21st April 1981

GCT/AC/295/79

LAJS/GN/1374/74

21st April, 1981.

M/s. Wee Swee Teow & Co.,
Advocates & Solicitors,
Singapore.

Dear Sirs,

Re: No. 322-F, Changi Road.

Your letter of the 10th April, 1981 addressed to Dr. H. L. Bannerji of No. 322-F, Changi Road, Singapore has been handed to me with instructions to reply.

From our records and the Notice of Transfer given by David See & Co. on behalf of your clients and Prime Realty your clients became entitled to the rent as from the 1st September, 1978. Hence it would appear that your claim for 12 months rent should be limited to rents from September to December namely 4 months and consequently \$320.00 and not \$960.00 which my client is prepared to forward to your clients on the same understanding that in the event of his interpretation of the clause being held to be correct the rent will be refunded.

Perhaps you will be good enough to go into this matter and confirm that this is correct.

Your clients gave my client a receipt dated 30th March, 1981 which was forwarded by you to my client. Certain corrections and amendments are made to this receipt but have not been initialled. I think they should be initialled and consequently I have been instructed to return herewith the receipt to you with the request that your clients be good enough to initial the amendments and then forward the receipt to me.

...2/-

EXHIBITS

Letter,
Messrs.L.A.J.
Smith to
Messrs. Wee
Swee Teow &Co.
21st April
1981
(cont'd)

- 2 -

I would call your attention to the fact that the letter enclosed with your letter of the 10th April, 1981 regarding increase in annual value appears to be inconsistent with your previous advices on this matter.

Yours faithfully,

Encl.

c.c. Client.

EXHIBITS

Letter,
Messrs. Wee
Swee Teow
& Co to
Messrs.
L.A.J. Smith
7th May
1981

Letter, Messrs. Wee Swee Teow
& Co to Messrs. L.A.J. Smith
7th May 1981

WEE SWEE TEOW & CO.
ADVOCATES & SOLICITORS
NOTARY PUBLIC & COMMISSIONER FOR OATHS

Suite 2701, 27th Flr.
OCBC Centre, Chulia Street,
Singapore 0104

Tels. 92966, 92967, 92968,
915522

10

Our ref: GCTAC/295/79

Your ref: LAJS/GN/1374/74

7th May, 1981

URGENT

L.A.J. Smith, Esq,
Singapore.

Dear Sir,

re: Suit No. 2187 of 1977 -
No. 322-F, Changi Road

We refer to the above matter.

20

We hereby confirm on behalf of our clients that if you do not proceed with your application for the Lis Pendens, but to lodge a Caveat against the strata lot for Unit 322-F, Changi Road, Singapore, when the new title is issued, our clients will not seek any relief in terms of damages for the lodging of the Caveat.

We hope that this assurance is sufficient for you to persuade your client not to proceed with the application.

30

Yours faithfully,

Sgd. Wee Swee Teow & Co.

c.c. clients

Letter, Messrs. Wee Swee Teow
& Co. to Messrs. L.A.J. Smith
8th May 1981

EXHIBITS
Letter,
Messrs. Wee
Swee Teow &
Co. to
Messrs. L.A.J.
Smith - 8th
May 1981

WEE SWEE TEOW & CO. Suite 2701, 27th Flr.,
ADVOCATES & SOLICITORS OCBC Centre
NOTARY PUBLIC & Chulia Street,
COMMISSIONER FOR OATHS Singapore 0104
Tels. 92966, 92967,
92968, 915522

10 Our ref: GCT/AC/295/79
Your ref: LAJS/GN/1374/74 8th May, 1981

URGENT

L.A.J. Smith, Esq.,
Singapore

Dear Sir,

re: Suit No. 2187 of 1977 -
No. 322-F, Changi Road

We refer to the above matter.

20 Further to the telephone conversation between
your Mr. Smith and our Mr. Giam, we confirm that
pending the issue of the new Strata Certificate of
Title and before your lodging of the Caveat against
the above property, our clients undertake not to deal
with the above property unless notice of your
client's claim is brought to the attention of the
purchaser and that the purchaser undertakes to abide
by the decision of the Court in respect of the
action.

30 We believe this undertaking will be
satisfactory to your client.

Yours faithfully,

Sgd. Wee Swee Teow & Co.

c.c. clients.

copy to client
9/5/81

EXHIBITS

Letter,
Messrs. L.A.J.
Smith & Co.
to Messrs.
Wee Swee Teow
& Co. - 5th
June 1981

Letter, Messrs. L.A.J. Smith & Co.
to Messrs. Wee Swee Teow & Co. -
5th June 1981

GCT/AC/295/79

LAJS/GN/1374/74

5th June, 1981.

M/s. Wee Swee Teow & Co.,
Singapore.

Dear Sirs,

Re: Suit No. 2187 of 1977 -
No. 322-F, Changi Road

I would refer to my letter of the 21st April, 1981 to which I do not appear to have a reply. Your early attention would be obliged.

Chin Cheng Realty

I notice in the press that you propose to wind up Chin Cheng Realty the Defendant in the abovementioned Suit.

Would you be good enough to let me know what steps you have taken regarding the pending litigation.

You will recollect that when your firm took over these proceedings at your request we vacated the dates for hearing.

You will also recollect that recently other dates have been vacated for the hearing also at your request.

It is most important to get this litigation on as soon as possible. Please let us know the present position.

Yours faithfully,

c.c. Client.

Letter, Messrs. L.A.J. Smith to
Messrs. Wee Swee Teow & Co. -
21st July 1981

GCT/AC/295/79

LAJS/GN/1374/74

EXHIBITS

Letter,
Messrs.L.A.J.
Smith to Messrs.
Wee Swee Teow
& Co. - 21st
July 1981

21st July, 1981.

M/s. Wee Swee Teow & Co.,
Singapore.

Dear Sirs,

Re: Suit No. 2187 of 1977 -
No. 322-F, Changi Road

I wrote to you on the 5th June, 1981 regarding
a Petition of Winding Up.

I also spoke to your Mr. Giam and as a result
of statements made by him that you were not acting for
Chin Cheng Realty you asked me if it was necessary to
reply and I informed you that it was not.

However, as you are on the record for Chin
Cheng Realty in this suit I feel that we must have this
matter clarified in writing and consequently I am
calling upon you to let us know the precise position
now. This is regarding Chin Cheng Realty and their winding
up particularly as your own position is affected either
you are acting for Chin Cheng Realty in this suit or
not and the winding up affects it and you should obtain
further instructions from Chin Cheng regarding the course
of their winding up.

Letter dated 21st April 1981

My letter of the 21st April, 1981 in question
to which I am referring is the one dealing with the
payment of rent. Please refer to my 2nd paragraph.

Also I forwarded to you a receipt which contained
certain corrections and amendments for initial. This
receipt should be initialled and returned to me.

...2/-

EXHIBITS

Letter, Messrs.

L.A.J. Smith

to Messrs.

Wee Swee Teow

& Co. - 21st

July 1981

(cont'd)

- 2 -

Since then my client has been paying the rent but no rent receipts have been received. Kindly instruct your clients to forward the rent receipts.

By letter dated 27th March, 1981 from the Inland Revenue Department to your firm you were provided with information regarding increases in the annual value and the effective dates. If the statement from the Inland Revenue Department is correct which I presume it is then there is a refund due to my client of the sum of \$480.00 on the sums paid by him to your clients by way of rent. The breakdown is as follows:-

Annual value increased from \$3,840.00
(\$320.00 p.m.) to \$9,600.00 (\$800.00 p.m.)
1.1.81 - Their letter of 10.4.81

Additional rent charged and paid by
their letter of 31st Jan 1981 for 10.11.80
to 31.12.80 @ \$800.00 p.m. instead
of \$320.00 p.m.

\$800.00

Breakdown of \$800.00

Their letter of 31st Jan 1981
10.11.80 to 31.1.81, (2 months 20 days)
@ \$800.00 p.m.

\$2,133.30

Therefore 10.11.80 to 31.12.80
(1 month and 20 days)

@ \$800.00 p.m. (\$2133.30 - \$800.00) =

1,333.30

Payable for 10.12.80 to 31.12.80 (1 month
and 20 days) @ \$320.00 p.m.

= \$320.00 + $\frac{\$320.00 \times 20}{30}$

533.30

Overcharged

800.00

Payable by/ our letter of 21.4.81
for period 1.9.79 to 31.12.79 @ \$320.00
less \$240.00 p.m.

320.00

Refund due

\$480.00

Yours faithfully,

c.c. Client.

Letter, Messrs. Wee Swee Teow &
Co. to Messrs. L.A.J. Smith -
24th July 1981

EXHIBITS

Letter,
Messrs. Wee
Swee Teow &
Co. to
Messrs. L.A.J.
Smith - 24th
July 1981

WEE SWEE TEOW & CO. Suit 2701, 27th Flr.,
ADVOCATES & SOLICITORS OCBC Centre,
NOTARY PUBLIC & Chulia Street,
COMMISSIONER FOR OATHS Singapore 0104

Tels. 92966, 92967,
 92968, 915522

10 Our ref: GCT/AC/295/79
 Your ref: LAJS/GN/1374/74 24th July, 1981

L.A.J. Smith, Esq.,
Singapore.

Dear Sir,

Re: Suit No. 2187 of 1977 -
 No. 322-F, Changi Road

We thank you for your letter of the 21st July,
1981.

20 As explained to you, our clients are actually
 Moh Seng Realty Pte. Ltd., the present registered
 owners of the land. Our clients have taken over the
 proceedings instituted by your client against Chin
 Cheng Realty (Pte.) Ltd. and have agreed to be bound
 by the decision of the case.

30 In view of the fact that Chin Cheng Realty
 (Pte.) Ltd. is no more the registered owners of the
 land, and as we do not wish to cause any difficulty
 to you or your clients, it may perhaps be to your
 client's interest to substitute our clients as the
 name of the Defendants, since Chin Cheng Realty (Pte.)
 Ltd. is in the course of being wound up. We would
 not object to any amendment that is necessary to put
 the records straight.

As regards your letter of the 21st April, 1981
we have instructed our clients to collect the cheques
from us. As soon as they have done so, the receipts
will be sent to you.

40 As regards the last paragraph of your letter,
 we have written to the Comptroller of Property Tax
 regarding the discrepancy in the effective date of
 the increase of the annual value from \$3,840-00 to
 \$9,600-00. We will revert to you as soon as we have
 received his reply.

Yours faithfully,
Sgd. Wee Swee Teow & Co.

RECEIVED 27 JUL 1981
copy to client.

EXHIBITS

Letter, Messrs. L.A.J. Smith to
Messrs. Wee Swee Teow & Co. -
L.A.J. 30th July 1981
Smith to
Messrs.
Wee Swee
Teow & Co. -
30th July
1981

GCT/AC/295/79

LAJS/GN/1374/74

30th July, 1981.

M/s. Wee Swee Teow & Co.,
Suite 2701, 27th Floor,
OCBC Centre,
Chulia Street,
Singapore, 0104.

Dear Sirs,

Re: Suit No. 2187 of 1977 -
No. 322-F, Changi Road.

We are obliged to you for your letter of the
24th July, 1981.

We take it that you should be obliged to
you for your confirmation that your clients are now
responsible for all the costs of the proceedings in the
event of an order for costs being made against Chin-Cheng Realty.

Please let us have your written confirmation.

I note your paragraph 3.

As the terms of sale of this building in so far
as it relates to the subject of this litigation are relevant
I enquire if you would be prepared to let me have inspection
of the contract for sale and all documents relating to
your clients' arrangements with the previous owners regarding
322-F Changi Road and in particular the litigation.

Yours faithfully,

c.c. Client.

Letter, Comptroller of Property Tax
to Messrs. Wee Swee Teow & Co. - 28th
April, 1981

EXHIBITS

Letter,
Comptroller
of Property
Tax to
Messrs. Wee
Swee Teow &
Co. - 28th
April, 1981

GCT/AC/295/79

AF/6020558/ALB

28 Apr 81

M/s Wee Swee Teow & Co
Suite 2701, 27th Floor
OCBC Centre
Chulia Street
Singapore 0104

10

Dear Sirs,

322F CHANGI ROAD

1 Please be informed that the annual value was increased from \$3,840 to \$9,600 with effect from 10 Nov 80 instead of 1 Jan 81 as stated in my letter dated 27 Mar 81.

2 The inconvenience caused is much regretted.

Yours faithfully,

20

Sgd.

ANG LEE BEE (MISS)
for COMPTROLLER OF PROPERTY TAX

/sf

EXHIBITS

Letter,
Comptroller
of Property
Tax to
Messrs. Wee
Swee Teow &
Co. -7th
August 1981

Letter, Comptroller of Property
Tax to Messrs. Wee Swee Teow & Co.
7th August 1981

Your ref: GCT/AC/295/79

In reply please quote:
No. AF/6020558/ALB

Date 7 Aug 81

INLAND REVENUE DEPARTMENT
PROPERTY TAX DIVISION
City Hall, St. Andrew's
Road, Singapore 0617
REPUBLIC OF SINGAPORE.
Tel. 3378191

M/s Wee Swee Teow & Co.
Suite 2701, 27th Floor
OCBC Centre, Chulia Street
Singapore 0104

10

Dear Sirs

322F CHANGI ROAD

1 I refer to your letter dated 24.7.81.

2 I would like to inform you that the Annual
Value increased from \$3840 to \$9600 is effective
from 10.11.80.

3 Enclosed a copy of my reply dated 28.4.81
which is self-explanatory.

20

Yours faithfully,

Sgd.

ANG LEE BEE (MISS)
for COMPTROLLER OF PROPERTY TAX

/oja

Letter, Messrs. Wee Swee Teow &
Co. to Messrs. L.A.J. Smith -
17th August 1981

EXHIBITS

Letter,
Messrs. Wee
Swee Teow &
Co. to
Messrs. L.A.J.
Smith - 17th
August 1981

WEE SWEE TEOW & CO.
ADVOCATES & SOLICITORS
NOTARY PUBLIC &
COMMISSIONER FOR OATHS

Suite 2701, OCBC Centre,
Chulia Street,
Singapore 0104

Tels. 92966, 92967,
92968, 915522

10 Our ref: GCT/AC/295/79
Your ref/ LAJS/GN/1374/74 17th August, 1981

L.A.J. Smith, Esq.,
Singapore.

Dear Sir,

Re: Suit No. 2187 of 1977 -
No. 322-F, Changi Road

We refer to your letter dated 30th July, 1981.

We confirm paragraph 2 of your said letter.

20 As regards the last paragraph of your letter,
we are taking our clients' instructions and will
revert to you in due course.

In the meantime, we forward herewith copy of
letter dated 7th August, 1981 we received from the
Comptroller of Property Tax together with copy of
its enclosure which is self-explanatory. It is
evident that the new annual value was effective
from 10th November, 1980 and not 1st January, 1981.
In view of this, no refund is due to your client.

Yours faithfully,

30 Sgd. WEE SWEE TEOW & CO.

RECEIVED
17 AUG 1981

copy to client 18/8/81

Letter, Messrs. L.A.J. Smith to
Messrs. Wee Swee Teow & Co. - 9th
October 1981

EXHIBITS

Letter, Messrs.
L.A.J. Smith to
Messrs. Wee Swee
Teow & Co. - 9th
October 1981

YPC/IC/295/79

LAJS/GN/1374/74

9th October, 1981.

M/s. Wee Swee Teow & Co.,
Suite 2701, 27th Floor,
OCBC Centre,
Chulia Street,
Singapore, 0104.

Dear Sirs,

Re: Suit No. 2187 of 1977-
No. 322-F, Changi Road

I am in receipt of your letter of the 9th
October, 1981.

There was a sale between Prime Realty Pte.
Ltd. and your clients Moh Seng Realty Pte. Ltd. This
is the contract of sale which we are interested. /in

There must have been correspondence between
Prime Realty Pte. Ltd. and Moh Seng Realty Pte. Ltd.
either with or without Chin Cheng Realty (Pte) Ltd.
being concerned. To be specific we want the correspondence
your clients must have in relation to their purchase
of these premises and the contract under which the premises
were bought bearing in mind that 322-F, Changi Road
is only one unit in the whole block or blocks. Perhaps
this clarifies the situation.

Please let me hear from you as soon as possible.

Yours faithfully,

c.c. Client.

Agreement between Prime Realty
Limited and Hoon Moh Heng, Tan Ah
Ying, Tay Ah Kiang, and Ng Kiat
Sent - 4th April, 1978

EXHIBITS
Agreement
between
Prime Realty
Limited and
Hoon Moh
Heng, Tan Ah
Ying, Tay Ah
Kiang, and Ng
Kiat Seng,
4th April 1978

10 AN AGREEMENT made the 4th day of April One
thousand nine hundred and seventy-eight (1978)
Between PRIME REALTY PTE. LTD., a Company
incorporated in the Republic of Singapore and
having its registered office at Suite 1705, 17th
10 floor, Orchard Towers, Orchard Road, Singapore
(hereinafter called "the Vendors") of the one
part and HOON MOH HENG (Businessman), TAN AH YING
(Businessman) TAY AH KIANG (Businessman) and NG
KIAT SENG (Businessman) all of No. 145,
Macpherson Road, Singapore (hereinafter called
"the Purchasers") of the other part

WHEREBY IT IS AGREED between the parties
hereto as follows:-

20 1. The Vendors shall sell and the Purchasers
shall purchase free from incumbrances (save and
except the house known as No. 322-F, Changi Road,
Singapore as hereinafter mentioned) the land and
premises described in the Schedule hereto at the
price of Dollars Four million three hundred and
twenty thousand (\$4,320,000.00) subject to the
following special conditions and to the conditions
of sale by public auction known as "The (Revised)
Singapore Conditions of Sale" so far as the same
are applicable to a sale by private treaty and are
30 not varied by or inconsistent with the special
conditions herein.

40 2. The Purchasers shall pay to the Vendors'
Solicitors, Messrs. David See & Company of Suite
804/808 Manhattan House, Chin Swee Road, Singapore,
as stakeholders the sum of Dollars Four hundred and
thirty-two thousand (\$432,000.00) by way of deposit
immediately upon the signing of this Agreement. As
soon as the title has been properly deduced and upon
receipt of all the replies from the various
40 Government Departments to the Legal Requisitions
the deposit of \$432,000.00 shall immediately be
released by Messrs. David See & Company to the
Vendors.

3. The title shall be properly deduced but the
Purchasers shall not require the delivery or
production of any deeds or documents not in the
Vendors' possession nor shall the Purchasers
investigate or make any requisition or objection
in respect thereof.

50 4. The purchase shall be completed and the

EXHIBITS

Agreement
between
Prime Realty
Limited and
Hoon Moh
Heng, Tan Ah
Ying, Tay Ah
Kiang, and
Ng Kiat Seng
4th April
1978
(cont'd)

balance purchase price paid at the office of Messrs. David See & Company within four (4) months from date hereof i.e. on the 4th day of August 1978.

5. The property is also sold subject to the existing tenancies (particulars whereof have been furnished by the Vendors to the Purchasers who shall be deemed to have full notice and knowledge thereof) and to all party wall rights and other easements and covenants (if any) affecting the same.

6. All Government, Public Utilities Board or other notices (if any) of the Local Authority served on or after the date of completion shall be complied with by and at the expense of the Purchasers.

7. All rentals, property taxes, quit rents and other goings shall be apportioned accordingly on completion.

8. The property is also sold subject to satisfactory replies to the Legal Requisitions to the various Government Departments being received by the Purchasers' Solicitors. In the event that such replies to the Legal Requisitions in the Purchasers' Solicitors' view are not satisfactory, then and in which an event:-

- (a) The sale and purchase herein shall be deemed to be wholly cancelled and abortive.
- (b) The Vendors' Solicitors shall immediately refund to the Purchasers the deposit of \$432,000.00 paid under the provisions of Clause 2 hereof, without any interest or deductions whatsoever.
- (c) This Agreement shall thereupon be treated as null and void and of no further effect whatsoever.
- (d) Each party hereto shall bear its own legal costs and neither party hereto shall have any claim or demand against the other for damages costs or otherwise whatsoever in the matter.

PROVIDED HOWEVER that if any of the replies to Legal Requisitions from the various Government Departments are similar to that in respect of No. 300 Changi Road, Singapore, Lot 340-22 of Mukim XXVI (already sent by and the replies already received by David See & Company, particulars and information whereof have been furnished and supplied to the Purchasers who shall be deemed to have full notice and knowledge of the same, and are fully satisfied with the replies in respect thereof) shall be deemed to be satisfactory and in order.

9. The Purchasers have been informed and shall be deemed to have full notice and knowledge that the premises known as No. 322-F, Changi Road, Singapore, is encumbered by a Lease dated the 23rd day of July 1957 and made between Chin Cheng Realty Pte. Limited of the one part and Doctor Hirendra Lal Bannerji of the other part (Registered in the Registry of Deeds in Volume 1276 No. 94) for a period of ten (10) years with an option to renew for a further period of ten (10) years at a time and that the Lease is now the subject matter of High Court Suit No. 2187 of 1977.

EXHIBITS
Agreement
between
Prime Realty
Limited and
Hoon Moh
Heng, Tan Ah
Ying, Tay Ah
Kiang, and
Ng Kiat Seng
4th April
1978
(cont'd)

10. The Vendors hereby warrant that except for the Lease entered into in respect of No. 322-F Changi Road, Singapore, no Tenancy Agreement or Lease has been entered into with any of the other tenants or occupiers of the property sold.

11. On payment of the balance of the purchase price at the time and place as aforesaid, the Vendors shall procure in favour of the Purchasers or such other persons (being Singapore Citizens) or a Limited Company (which has obtained the requisite Clearance Letter to acquire and purchase residential property) a proper assurance of the said property duly executed by Messrs. Chin Cheng Realty Pte. Limited and the Vendors, such assurance to be prepared by and at the expense of the Purchasers.

AS WITNESS the hands of the parties hereto.

THE SCHEDULE ABOVE REFERRED TO

ALL those two pieces of land situate at Changi Road in the District of Siglap in the Island of Singapore estimated according to Government Resurvey to contain the respective areas of 2650.6 square metres (28,531 square feet) and 2593.3 square metres (27,914 square feet) and marked on the Government Resurvey Map as Lots 340-22 and 340-23 of Mukim XXVI which said piece of land forms part of the land comprised in Grant No. 1 TOGETHER with the houses erected thereon and known as Nos. 276/A, 278/A, 280/A, 282/A, 284/A, 286/A, 288/A, 290/A, 292/A, 294/A, 296/A, 298/A, 300/A, 302/A, 304/A, 306/A, 308/A, 310/A, 312/A, 314/A, 316/A, 318/A, 320/A, 322/A, 322b, 322C, 322E, 322D, 322F, 322G, 324/A, 324B, 324C, 324D, 324E, 324F, 324G, 324H, 324J, 324K, 324L, 324M, 324N, 324P, 324Q, 324R, 324S, 324T and 324U, Changi Road, Singapore.

SIGNED by KOO OON SOON, a Director for and)
on behalf of PRIME REALTY PTE. LTD. in the)
presence of:- DAVID T. SEE, Advocate &)
Solicitor, Singapore.)

SIGNED by HOON MOH HENG, TAN AH YING, TAY)
AH KIANG, and NG KIAT SENG, in the)
presence of:-)

EXHIBITS

Letter
Messrs. Wee
Swee Teow
& Co to
Messrs. L.A.J.
Smith
12th October
1981

WEE SWEE TEOW & CO.

ADVOCATES & SOLICITORS
NOTARY PUBLIC & COMMISSIONER FOR OATHS

PO GUAN HOCK	傅源福
HUI SHUN YUN nee YEUNG	許揚舜
HUANG LUI	黃 遠
GIAM CHIN TOON	嚴振忠
TAN CHING TIONG	陳錦仲
Legal Assistants	
CHAN WENG KEE	陳永基
YEO PIAH CHUAN	楊冰全

Letter, Messrs. Wee Swee Teow & Co
to Messrs. L.A.J. Smith - 12th
October 1981

SUITE 2701, 27TH FLR., OCBC CENTRE
CHULIA STREET, SINGAPORE 010
TELS 92966 92967, 92968 91552

華豐二十七樓·二七〇一號
朱利街·新加坡(一)四郵區
電話：九二九六六·九二九六七
九二九六八·九一九五二

OUR REF: YPC/IC/295/79

YOUR REF: LAJS/GN/1374/4/74

12th October 1981

L.A.J. Smith Esq.,
Singapore.

Dear Sir,

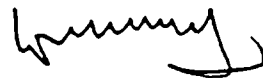
Re: Suit No. 2187 of 1977 -
No. 322-F, Changi Road

We refer to your letter of the 9th instant.

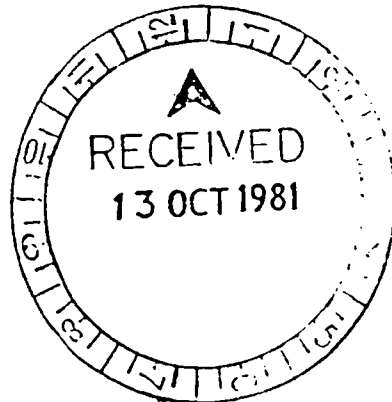
As requested, we forward herewith a copy of the Agreement
for Sale and Purchase made between Prime Realty Pte Ltd and
our clients' promotors.

With reference to the correspondence relating to the sale
we wish to inform that M/s. David See & Co. acted for both the
vendors and the purchasers. As such, there were not any correspondence
between the parties therein.

Yours faithfully,



encl.
c.c. clients.



copy to client
13/12/81

Letter, Messrs. L.A.J. Smith to
Messrs. Wee Swee Teow & Co - 14th
October 1981

EXHIBITS

Letter,
Messrs.L.A.J.
Smith to
Messrs. Wee
Swee Teow &
Co. - 14th
October 1981

YPC/IC/295/79
LAJS/GN/1374/74

14th October, 1981

M/s. Wee Swee Teow & Co.,
Singapore.

Dear Sirs,

10 Re: Suit No. 2187 of 1977 -
No. 322-F, Changi Road

I have now been able to go through the Agreement for Sale and Purchase between Prime Realty Pte. Ltd. and your clients' promoters and have also considered the contents of your letter informing me there was no correspondence between the parties as David See & Co. were acting for the Vendors and the Purchasers.

20 It would appear therefore on the documents that neither you nor your clients have any rights to conduct these proceedings.

However, in your letter of the 24th July, 1981, you stated that your clients have taken over the proceedings instituted by my client against Chin Cheng Realty (Pte.) Ltd. and have agreed to be bound by the decision of the case.

Can you let me know:-

1. If you have a Warrant to Act from Chin Cheng Realty (Pte.) Ltd.
- 30 2. If Chin Cheng Realty (Pte.) Ltd. have authorised you by resolution to conduct these proceedings on their behalf, if so please be good enough to refer me to the resolution and the date when it was passed.
- 40 3. If Chin Cheng Realty (Pte.) Ltd. have authorised you by resolution to carry on these proceedings on their behalf are there any documents in your possession or your clients' possession dealing with the terms on which you are so authorised.

As this case is for hearing shortly please be good enough to let me have an answer to this letter by return.

EXHIBITS

Letter,
Messrs.L.A.J.
Smith to
Messrs. Wee
Swee Teow &
Co. - 14th
October 1981
(cont'd)

These matters as you will appreciate are relevant as after you "took over" these proceedings you raised two new points of law on behalf of Chin Cheng Realty (Pte.) Ltd. which they personally have never taken.

Yours faithfully,

c.c. Client.

Letter, Messrs. L.A.J. Smith to
Messrs. Wee Swee Teow & Co. - 20th
October 1981

EXHIBITS

Letter
Messrs.L.A.J.
Smith to
Messrs. Wee
Swee Teow &
Co. - 20th
October 1981

GCT(YPC)/AC/295/79

LAJS/GN/1374/74

20th October, 1981.

M/s. Wee Swee Teow & Co.,
Singapore.

Dear Sirs,

Re: Suit No. 2187 of 1977

I have your letter of the 17th October, 1981
enclosing copy of a letter from Chin Cheng Realty (Pte.)
Ltd.

In the first paragraph they state that they
understand you are acting for the beneficial owners
of the property known as No. 322F, Changi Road, Singapore.

In the second paragraph they state that they
wrote in relation to the High Court Suit No. 2187 of
1977 in which they are nominally the Plaintiffs and
further they have no objection to your acting for them
nominally provided an indemnity is given from your clients
as to the payment of your costs and disbursements.

Please clarify exactly what is meant by your
clients.

I understand that the promoters of Moh Seng
Realty Pte. Ltd. were your clients and also Moh Seng
Realty Pte. Ltd.

As these are your clients they should have
filed an Affidavit of Documents and these documents
should disclose the negotiations relating to this property.

We understand that you also state that you
did not act in the sale.

...2/-

EXHIBITS

Letter
Messrs.L.A.J.
Smith to
Messrs. Wee
Swee Teow &
Co. - 20th
October 1981
(cont'd)

- 2 -

We can understand this but that does not mean that your clients who are now apparently the real litigant should not make an Affidavit of Documents.

Please be good enough to take instructions from your clients with a view to their swearing an Affidavit of Documents in this matter and in their Affidavit disclose all arrangements they had either with Prime Realty Pte. Ltd. or Chin Cheng Realty (Pte.) Ltd. and any arrangement Prime Realty Pte. Ltd. had with Chin Cheng Realty (Pte.) Ltd. which they knew of and which they have documents.

Yours faithfully,

c.c. Client.

Letter, Messrs. L.A.J. Smith to
Messrs. David See & Co. - 20th
October 1981

EXHIBITS

Letter,
Messrs.L.A.J.
Smith to
Messrs. David
See & Co.
20th October
1981

LAJS/GN/1374/74

20th October, 1981.

M/s. David See & Co.,
3rd Floor,
First Life Building,
Singapore, 0106.

Dear Sirs,

Re: Suit No. 2187 of 1977
322F, Changi Road, Singapore.

We have been informed by Wee Swee Teow & Co. that you were acting for Prime Realty Pte. Ltd. and Chin Cheng Realty (Pte.) Ltd. in the disposal of the building in which the premises 322F, Changi Road are situated.

On my application for M/s. Wee Swee Teow & Co. to disclose their Warrant to Act on behalf of Chin Cheng Realty (Pte.) Ltd. the Defendants in the abovementioned suit I have been supplied with a copy of a letter dated 5th May, 1979 which is the day after they placed themselves on the record in the suit.

The property was bought pursuant to an Agreement dated 4th April, 1978 and completion would appear to have taken place on the 4th August, 1978. I now have a copy of the Agreement between Prime Realty Pte. Ltd. and several persons who were the promoters of Koh Seng Realty Pte. Ltd.

Paragraph 9 of the Agreement deals with the premises 322F, Changi Road and speaks for itself and appears to refer to the fact that the Lease is renewable every ten years.

I have been told by Wee Swee Teow & Co. that they do not have any correspondence between the parties regarding this Lease as you were acting in the sale but this correspondence is material to the present litigation and may raise matters which should be the subject of the suit.

...2/-

EXHIBITS

- 2 -

Letter,
Messrs. L.A.J.
Smith to
Messrs. David
See & Co.
20th October
1981
(cont'd)

I have also been informed by Wee Swee Teow & Co. that I should write to you regarding the correspondence and of course your clients may claim privilege.

The object of this letter is to ask you if there is any correspondence between either the purchasers, Prime Realty Pte. Ltd. and Chin Cheng Realty (Pte.) Ltd., and Prime Realty Pte. Ltd. the vendors and the persons described in the Agreement of the 4th April, 1978 as the purchasers and or Moh Seng Realty Pte. Ltd. and or Chin Cheng Realty (Pte.) Ltd.

Prime Realty Pte. Ltd. are I understand connected with Chin Cheng Realty (Pte.) Ltd. and were formed to take over this assets of Chin Cheng Realty (Pte.) Ltd. and to sell it.

Is there any correspondence on this matter and the privilege claim and if so on what basis. If privilege is claimed please let me know by who, if not after consultation with your clients please let me have photocopies of the documents.

I enclose herewith copy of a letter I have received from Wee Swee Teow & Co.

Please also inform me if there are any resolutions by Chin Cheng Realty (Pte.) Ltd. authorising Wee Swee Teow & Co. to act on behalf of Chin Cheng Realty (Pte.) Ltd. and if so the basis of it, in particular I want to know if the litigation has been assigned or if arrangements have been made to provide for it.

Yours faithfully,

Encl.

c.c. Client.

Letter, Dr. Bannerji to Messrs.
Wee Swee Teow & Co. - 2nd October
1981

EXHIBITS
Letter, Dr.
Bannerji to
Messrs. Wee
Swee Teow &
Co. - 2nd
October 1981

TEL: 441977

KURAU CLINIC

322-F Chang Road, Singapore 1441

DR. H.L. BANNERJI, M.D. B.S.

LATE

10 CAPT I.M.S. CIV. ASSTT. SURG. B.M.S. (IND) AND
M.O. MIDDLE ROAD, MIDDLETON, TAN TOCK SENG,
POLICE AND GENERAL HOSPITAL SINGAPORE.

Dated: 2nd Oct 1981

Wee Swee Teow & Co.,
Suite 2701, 27th floor,
OCBC Centre, Chulia Street,
Singapore 0104.

Dear Sirs,

322-F Changi Road

20 I am herewith enclosing a cheque for \$800
made out in favour of Moh Seng Realty (Pte) Ltd.
as rent for October 1981 for the above premises.

This is rendered under protest and subject
to recovery, if my interpretation of the rent
clause of the lease is judicially determined to be
correct.

Yours faithfully,

(Dr. H.L. Bannerji.)

EXHIBITS
 322-F Changi Road: Rent payable/paid by tenant Dr Bannerji from 1974 to 31st December 1981; differing interpretation of rent clause of the lease by tenant and the landlord

322-F Changi Road: Rent payable/paid by tenant Dr. Bannerji from 1974 to 31st December 1981; differing interpretation of rent clause of the Lease by tenant and the landlord

<u>Year & Date</u>	<u>In Tenant's View</u>		<u>In Landlord's View</u>		<u>Rent Accepted</u>	<u>Additional Rent Demanded and Paid</u>	<u>Recoverable Excess</u>
	<u>Rent p.m.</u>	<u>Total for Each Period</u>	<u>Rent p.m;</u>	<u>Total for Each Period</u>			
<u>Ching Cheng Realty (Pte) Ltd.</u>							
Jan 1974 to March 1974	@110.00	330.00	@110.00	330.00	330.00		
April to Dec 1974	@156.80	1411.20)	@240.00	2160.00			
Jan to Dec 1975	@156.80	1881.60)	@240.00	2880.00			
Jan to Dec 1976	@156.80	1881.60)*CHQ	@240.00	2880.00			
Jan to Dec 1977	@156.80	1881.60)	@240.00	2880.00			
Jan to August 1978	@156.80	1254.40)	@240.00	1920.00	**12720.00		
		<u>8640.40</u>		<u>13050.00</u>	<u>13050.00</u>		
			Should be (by tenant) -		8640.40		4409.60
			<u>Recoverable excess-</u>		<u>4409.60</u>		
<u>Moh Seng Realty (Pte) Ltd.</u>							
Sept. to Dec 1978	@185.60	742.40	@320.00	1280.00	960.00	320.00 (Payable)	
Jan to Dec 1979	@176.00	2112.00	@320.00	3840.00	2880.00	960.00)	
(*1) 1st Jan to 9th Nov 1980	@169.60	1746.88	@320.00	3296.00	2640.00	656.00) =3269.30	
(*2) 10th Nov to 31st Dec 1980	@318.40	544.36	@800.00	133.30	240.00	1093.30)	
1st Jan to 31st Jan 1981	@294.40	294.40	@800.00	800.00	240.00	560.00)	
Feb to Dec 1981	@294.40	3238.40	@800.00	8800.00	8800.00	nil	
		<u>8678.44</u>		<u>19349.30</u>	<u>15760.00</u>	<u>3589.30</u>	
						<u>15760.00</u>	
						<u>19349.30</u>	

<u>Year and Date</u>	<u>In Tenant's View</u>		<u>In Landlord's View</u>		<u>Rent Accepted</u>	<u>Additional Rent Demanded and Paid</u>	<u>Recoverable Excess</u>
	<u>Rent p.m.</u>	<u>Total for Each Period</u>	<u>Rent p.m.</u>	<u>Total for Each Period</u>			
(*3) Rent to Moh Seng before their letter dated 31.1.81						19349.30 brought forward	
Sept to Dec 1978	@156.80	627.20	@240.00	960.00	960.00	320.00 (Payable)	
Jan to Dec 1979	@156.80	1881.60	@240.00	2880.00	2880.00	19029.30 - Total paid	
Jan to Dec 1980	@156.80	1881.60	@240.00	2880.00	2880.00	8678.44 - Should be paid	
Jan 1981	@156.80	156.80	@240.00	240.00	240.00	10350.86 - Excess	10350.86
		<u>4547.20</u>		<u>6960.00</u>	<u>6960.00</u>	Total Excess -	<u>14760.46</u>

*CHQ and ** - Chin Cheng Realty accepted the cheques but did not cash them.)
 In August 1978 when they and Prime Realty sold the premises to Moh Seng)
 Realty, they asked for and were given a cheque for \$12720.00 by the tenant.)
 (*1) - Rent for 11 months, as rent is payable in the first week of the month.)
 (*2) - Rent for one month.)
 (*3) - Moh Seng Realty by their Counsel's letter dated 31.1.81 said that)
 since annual values had gone up on various dates, the rent should be)
 retrospectively increased for 1978, 1979 and up to 9th Nov 1980 to 320 p.m.)
 from 240 p.m. previously demanded and paid and from 10th Nov 1980 increased)
 to 800 p.m. making a total of 3269.30. This was paid by the tenant under)
 protest.)

Computation of rent per month by tenant's view is given in the next page.

EXHIBITS
 322-F Changi Road: Rent payable/ paid by tenant Dr. Bannerji from 1974 to 31st December 1981: differing interpretation of rent clause of lease by tenant and the landlord (cont'd)

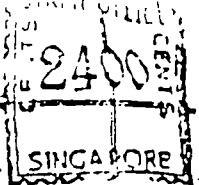
EXHIBITS
 322-F Changi
 Road: Rent
 payable/
 paid by
 tenant Dr.
 Bannerji
 from 1974
 to 31st
 December
 1981:
 differing
 interpre-
 tation of
 rent clause
 of lease by
 tenant and
 the landlord
 (cont'd)

Computation of rent according to tenant's interpretation
 of the rent clause of the lease, for premises 322-F Changi road

<u>11.3.74 to 31.12.77</u>	<u>Annual value</u>	<u>Assessment payable at %</u>	<u>Monthly pro- portion of assessment</u>	<u>Rent/p.m.</u>	<u>Correct rent by tenant</u>	<u>Correct rent by landlord</u>
After increase on 11.3.74 -	2880 (240x12)	@36%-1036.80	86.40	156.80 (110+46.80)	156.80p.m.	240 .p.m.
Before increase on 11.3.74 -	<u>1320 (110x12)</u>	@36%- <u>475.20</u>	<u>39.60</u>	<u>110.00</u>		
<u>Increase-</u> 1978	<u>1560</u>	<u>561.60</u>	<u>46.80</u>	<u>46.80</u>		
After increase on 1.1.78 -	3840 (320x12)	@36%-1382.40	115.20	185.60 (110+75.60)	185.60p.m.	320 p.m.
Before increase on 11.3.74 -	<u>1320 (110x12)</u>	@36%- <u>475.20</u>	<u>39.60</u>	<u>110.00</u>		
<u>Increase-</u> 1979	<u>2520</u>	<u>907.20</u>	<u>75.60</u>	<u>75.60</u>		
After increase on 1.1.78-	3840 (320x12)	@33%-1267.20	105.60	176.00 (110+66.00)	176.00 p.m.	320 p.m.
Before increase on 11.3.74 -	<u>1320 (110x12)</u>	@36%- <u>475.20</u>	<u>39.60</u>	<u>110.00</u>		
<u>Increase-</u> 1980	<u>2520</u>	<u>792.00</u>	<u>66.00</u>	<u>66.00</u>		
<u>1.1.80 to 9.11.80</u>						
After increase on 1.1.78-	3840 (320x12)	@31%-1190.40	99.20	169.60 (110+59.60)	169.60 p.m.	320 p.m.
Before increase on 11.3.74 -	<u>1320 (110x12)</u>	@36%- <u>475.20</u>	<u>39.60</u>	<u>110.00</u>		
<u>Increase-</u>	<u>2520</u>	<u>715.20</u>	<u>59.60</u>	<u>59.60</u>		

	<u>Annual value</u>	<u>Assessment payable at %</u>	<u>Monthly proportion of assessment</u>	<u>Rent/p.m.</u>	<u>Correct rent by tenant</u>	<u>Correct rent by Landlord</u>
<u>10.11.80 to 31.12.80</u>						
After increase						
on 10.11.80 -	9600 (800x12)	@31%-2976.00	248.00	318.40 (110+208.40)	318.40p.m.	800p.m.
Before increase						
on 11.3.74-	1320 (110x12)	@36%- 475.20	39.60	110.00		
<u>Increase-</u>	8280	2500.80	208.40	208.40		
<u>1.1.81 to 31.12.81</u>						
After increase						
on 10.11.80-	9600 (800x12)	@28%-2688.00	224.00	294.40 (110+184.40)	294.40p.m.	800p.m.
Before increase						
on 11.3.74 -	1320 (110x12)	@36%- 475.20	39.60	110.00		
<u>Increase-</u>	8280	2212.80	184.40	184.40		
<u>1.1.82 to 31.12.82</u>						
After increase						
on 10.11.80 -	9600 (800x12)	@26%-2496.00	208.00	278.40 (110+168.40)	278.40p.m.	800p.m.
Before increase						
on 11.3.74 -	1320 (110x12)	@36%- 475.20	39.60	110.00		
<u>Increase-</u>	8280	2020.80	168.40	168.40		

EXHIBITS
322-F Changi
Road: Rent
payable/
paid by
tenant Dr.
Bannerji
from 1974
to 31st
December
1981;
differing
interpre-
tation of
rent clause
of lease by
tenant and
the landlord
(cont'd)



1163-166

EXHIBITS

Lease between
Chin Cheng
Realty and
Hirendra Lal
Bannerji
30th July
1953

Lease between Ching Cheng Realty and
Hirendra Lal Bannerji - 30th July, 1953

STAMPED 31 VII 53 2400 CENTS
1163 - 166

THIS LEASE is made the 30th day of July One thousand nine Hundred and Fifty Three (1953) Between CHIN CHENG REALTY LIMITED whose registered office is at No. 13 South Canal Road, Singapore (hereinafter called "the Landlords" which expression shall where the context admits include the reversioner for the time being expectant upon the term hereby created) of the one part and HIRENDRA LAL BANNERJI of the General Hospital, Sepoy Lines Singapore, Medical Officer, Singapore Government Medical Service (hereinafter called "the Tenant" which expression shall where the context so admits include his assigns) of the other part

10

WITNESSETH as follows:-

1. In consideration of the rent and the Tenant's covenants hereinafter reserved and contained the Landlords hereby demise unto the Tenant ALL THAT the premises known as No. 322-F Changi Road situate in Singapore in a block of shop houses standing at the junction of Changi Road and Telok Kurau Road together with the yard and a room at the back thereto belonging (hereinafter called the demised premises) TO HOLD the demised premises unto the Tenant for the term of four years from the 1st day of August 1953 PAYING THEREFOR monthly during the said term the rent of Dollars One Hundred and Ten (\$110/-) the first payment thereof to be made on the 1st day of August 1953 and subsequent payments to be made between the 1st and the 7th day of every English Calendar month.

20

30

2. The Tenant for himself and his assigns covenants with the Landlords as follows:-

- (a) To pay the reserved rents on the days and in the manner hereinafter provided
- (b) To permit the Landlords and their agents twice a year at reasonable times to enter upon and view the condition of the demised premises
- (c) To pay all City Council charges for electricity, gas and water supplied to the said premises.
- (d) To keep the said premises in tenantable repair and condition and so to deliver up to the Landlords on the expiration of this lease

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(reasonable wear and tear excepted).

EXHIBITS

3. The Landlords hereby covenant with the tenant as follows:-

Lease between
Chin Cheng
Realty and
Hirendra Lal
Bannerji
30th July
1953
(cont'd)

10

(a) That the Tenant paying the rent hereby reserved and observing and performing the several covenants and stipulations herein on his part contained shall peaceably hold and enjoy the demised premises during the said term without any interruption by the Landlords or any person rightfully claiming under or in trust for them.

(b) To pay all rates taxes assessments and outgoings payable by law in respect of the demised premises, other than those referred to in clause 2(c) above.

20

(c) That the Landlords will on the written request of the Tenant made three calendar months before the expiration of the term hereby created and if there shall not at the time of such request be any existing breach or non-observance of any of the covenants on the part of the Tenant hereinbefore contained at the expense of the Tenant grant to him a lease of the demised premises for a further term of four years from the expiration of the said term at the same rent and containing the like covenants and provisos as are herein contained including the present covenant for renewal.

30

4. Provided always and it is expressly agreed as follows:-

(a) The Tenant shall have the right to assign his estate in the demised premises or to sublet the demised premises or any part thereof

40

(b) If the rents hereby reserved or any part thereof shall be unpaid for twenty-one days after demand in writing or if any covenant on the Tenant's part herein shall not be performed or observed or if the Tenant or other person in whom for the time being the term hereby created shall be vested shall become bankrupt or enter into any composition with his creditors then and in any of the said cases it shall be lawful for the Landlords at any time to re-enter upon the demised premises or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without

EXHIBITS

Lease between
Chin Cheng
Realty and
Hirendra Lal
Bannerji
30th July
1953
(cont'd)

prejudice to the right of action of the
Landlords in respect of any breach of the
Tenant's covenants herein contained

In Witness Whereof the parties hereto have
hereunto set their hands and seals the day and year
first above written.

The Common Seal of CHIN CHENG REALTY)
LIMITED was hereunto affixed)
pursuant to a resolution of the)
Board of Directors of the said)
Company in the presence of:-)

10

Illegible
Director

Illegible
Secretary

Signed Sealed and Delivered by the)
above named HIRENDRA LAL BANNERJI) Sgd. Hirendra
in the presence of:-) Lal Bannerji

Sgd. K. K. Bezboruah
Solicitor

20

Sgd. Illegible
Solicitors Clerk
434 Road
Singapore

I Cuthbert Francis Joseph Ess an advocate
and solicitor of the Supreme Court of the Colony of
Singapore practising in the Colony of Singapore
hereby certify that on the 28th day of July 1953
the Common Seal of the CHIN CHENG REALTY LIMITED
was duly affixed to the abovementioned instrument at
Singapore in my presence in accordance with the
regulations of the said company which regulations
have been produced and shown to me.

30

Witness my hand this 28th day of July 1953.
Sgd. C.F.J. Ess
Ad. & Sol.
Singapore.

On this 30th day of July 1953 before me
KRISHNA KAMAL BEZBORUAH an advocate and solicitor
of the Supreme Court of the Colony of Singapore
practising in the Colony of Singapore personally
appeared HIRENDRA LAL BANNERJI who of my own
personal knowledge I know to be the identical person
whose name Hirendra Lal Bannerji is subscribed to
the abovementioned instrument and acknowledged that
he had voluntarily executed this instrument at
Singapore.

40

Witness my hand.

Sgd. K.K. Bezboruah

Lease between Chin Cheng Realty
and Hirendra Lal Bannerji - 23rd
July 1957

EXHIBITS

Lease
between
Chin Cheng
Realty and
Hirendra Lal
Bannerji
23rd July 1957

STAMP OFFICE 1276-94
2187/77 13/11/81

THIS LEASE is made the 23rd day of July
One thousand nine hundred and fifty seven (1957)
Between CHIN CHENG REALTY LIMITED whose registered
office is at No. 13, South Canal Road, Singapore
10 (hereinafter called "the Landlords" which expression
shall where the context admits include the reversioner
for the time being expectant upon the term hereby
created) of the one part and HIRENDRA LAL BANNERJI
of No. 322-F, Changi Road, Singapore, Medical
Practitioner (hereinafter called "the Tenant"
which expression shall where the context so admits
include his assigns) of the other part

WITNESSETH as follows :-

1. In consideration of the rent and the
20 Tenant's covenants hereinafter reserved and
contained the Landlords hereby demise unto the
Tenant ALL that the premises known as No. 322-F,
Changi Road situate in Singapore in a block of shop
houses standing at the junction of Changi Road and
Telok Kurau Road together with the yard and a room
at the back thereto belonging (hereinafter called
"the demised premises") TO HOLD the demised premises
30 unto the Tenant for the term of TEN years from the
1st day of August, 1957, PAYING THEREFOR Monthly
AND TEN (\$110-00) the first payment thereof to be
made on the 1st day of August, 1957, and subsequent
payments to be made between the 1st and the 7th day
of every English Calendar month. PROVIDED However
that if the assessment on the said premises shall at
any time within the said period be increased or
decreased then and in such event the said rent shall
also be proportionately increased or decreased
accordingly.

2. The Tenant for himself and his assigns
covenants with the Landlords as follows:-

- (a) To pay the reserved rents on the days and in
the manner hereinafter provided;
- (b) To permit the Landlords and their agents
twice a year at reasonable times to enter
upon and view the condition of the demised
premises;

Mukim xxvi
Lot 340 23 pt
Registered a print Lot ... 23 pt
Mukim ... 2.6 ... Ara ...
in the exercise of the discretion conferred
by rule dated 14th April 1934, under Rule
11 of the Registration of Deeds Rules
1st August 1957
Mukim 26
under Lot 340
with statement presented in Volume ... 1276
No. 94
Deputy Registrar

EXHIBITS

Lease
between
Chin Cheng
Realty and
Hirendra Lal
Bannerji
23rd July
1957
(cont'd)

- (c) To pay all City Council charges for electricity, gas and water supplied to the said premises;
- (d) To keep the said premises in tenantable repair and condition and so to deliver up to the Landlords on the expiration of this lease (reasonable wear and tear excepted);

3. The Landlords hereby covenant with the Tenant as follows:-

- (a) That the Tenant paying the rent hereby reserved and observing and performing the several covenants and stipulations herein on his part contained shall peaceably hold and enjoy the demised premises during the said term without any interruption by the Landlords or any person rightfully claiming under or in trust for them; 10
- (b) To pay all rates taxes assessments and outgoings payable by law in respect of the demised premises, other than those referred to in Clause 2(c) above; 20
- (c) That the Landlords will on the written request of the Tenant made three calendar months before the expiration of the term hereby created and if there shall not at the time of such request be any existing breach or non-observance of any of the covenants on the part of the Tenant hereinbefore contained at the expense of the Tenant grant to him a lease of the demised premises for a further term of TEN years from the expiration of the said term at the same rent and containing the like covenants and provisoes as are herein contained including the present covenant for renewal. 30

4. Provided Always and it is expressly agreed as follows:-

- (a) The Tenant shall have the right to assign his estate in the demised premises or to sublet the demised premises or any part thereof;
- (b) If the rents hereby reserved or any part thereof shall be unpaid for twenty one days after demand in writing or if any covenant on the Tenant's part herein shall not be performed or observed or if the Tenant or other person in whom for the time being the term hereby created shall be vested shall become bankrupt or enter into any composition with his creditors then and in any of the 40

said cases it shall be lawful for the Landlords at any time to re-enter upon the demised premises or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to the right of action of the Landlords in respect of any breach of the Tenant's covenants herein contained.

EXHIBITS
Lease
between
Chin Cheng
Realty and
Hirendra Lal
Bannerji
23rd July
1957
(cont'd)

10 IN WITNESS whereof the Landlords have caused its Common Seal to be hereunto affixed and the Tenant has hereunto set his hand and seal the day and year first above written.

THE Common Seal of CHIN CHENG REALTY LIMITED)
was hereto affixed pursuant to a resolution)
of the Board of Directors of the said)
Company in the presence of:-)

Sgd. Illegible
Director

20 Sgd. Illegible
Secretary

SIGNED, SEALED and DELIVERED by the) Sgd. Hirendra
abovenamed HIRENDRA LAL BANNERJI in) Lal
the presence of:-) Bannerji

Sgd. F.B. Oehler,
Solicitor
Singapore.

30 I, CHEE TIANG CHIN an Advocate and Solicitor of the Supreme Court of the Colony of Singapore, practising in the Island of Singapore, hereby certify that on the 22nd day of July A.D. 1957, the Common Seal of CHIN CHENG REALTY LIMITED was duly affixed to the within written instrument at Singapore in my presence in accordance with the regulations of the said Company (which regulations have been produced and shown to me).

WITNESS my hand this 22nd day of July 1957.

Sgd. Chee Tiang Chin

40 ON this 23rd day of July, A.D. 1957, before me, FREDERICK BERNARD OEHLERS, an Advocate and Solicitor of the Supreme Court of the Colony of Singapore, practising in the Island of Singapore, personally appeared HIRENDRA LAL BANNERJI who of my own personal knowledge I know to be the identical person whose name "Hirendra Lal Bannerji" is subscribed to the within written instrument and acknowledged that he had voluntarily executed this instrument at Singapore.

WITNESS my hand.

Sgd. F. Bernard Oehlers

EXHIBITS

Excerpt from
the Straits
Times,
Thursday
June 20th
1957

Except from the Straits Times,
Thursday, June 20th, 1957

Some Coming Changes

Those members of the Singapore City Council who are so insistent on an election in December that they are threatening to resign can rest assured that public opinion is behind them. Singapore badly needs a new City Council. There is no guarantee unfortunately that 32 elected members will make a better Council than the present combination of elected and nominated members, but certain it is that the Council as now constituted long ago lost the public's confidence. It has a shameful record. As the last election was in 1953, there need be little wonder that the Council has grown decrepit, unrepresentative and a mite dishonest. The long interval has been due, however, to a chapter of constitutional progress and political accident. The whole of local government in Singapore is being re-organised, and the change is so considerable that the Government cannot fairly be accused of taking too long to make up its mind.

What do the impatient expect the Government to do, for example, about the electoral rolls. If the City Council elections are to be held in December, as is planned, possibly the old rolls will have to do. Nevertheless the point is disputed, and it is of importance because the qualifications for the franchise for the City Council and the new District Councils are being altered. The elector does not have to be either a British subject or have been born in the Federation or the British Bornean territories. Five years residence is the qualification. Since April 1958 has been selected as the basis for determining the address of the elector and his age, it means in effect that everybody with a valid identity card that was issued before April 1951 has a vote. The Government has accepted an amendment which changes the residential qualification for British subjects and persons born in the Federation and the British Bornean territories. They are automatically on the register if they lived in Singapore last April.

The Local Government Bill is still in the hands of a Select Committee. It has not attracted half the public attention it deserves. It is doubtful whether one person in ten has any idea at all of the effect of it, of why, for instance, some City ratepayers can look forward to a thirty per cent reduction in their assessment. This will

be one of the results of Katong being taken out of the City, and joined with Changi to form one of the District Councils. There is obviously no appreciation anywhere of the Government's obligations under the bill to provide for the City and the districts land for public car parks. Katong may be pleased that its rateable ceiling is to be lowered, but how does it feel about its coming reductions from the City health services. The whole range of personal and environmental health services is to be administered by the five local authorities and there are some fairly complicated procedures regarding local authorities and the Master Plan with provision for an improvement rate to be levied over the whole island.

EXHIBITS
Excerpt from
the Straits
Times,
Thursday
June 20th
1957
(cont'd)

City Councillors who talk of the need for a new mandate from the electors no doubt have all these matters at their finger tips. No Councillor, however, appears to have been very vocal about the acceptance by the Labour-Front Government of a recommendation transferring within the next four years all the public utilities out of the hands of the City Council into those of a statutory corporation. It is an admirable conception, and it is characteristic of the intense public interest which we all take in local government affairs that this proposal has roused no comment whatever. It is enough, in the White Paper's sonorous phrase, that the new basic pattern extends to the citizen a greater opportunity to be of service to his fellowmen. That will be in December.

EXHIBITS

P.l. Lease
between Chin
Cheng Realty
and Hirendra
Lal Bannerji
23rd July
1957

P.l. - Lease between Chin Cheng
Realty and Hirendra Lal Bannerji
23rd July 1957

STAMPED

1276-94

THIS LEASE is made the 23rd day of July One thousand nine hundred and fifty seven (1957) Between CHIN CHENG REALTY LIMITED whose registered office is at No. 13, South Canal Road, Singapore (hereinafter called "the Landlords" which expression shall where the context admits include the reversioner for the time being expectant upon the term hereby created) of the one part and HIRENDRA LAL BANNERJI of No. 322-F, Changi Road, Singapore, Medical Practitioner; (hereinafter called "the Tenant" which expression shall where the context so admits include his assigns) of the other part

10

WITNESSETH as follows:-

1. In consideration of the rent and the Tenant's covenants hereinafter reserved and contained the Landlords hereby demise unto the Tenant ALL that (the premises known as No. 322-F, Changi Road situate in Singapore in a block of shop houses standing at the junction of Changi Road and Telok Kurau Road together with the yard and a room at the back thereto belonging (hereinafter called "the demised premises") TO HOLD the demised premises unto the Tenant for the term of TEN years from the 1st day of August, 1957, PAYING THEREFOR monthly during the said term the rent of Dollars ONE HUNDRED AND TEN (\$110-00) the first payment thereof to be made on the 1st day of August, 1957, and subsequent payments to be made between the 1st and the 7th day of every English Calendar month. PROVIDED however that if the assessment on the said premises shall at any time within the said period be increased or decreased then and in such event the said rent shall also be proportionately increased and decreased accordingly.

20

30

2. The Tenant for himself and his assigns covenants with the Landlords as follows :-

40

- (a) To pay the reserved rents on the days and in the manner hereinafter provided;
- (b) To permit the Landlords and their agents twice a year at reasonable times to enter upon and view the condition of the demised premises;
- (c) To pay all City Council charges for electricity, gas and water supplied to the said premises;

Registered against Lot 340...
Mukim 2.6...
in the exercise of the discretion conferred by rule dated 15th April, 1936, under Rule 114 of the Registration of Deeds Rules.
1st August 1957
Mukim 2.6
with statement presented in Volume 1276
No. 94
Deputy Registrar of Deeds

(d) To keep the said premises in tenantable repair and condition and so to deliver up to the Landlords on the expiration of this lease (reasonable wear and tear excepted);

EXHIBITS
P.1. Lease
between Chin
Cheng Realty
and Hirendra
Lal Bannerji
23rd July
1957
(cont'd)

3. The Landlords hereby covenant with the Tenant as follows:-

10 (a) That the Tenant paying the rent hereby reserved and observing and performing the several covenants and stipulations herein on his part contained shall peaceably hold and enjoy the demised premises during the said term without any interruption by the Landlords or any person rightfully claiming under or in trust for them;

(b) To pay all rates taxes assessments and outgoings payable by law in respect of the demised premises, other than those referred to in Clause 2(c) above;

20 (c) That the Landlords will on the written request of the Tenant made three calendar months before the expiration of the term hereby created and if there shall not at the time of such request be any existing breach or non-observance of any of the covenants on the part of the Tenant hereinbefore contained at the expense of the Tenant grant to him a lease of the demised premises for a further term of TEN years from the expiration of the said term at the same rent and containing the like covenants and provisos as are herein contained including the present covenant for renewal.

/ 22nd April
1977 (pg.190)
Breach existing
notice not valid.

4. Provided Always and it is expressly agreed as follows:-

40 (a) The Tenant shall have the right to assign his estate in the demised premises or to sublet the demised premises or any part thereof;

(b) If the rents hereby reserved or any part thereof shall be unpaid for twenty one days after demand in writing or if any covenant on the Tenant's part herein shall not be performed or observed or if the Tenant or other person in whom for the time being the term hereby created shall be vested shall become bankrupt or enter into any composition with his creditors then and in any of the said cases it shall be

EXHIBITS

P.1. Lease
between Chin
Cheng Realty
and Hirendra
Lal Bannerji
23rd July
1957
(cont'd)

lawful for the Landlords at any time to re-
enter upon the demised premises or any part
thereof in the name of the whole and there-
upon this demise shall absolutely determine
but without prejudice to the right of action
of the Landlords in respect of any breach of
the Tenant's covenants herein contained

IN WITNESS whereof the Landlords have caused
its Common Seal to be hereunto affixed and the
Tenant has hereunto set his hand and seal the day
and year first above written

10

The Common Seal of CHIN CHENG REALTY LIMITED)
was hereto affixed pursuant to a resolution)
of the Board of Directors of the said)
Company in the presence of:-)

Sgd. Illegible
Director
Sgd. Illegible
Secretary

SIGNED, SEALED and DELIVERED by the) Sgd. Hirendra
abovenamed HIRENDRA LAL BANNERJI in) Lal
the presence of:-) Bannerji

20

F. Bernard Oehlers,
Solicitor,
Singapore.

I, CHEE TIANG CHIN an Advocate and Solicitor
of the Supreme Court of the Colony of Singapore,
practising in the Island of Singapore, hereby
certify that on the 22nd day of July A.D. 1957,
the Common Seal of CHIN CHENG REALTY LIMITED was
duly affixed to the within written instrument at
Singapore in my presence in accordance with the
regulations of the said Company (which regulations
have been produced and shown to me).

30

WITNESS My hand this 22nd day of July 1957.
Sgd. Chee Tiang Chin

ON this 23rd day of July, A.D. 1957, before
me, FREDERICK BERNARD OEHLERS, an Advocate and
Solicitor of the Supreme Court of the Colony of
Singapore, practising in the Island of Singapore,
personally appeared HIRENDRA LAL BANNERJI who of
my own personal knowledge I know to be the identical
person whose name "Hirendra Lal Bannerji" is
subscribed to the within written instrument and
acknowledged that he had voluntarily executed this
instrument at Singapore.

40

WITNESS my hand. Sgd. F. Bernard Oehlers.

P.2. - Letter Messrs. Allen
Yao to Madam Ho Ging Ling -
1st April 1976

ALLEN YAU

ADVOCATES & SOLICITORS

28-C, NORTH CANAL ROAD,
(3rd & 4th FLOORS9,
SINGAPORE 1.

Tel. 982859/75438

EXHIBITS

P.2. -
Letter Messrs.
Allen Yao to
Madam Ho
Ging Ling
1st April
1976

10 Our ref: AY/TYS/1628/76 1st April 1976

Madam Ho Ging Ling,
No. 322-G Changi Road,
Singapore.

A.R. REGISTERED

Dear Madam,

re: Premises known as No. 322-G
Changi Road, Singapore

We act for Chin Cheng Realty (Private)
Limited, your landlords of the abovementioned
premises.

20 We are instructed that our Clients have
not received rent from you since March 1974 and
you are therefore in arrears in the total sum of
\$4,080.00.

30 Kindly therefore let us have a cheque for
the said sum of \$4,080.00 being the arrears of
rent now due and payable to our Clients within
seven (7) days from the date hereof, failing
which our Clients will take such steps against
you for the recovery thereof as they may be
advised, without further reference to you.

Yours faithfully,

Sgd. Allen Yau

c.c. Clients.

Supreme Court,
Singapore.
Exhibit p.2.
S.2187/77
Date 10/2/82

EXHIBITS

P.3. Receipt
of Chin Cheng
Realty Ltd.
for Singapore
\$110 received
from Dr
Bannerji
3rd November
1970

P.3. Receipt of Chin Cheng Realty
Limited, for Singapore \$110
received from Dr Bannerji - 3rd
November 1970

CHIN CHENG REALTY LTD A No. 2752
13 South Canal Road,
Singapore 1.

Received from Dr. H.L. Bannerji
the sum of Dollars One hundred and ten only
being rent of Bld. 322-F, Changi Road
for the period from 1st to 30th November, 1970.
\$ 110/- Singapore 3rd Nov. 1970
Collector Landlord
Cash/Cheque M.B. Ltd. 044615

10

SEE CONDITIONS OF TENANCY ENDORSED ON REVERSE.

P.3. S.2187/77 11/2/82

CONDITIONS OF TENANCY

1. The tenant shall not sub-let the premises or
any part thereof without having first
obtained the landlord's consent thereto in
writing. 20
2. The tenancy is a monthly tenancy determinable
by one calendar month's notice in writing by
either party to the other.
3. The tenant shall not transfer or assign the
tenancy to a third person without the
previous consent in writing of the landlord
thereto.
4. The tenant shall not carry out any material
alteration to the premises without the
consent in writing of the landlord and such
alterations shall be according to proper
passed plan by the proper authorities. 30

P.4. Receipt of Chin Cheng Realty
Limited for Singapore \$110 from
Dr Bannerji - 7th December 1970

EXHIBITS

P.4. Receipt
of Chin Cheng
Realty Ltd.
for Singapore
\$110 from Dr
Bannerji - 7th
December 1970

CHIN CHENG REALTY LTD.
13 South Canal Road,
Singapore 1. A No. 2800

10 REceived from Dr. H.L. Bannerji
the sum of Dollars One hundred and ten only
being rent of 322 F Changi Rd.
for the period from 1st to 31st Dec. 70.

\$110/- Singapore 7/12/70

Collector Landlord

Cash/Cheque 044617

SEE CONDITIONS OF TENANCY ENDORSED ON
REVERSE

P.4.
S.2187/77
11/2/82

CONDITIONS OF TENANCY

- 20 1. The tenant shall not sub-let the premises
or any part thereof without having first
obtained the landlord's consent thereto
in writing.
2. The tenancy is a monthly tenancy determinable
by one calendar month's notice in writing by
either party to the other.
- 30 3. The tenant shall not transfer or assign the
tenancy to a third person without the
previous consent in writing of the landlord
thereto.
4. The tenant shall not carry out any material
alteration to the premises without the
consent in writing of the landlord and
such alterations shall be according to
proper passed plan by the proper authorities.

EXHIBITS

P.5. Receipt
of Ching Cheng
Realty Ltd.
for Singapore
\$110 from Dr
Bannerji
8th February
1973

P.5. Receipt of Ching Cheng
Realty Limited, for Singapore
\$110 from Dr Bannerji - 8th
February 1973

CHIN CHENG REALTY (PTE) LTD.
Nos. 824-827, 8th Floor,
Supreme House, A No. 5857
Penang Road, Singapore 9.

Received from Dr. H.L. Bannerji
the sum of Dollars One Hundred and Ten Only. 10
being rent of No. 322F Changi Road
for the period from 1st to 28th February, 1973

\$110/- CHIN CHENG REALTY, Singapore. 8.2.1973
Collector Sgd. Landlord

SEE CONDITIONS OF TENANCY ENDORSED ON REVERSE.
~~Cash~~/Cheque 713 B 484306

SUPREME COURT,
SINGAPORE
EXHIBIT P.5.
in S.2187/77 20
Date 11/2/82. Registrar

CONDITIONS OF TENANCY

1. The tenant shall not sub-let the premises
or any part thereof without having first
obtained the landlord's consent thereto in
writing.
2. The tenancy is a monthly tenancy determinable
by one calendar month's notice in writing by
either party to the other.
3. The tenant shall not transfer or assign the 30
tenancy to a third person without the
previous consent in writing of the landlord
thereto.
4. The tenant shall not carry out any material
alteration to the premises without the
consent in writing of the landlord and
such alterations shall be according to
proper passed plan by the proper authorities.

P.6. Receipt of Chin Cheng
Realty Limited, for Singapore
\$110 received from Dr Bannerji
7th March 1973

EXHIBITS
P.6. REceipt
of Chin Cheng
Realty Ltd.
for Singapore
\$110 received
from Dr
Bannerji
7th March 1973

CHIN CHENG REALTY (PTE) LTD.
Nos. 824-827, 8th Floor,
Supreme House,
Penang Road,
Singapore 9. A No. 6103

10 Received from Dr. H.L. Bannerji
the sum of Dollars One Hundred and Ten only
being rent of No. 322-F, Changi Road
for the period from 1st to 31st March, 1973

\$110/- CHIN CHENG REALTY (PTE) LTD. 7th Mar 1973

Collector Sgd. Landlord

Cash/Cheque MB 484313
Raffles Place Branch.

SEE CONDITIONS OF TENANCY ENDORSED ON REVERSE.

20 SUPREME COURT
SINGAPORE
EXHIBIT p6
in S.2187/77
Date 11/2/82 Registrar

CONDITIONS OF TENANCY

1. The tenant shall not sub-let the premises
or any part thereof without having first
obtained the landlord's consent thereto in
writing.
- 30 2. The tenancy is a monthly tenancy determinable
by one calendar month's notice in writing
by either party to the other.
3. The tenant shall not transfer or assign the
tenancy to a third person without the
previous consent in writing of the landlord
thereto.
4. The tenant shall not carry out any material
alteration to the premises without the
consent in writing of the landlord and such
alterations shall be according to proper
40 passed plan by the proper authorities.

EXHIBITS

P.7. Receipt
of Chin Cheng
Realty Ltd.
for Singapore
\$110 received
from Dr
Bannerji
6th March
1974

P.7. Receipt of Chin Cheng
Realty Limited, for Singapore
\$110 received from Dr Bannerji
6th March 1974

CHIN CHENG REALTY (PTE) LTD.
Nos. 824-827, 8th Floor,
Supreme House,
Penang Road,
Singapore, 9.

A No. 7276

Received from Dr. H.L. Bannerji
the sum of Dollars One Hundred and Ten Only.
being rent of 322-F, Changi Road
for the period from 1st to 31st March, 1974.

10

\$110/- CHIN CHENG REALTY (PTE) LTD. Singapore
6.3.74

Collector Sgd. Landlord
Cash/Cheque 713 530149

SEE CONDITIONS OF TENANCY ENDORSED ON REVERSE.

SUPREME COURT,
SINGAPORE
EXHIBIT P7.
in S.2187/77
Date 11.2.82 Registrar

20

CONDITIONS OF TENANCY

1. The tenant shall not sub-let the premises
or any part thereof without having first
obtained the landlord's consent thereto
in writing.
2. The tenancy is a monthly tenancy determinable
by one calendar month's notice in writing
by either party to the other.
3. The tenant shall not transfer or assign
the tenancy to a third person without the
previous consent in writing of the landlord
thereto.
4. The tenant shall not carry out any material
alteration to the premises without the
consent in writing of the landlord and such
alterations shall be according to proper
passed plan by the proper authorities.

30

40

P.8. - Computations of rent

The following computations compare the results of application of landlords' and tenant's formulae arising from differing interpretations of the proviso to Clause 1 of the Lease. In these computations for simplicity it is supposed that, before variation, the rent was \$100 p.m., annual value \$1200 per year and rate of tax 36%

	<u>Landlords' Profit/loss</u> Before variation	<u>Rate of tax unchanged</u> Annual value doubled to \$2400	<u>Annual Value unchanged</u> Rate of tax doubled to 72%	<u>Rate of tax</u> halved to 18%	Both annual value & Rate of tax doubled to \$2400 & 72% respectively
	Column (1)	Column (2)	Column (3)	Column (4)	Column (5)
(a) Monthly proportion of annual value	\$100	\$200	\$100	\$100	\$200
(b) Monthly proportion of Assessment (More/less than in Column (1))	\$ 36	\$ 72(\$36 more)	\$ 72(\$36 more)	\$ 18(\$18 less)	\$144(\$108 more)
(c) Monthly rent payable by landlords' formula	\$100	\$200	<u>\$100</u> \$200	<u>\$100</u> \$ 50	<u>\$200</u> \$400

311.

EXHIBITS
 P.8.
 Computations
 of Rent

	Landlords' Profit/loss	Annual Value unchanged		Both annual value & Rate of tax doubled to \$2400 & 72% respectively	
	Before variation	Rate of tax unchanged Annual value doubled to \$2400	Rate of tax doubled to 72%		Rate of tax halved to 18%
	Column (1)	Column (2)	Column (3)	Column (4)	Column (5)
(d) Profit nett of assess- ment by landlords' formula (more/less than in Column (1))	\$ 64	\$128 (100% more)	\$ 28 (\$36 less) <u>\$128</u> (100% more)	\$ 82 (\$18 more) <u>\$ 32</u> (50% less)	\$ 56 (\$8 less) <u>\$256</u> (300% more)
(e) Rent payable by tenant's formula (more/less than in Column (1))	\$100	\$136 (\$36 more)	<u>\$136</u> (\$36 more)	<u>\$ 82</u> (\$18 less)	<u>\$208</u> (\$108 more)
(f) Profit nett of assess- ment by tenant's formula (more/less than in Column (1))	\$ 64	\$ 64 (same)	\$ 64 (same)	\$ 64 (same)	\$ 64 (same)

The above computations are based on the landlords' view that rent should increase by as many percentage points as the annual value increases. If their view was that rent should increase or decrease by as many percentage points as tax payable increases or decreases then results would be same as above except in respect of items (c) & (d) in which the figures underlined in red will replace the corresponding figures above them not so underlined.

Assessment: If it means money payable, as tax, is the product of annual value and rate of tax. Since annual value never goes down tax payable goes up when the annual value goes up and goes up or down when rate of tax goes up or down. In Singapore the rate of tax was reduced to 33% in 1979 and is scheduled to go down to 23% by 1983.

Note: (A) It can be seen from the above that by landlords' formula whether based on percentage point rise in annual value or percentage point rise or fall in tax payable, the results are uneven and can result in as much as 300% rise in profits (Column (5) or 50% fall (Column (4) underlined in red) in profits. By tenant's formula the results are even and no matter what happens to the annual value or tax payable the landlords profits remain the same.

10

(B) When landlords' profits fall below \$64 p.m. which was the profit before variation shown in Column (1), then as shown in Columns (3) & (5) by figures not underlined in red and in Column (4) by figures underlined in red, the tenant by his formula cushions the landlords' fall in profits by agreeing to pay rent higher than is required by landlords' formula of rent varying according to percentage point variation of assessment. The tenant by his formula gets reduction in rent only by the monthly proportion of reduction of money payable as tax by the landlords, so that their profits do not suffer.

20

When assessment falls the landlords by their formula have to be satisfied with fall in profits by as much as 50%. The tenant's formula does not allow such fall in profits to happen.

The tenant's formula is more equitable as the proviso to Clause 1 of the Lease is meant to be.

EXHIBITS

P.8.
Computations
of Rent
(cont'd)

EXHIBITS

P.9. Receipt
of Chin Cheng
Realty Ltd.
for Singapore
\$90 received
from Madam
Ho Ging Ling
8th February
1973

P.9. Receipt of Chin Cheng
Realty Limited for Singapore
\$90 received from Madam Ho
Ging Ling - 8th February 1973

Without Prejudice Notice to Quit
Re our letter dd v.1.1973

CHIN CHENG REALTY (PTE) LTD.
Nos. 824-827, 8th Floor, A No. 5858
Supreme House,
Penang Road, Singapore 9.

10

Received from Madam Ho Ging Ling
the sum of Dollars Ninety only
being rent of No. 322-G Changi Road
for the period from 1st to 28th February 1973

\$90/- CHIN CHENG REALTY (PTE) LTD. 8.2.1973
Collector Sgd. Landlord
Cash/Cheque B 484306

SEE CONDITIONS OF TENANCY ENDORSED ON REVERSE

SUPREME COURT, SINGAPORE

EXHIBIT P9

in S.2187/77

Date 11.2.82 Registrar

20

CONDITIONS OF TENANCY

1. The tenant shall not sub-let the premises or any part thereof without having first obtained the landlord's consent thereto in writing.
2. The tenancy is a monthly tenancy determinable by one calendar month's notice in writing by either party to the other.
3. The tenant shall not transfer or assign the tenancy to a third person without the previous consent in writing of the landlord thereto.
4. The tenant shall not carry out any material alteration to the premises without the consent in writing of the landlord and such alterations shall be according to proper passed plan by the proper authorities.

30

P.10. Receipt by Chin Cheng Realty
Limited, dated 2nd April 1973 for
Singapore \$341 received from Madam
Ho Ging Ling

EXHIBITS
P.10. Receipt
by Chin Cheng
Realty Ltd.
dated 2nd
April 1973
for Singapore
\$341 received
from Madam Ho
Ging Ling

CHIN CHENG REALTY (PTE) LTD.
Nos. 824-827, 8th Floor,
Supreme House, A No. 6150
Penang Road,
Singapore, 9.

10 Received from Madam Ho Ging Ling
the sum of Dollars Three Hundred and Forty Only
being rent of No. 322-G Changi Road
for the period from 1st Mar to 30th April '73

\$340/- CHIN CHENG REALTY (PTE) LTD. 2.4.1973
Collector Sgd. Landlord

Cash/Cheque No. 484312 \$90/-
484317 \$250/-

SEE CONDITIONS OF TENANCY ENDORSED ON REVERSE

20 SUPREME COURT, SINGAPORE
EXHIBIT P.10
in S.2187/77
Date 11.2.82 Registrar

CONDITIONS OF TENANCY

1. The tenant shall not sub-let the premises
or any part thereof without having first
obtained the landlord's consent thereto in
writing.
2. The tenancy is a monthly tenancy determinable
by one calendar month's notice in writing
30 by either party to the other.
3. The tenant shall not transfer or assign the
tenancy to a third person without the
previous consent in writing of the landlord
thereto.
4. The tenant shall not carry out any material
alteration to the premises without the consent
in writing of the landlord and such
alterations shall be according to proper
passed plan by the proper authorities.

EXHIBITS

D.1. Fees
(Survey)
Order 1951

D.1. Fees (Survey) Order 1951

No. S. 481 - THE FEES ORDINANCE.
(CHAPTER 226).

THE FEES (SURVEY) ORDER, 1951

In exercise of the powers conferred by section 2 of the Fees Ordinance, the Governor in Council hereby makes the following:-

1. This Order may be cited as the Fees (Survey) Order, 1951.

2. The fees in the Schedule hereto shall be the prescribed fees for surveys, including demarcation and emplacement of boundary marks, performed in the Colony of Singapore by the Surveyor-General's Department. 10

THE SCHEDULE.

1. For lots held under title, and built on, and involving exact fixation or party or other walls:-

Lots not exceeding 2,000 square feet \$ 140 per lot 20

Every additional 1,000 square feet or part thereof 6

Each additional contiguous lot surveyed contemporaneously under the same ownership Half the above rates provided that the lot for which the full rate is charged shall not be smaller than any of the others: 30

Provided that for lots outside Municipal limits, the Collector of Land Revenue may at his discretion remit such part of the survey fees (not exceeding one-third thereof) as he may consider proper.

2. For other lots held under titles:-

Lots not exceeding 1 acre \$ 112 per lot

Each additional acre or part of an acre up to 5 acres in all \$22. 40

Lots of 5 acres 200 per lot.

	Each additional acre or part of an acre up to 10 acres in all \$12.	\$		<u>EXHIBITS</u>
	Lots of 10 acres	260	per lot.	D.1. Fees (Survey) Order 1951 (cont'd)
	Each additional acre or part of an acre up to 25 acres in all \$6.80.			
	Lots of 25 acres	362	per lot.	
	Each additional acre or part of an acre up to 50 acres in all \$4.40.			
	Lots of 50 acres	472	per lot.	
10	Each additional acre or part of an acre up to 100 acres in all \$2.40.			
	Lots of 100 acres	592	per lot.	

Each additional acre or part of an acre up to any area \$2.20.

Each additional contiguous lot surveyed contemporaneously under the same ownership Half the above rates, provided that the lot for which the full rate is charged shall not be smaller than any of the others:

Provided that for an area not exceeding five acres, including any additional contiguous lot surveyed contemporaneously under the same ownership, the Collector of Land Revenue may at his discretion remit part of the survey fees, but so that the minimum charge shall be \$4 per acre or part of an acre.

3. For lots to be alienated under title, or to be relienated under title, even if fees have been paid for a former survey of the same land The fees prescribed in item 1 or 2 above, as may be appropriate, and subject to the respective provisions therein.

4. Fees for surveys for the purpose of section 11 of the Crown Lands Ordinance shall be the fees prescribed in item 1 or 2 above, as may be appropriate, and subject to the respective provisions therein.

5. For all survey work to which the above items Nos. 1, 2, 3 and 4 are not applicable there

EXHIBITS

D.1. Fees
(Survey)
Order 1951
(cont'd)

shall be charged \$6 per hour or part of an hour for field work and \$4 per hour or part of an hour for office work.

6. All fees shall be payable in advance.

7. The Colonial Secretary may at his discretion remit the whole of any survey fees or such part thereof as may seem to him proper.

8. No fees shall be payable under this order in respect of work done on behalf of Government.

10

9. Surveys and services for which fees have been deposited at rates previously in force may be carried out at the rates so deposited.

Gazette Notification No. 358 published in the Gazette of 10th February, 1939, is hereby cancelled.

F.J.A. SKELCHY,
Clerk of the Executive Council.

COUNCIL CHAMBER,
SINGAPORE, 10th November, 1951 [No. 1104/50].

20

D.2. Fees Survey (Temporary
Increase) Order 1951

EXHIBITS
D.2. Fees
Survey
(Temporary
Increase)
Order 1951

No. S 480 - THE FEES ORDINANCE.
(CHAPTER 226).

THE FEES (SURVEY) (TEMPORARY INCREASE) ORDER, 1951

In exercise of the powers conferred by section 2 of the Fees Ordinance, the Governor in Council hereby makes the following order:-

10 1. The Order may be cited as the Fees
(Survey) (Temporary Increase) Order, 1951.

2. The fees shown in the schedule to the Fees (Survey) Order, 1951, shall be doubled until further notice.

F.J.A. SKELCHY,
Clerk of the Executive Council.

COUNCIL CHAMBER,
SINGAPORE, 10th November, 1951. [No. 1104/50]

EXHIBITS

D.3. Fees (Surveys) Order 1970

D.3. Fees
(Surveys)
Order 1970

No. S.5. THE FEES ORDINANCE.
(CHAPTER 165).

THE FEES (SURVEYS) ORDER, 1970

In exercise of the powers conferred by section 2 of the Fees Ordinance, the Minister for Finance hereby makes the following Order:-

1. This Order may be cited as the Fees (Surveys) Order, 1970.

2. The fees set out in the Schedule to this Order shall be the prescribed fees for surveys, including demarcation and emplacement of boundary marks, performed by the Chief Surveyor's Department. 10

3. All fees shall be payable in advance.

4. The Fees (Survey) (Temporary Increase) Order, 1951, and the Fees (Surveys) Order, 1951, are hereby revoked.

G.N. Nos.
S 480/51
S 481/51.

20

THE SCHEDULE.

1. For lots held under title, and built on, and involving exact fixation of party or other walls -

Lots not exceeding 2,000 square feet \$600 per lot.

Every additional 1,000 square feet or part thereof \$100.

Each additional contiguous lot surveyed contemporaneously under the same ownership Two-thirds the above rates, provided that the lot for which the full rate is charged shall not be smaller than any/ of the others. 30

2. For other lots held under titles -

Lots not exceeding 1 acre ...	\$500 per lot.	<u>EXHIBITS</u>
Each additional acre or part of an acre	\$250 per lot.	D.3. Fees (Surveys) Order 1970 (cont'd)

10 Each additional contiguous lot surveyed contemporaneously under the same ownership Two-thirds the above rates, provided that the lot for which the full rate is charged shall not be smaller than any of the others.

20 3. For lots to be alienated under title, or to be re-alienated under title, even if fees have been paid for a former survey of the same land The fees prescribed in item 1 or 2 above, as may be appropriate and subject to the respective provisions therein.

30 4. Fees for surveys for the purpose of section 11 of the State Lands Ordinance Cap. 2 The fees prescribed in item 1 or 2 above, as may be appropriate, and subject to the respective provisions therein.

5. For all survey work to which the above items Nos. 1, 2, 3 and 4 are not applicable.

40 (a) Fee charged for field work \$30 per hour or part of an hour.

(b) Fee charged for office work \$20 per hour or part of an hour.

Made this 30th day of December, 1969.

LEE KENG TUAN.
Permanent Secretary, Ministry of
Finance, Singapore.

[Try. Cf. 0651/64/Pt. L/(xvii); AC./135/58 Pt.II]

(To be presented to Parliament under section 3 of the Fees Ordinance).

EXHIBITS

D.4. Fees (Surveys) Order 1971

D.4. Fees
(Surveys)
Order 1971

No. S 177

THE FEES ACT.
(CHAPTER 138, 1970 ED.).

THE FEES (SURVEYS) ORDER, 1971

In exercise of the powers conferred by section 2 of the Fees Act, the Minister for Finance hereby makes the following Order:-

1. This Order may be cited as the Fees (Surveys) Order, 1971. 10

2. The fees set out in the Schedule to this Order shall be prescribed fees for surveys, including demarcation and emplacement of boundary marks, performed by the Chief Surveyor's Department.

3. All fees shall be payable in advance.

4. The Fees (Survey) Order, 1970, is hereby revoked.

G.N. No. S 5/70

THE SCHEDULE. 20

1. For lots held under title, and built on, and involving exact fixation of party or other walls -

Lots not exceeding 200 square metres	\$650 per lot.	
Every additional 100 square metres or part thereof	\$110.	
Each additional contiguous lot surveyed contemporaneously under the same ownership	Two-thirds the above rates: Provided that the lot for which the full rate is charged shall not be smaller than any of the others.	30

2. For other lots held under titles -

Lots not exceeding 4,000 square metres	\$500 per lot.	
Every additional 4,000 square metres or part thereof	\$250.	40

Each additional contiguous lot surveyed contemporaneously under the same ownership

Two-thirds the above rates: Provided that the lot for which that the full rate is charged shall not be smaller than any of the others.

EXHIBITS
D.4. Fees (Surveys) Order 1971 (cont'd)

- 10 3. For lots to be alienated under title, or to be re-alienated under title, even if fees have been paid for a former survey of the same land The fees prescribed in item 1 or 2 above, as may be appropriate, and subject to the respective provisions therein.
- 20 4. Fees for surveys for the purpose of section 11 of the State Lands Ordinance. Cap.244 The fees prescribed in item 1 or 2 above, as may be appropriate, and subject to the respective provisions therein.
- 30 5. For all survey work to which the above items Nos. 1, 2, 3 and 4 are not applicable -
 (a) Fee charged for field work \$30 per hour or part of an hour.
 (b) Fee charged for office work \$20 per hour or part of an hour.

Made this 23rd day of June, 1971.

H.R. HOCHSTADT,
Acting Permanent Secretary,
Ministry of Finance,
Singapore.

[Try Cf. 0812/69/Vol 3; AG./L/14/71]

(To be presented to Parliament under section 3 of the Fees Act).

EXHIBITS

D.5. The Surveyors (Scale of Fees for Title Surveys and Payment) Rules 1972

D.5. The Surveyors (Scale of Fees for Title Surveys and Payment) Rules 1972

SUBSIDIARY LEGISLATION SUPPLEMENT

No. S 247

THE LAND SURVEYORS ACT,
(CHAPTER 216)

THE LAND SURVEYORS (SCALE OF FEES FOR TITLE SURVEYS AND PAYMENT) RULES, 1972.

In exercise of the powers conferred by section 25 of the Land Surveyors Act, the Land Surveyors Board, with the approval of the Minister for Law and National Development, hereby makes the following Rules:- 10

1. These Rules may be cited as the Land Surveyors (Scale of Fees for Title Surveys and Payment) Rules, 1972 and shall come into operation on the 1st day of September, 1972.

2. The fees prescribed in the Schedule to these Rules shall be charged for title surveys carried out by registered surveyors. 20

3. On completion of a title survey and upon the deposit of the relevant documents with the Survey Department by the registered surveyor as provided in section 20 of the Act, together with a claim for the payment of survey fees on a form approved by the Chief Surveyor, the Chief Surveyor, if satisfied, shall arrange to pay the registered surveyor the prescribed survey fees due in respect of such title survey as provided in section 19 of the Act, within one month of the date of such deposit of the relevant documents: 30

Provided that the cost of any additional work required by the Survey Department for any error in the survey in pursuance of the provisions of section 23 of the Act shall be borne by the registered surveyor.

4. Where a title survey has been commenced by a registered surveyor and completed by another registered surveyor as provided in subsection (4) of section 22 of the Act, the payment of the prescribed survey fees due in respect of such title survey to the registered surveyors concerned shall be on a pro rata basis, calculated on the portion 40

of the acceptable work completed by each registered surveyor.

EXHIBITS

D.5. The Surveyors (Scale of Fees for Title Surveys and Payment) Rules 1972 (cont'd)

10 5. In all such cases referred to in rule 4 of these Rules, the Chief Surveyor, if satisfied with the title survey, shall refer the matter of apportionment of payment of survey fees due to the registered surveyors concerned to the Board. The Board may consider the case and decide on the amount to be apportioned and payable to each registered surveyor in accordance with rule 4 of these Rules, or, appoint an ad hoc committee for this purpose as provided in rule 8 of the Land Surveyors Board Rules, 1972.

G.N. No. S 246/72.

6. Where a payment by apportionment as provided in rule 5 of these Rules is disputed by any registered surveyor, the procedure for the settlement of such dispute shall be as follows:-

- 20 (a) the registered surveyor concerned shall submit a statement in writing to the Board setting out the grounds upon which his claim is based;
- (b) the Secretary on receipt of such a statement shall submit it to the Board at its next meeting;
- 30 (c) the Board may, after considering the facts of the case, call in the contending parties with a view to settling the case by mutual agreement, failing which the Board may appoint an arbitrator to arbitrate in the dispute in accordance with the provisions of the Arbitration Act; Cap. 16
- (d) the award of the arbitrator shall be laid before the Board, and the Board shall communicate the award to the contending parties.

THE SCHEDULE.

Rule 2.

Vertical Subdivision

40 1. For lots held under title, and built on, and involving exact fixation of party or other walls -

Lots not exceeding 200 square metres \$650 per lot.

Every additional 100 square metres or part thereof \$110.

EXHIBITS

D.5. The Surveyors (Scale of Fees for Title Surveys and Payment) Rules 1972 (cont'd)

Each additional contiguous lot surveyed contemporaneously under the same ownership

Two-thirds the above rates, provided that the lot for which the full rate is charged shall not be smaller than any of the others.

2. For other lots held under title -

10

Lots not exceeding 4,000 square metres

\$500 per lot.

Every additional 4,000 square metres or part thereof

\$250.

Each additional contiguous lot surveyed contemporaneously under the same ownership

Two-thirds the above rates, provided that the lot for which the full rate is charged shall not be smaller than any of the others.

20

3. For lots to be alienated under title, or to be re-alienated under title, even if fees have been paid for a former survey of the same land

The fees prescribed in item 1 or 2 above, as may be appropriate, and subject to the respective provisions therein.

30

4. Fees for surveys for the purpose of section 11 of the State Lands Act
Cap. 285

The fees prescribed in item 1 or 2 above, as may be appropriate, and subject to the respective provisions therein.

40

5. For all survey work to which the above items 1 to 4 are not applicable -

(a) Fee charged for field work

\$30 per hour or part of an hour.

(b) Fee charged for office work

\$20 per hour or part of an hour

6. Strata Subdivision

For flat lots not exceeding 50 square metres \$50 per lot.

Every additional 1 square metre \$1.

EXHIBITS

D.5. The Surveyors (Scale of Fees for Title Surveys and Payment) Rules 1972 (cont'd)

10 Note:- (1) The fees specified in items 1 to 5 above include the cost of field and office inspections carried out by the Survey Department on a registered surveyor's work, the periodical calibration of chains, the provision of field books, boundary marks, calculation sheets and plan forms necessary for the completion of the title survey, as well as the colour edging of plans and the production of title plans by the Survey Department. A rate fixed at thirty per centum of the survey fees chargeable in accordance with the rates set out in this Schedule shall be payable to the Chief Surveyor for these services.

20 (2) The fees specified in item 6 above include the cost of field and office inspections carried out by the Survey Department on a registered surveyor's work, the provision of field books and plan forms necessary for the completion of the title survey, as well as the colour edging of plans and the production of title plans by the Survey Department. A rate fixed at thirty per centum of the survey fees chargeable in accordance with the rates set out in this Schedule shall be payable to the Chief Surveyor for these services.

30 (3) In arriving at the total cost of the survey fees, fraction of a dollar shall be rounded off to a dollar.)

Made this 19th day of August, 1972.

KWAH KHENG SWEE,
Chairman,
Land Surveyors Board,
Singapore.

[Law Cf.043/65 Vol. 2; AG/L/65/70]

O N A P P E A L

FROM THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

B E T W E E N :

MOH SENG REALTY (PRIVATE) LIMITED
(CHIN CHENG REALTY (PRIVATE) LIMITED) Appellant
(Respondent)

- and -

HIRENDRA LAL BANNERJEE Respondent
(Appellant)

RECORD OF PROCEEDINGS

Denton Hall & Burgin
Denning House
90 Chancery Lane
London WC2A 1EU.

Collyer Bristow
4 Bedford Row,
London WC1R 4DF.

Solicitors for the Appellant

Solicitors for the Respondent