JUDGMENT 14, 1973

(14)

No. 17 of 1972

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

ON APPEAL

FROM THE HIGH COURT OF APPEAL IN SINGAPORE

BETWEEN :

BANK NEGARA INDONESIA — Appellants (Plaintiff)

- and -

PHILIP HOALIM — Respondent (Defendant)

RECORD OF PROCEEDINGS

COWARD CHANCE,
Royex House,
Aldermanbury Square,
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Solicitors for the Appellant

C. BUTCHER & SIMON BURNS,
3/5 Bateman Street,
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Solicitors for the Respondent

No. 17 of 1972

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L

FROM THE HIGH COURT OF APPEAL IN SINGAPORE

B E T W E E N :

BANK NEGARA INDONESIA — Appellants / Plaintiff

- and -

PHILIP HOALIM — Respondent / (Defendant)

RECORD OF PROCEEDINGS

INDEX OF REFERENCE

EXHIBITS

Exhibit No.	Description of Documents	Date	Page
AB 19	Certificate of the Comptroller of Property Tax	10th March, 1970	129
AB 20	Letter from Mallel & Namazie to Tan, Rajah & Cheah	10th March, 1970	130
P 1 to P 32	Photographs of No.3 Malacca Street Singapore taken before, during and after completion of building works as follows :-		In folder
	Ex.P.1 - Photograph showing front of Premises No.3C Malacca St. before renovation		
	Ex.P.2 - Photograph showing staircase leading to 2nd floor before renovation		
	Ex.P.3 - Photograph showing 2nd floor of premises partly demolished for reconstruction		
	Ex.P.4 - Photograph showing 2nd floor in course of demolition - the front portion		
	Ex.P.5 - Photograph showing 1st floor before renovation		
	Ex.P.6 - Photograph showing ground floor in course of renovation		
	Ex.P.7 - Photograph showing 1st and 2nd floor being torn down		

DOCUMENTS TRANSMITTED WITH RECORD
BUT NOT REPRODUCED

Description of Documents	Date
List of Exhibits	undated
Notice of Motion for leave to appeal to the Judicial Committee of the Privy Council	29th December, 1971
Affidavit of Bambang Srijanto Salamoen in support of above	29th December, 1971

No.17 of 1972

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

ON APPEAL

FROM THE HIGH COURT OF APPEAL IN SINGAPORE

BETWEEN :

BANK NEGARA INDONESIA	Appellants (Plaintiff)
- and -	
PHILIP HOALIM	Respondent (Defendant)

RECORD OF PROCEEDINGS

In the High Court of the Republic of Singapore

No.1 Specially Indorsed Writ - 4th March, 1969

No. 1

SPECIALLY INDORSED WRIT - 4th March, 1969

SPECIALLY INDORSED WRIT

O.3, r.5

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

SUIT
B 1969 No. 431

BETWEEN

BANK NEGARA INDONESIA	Plaintiffs
AND	
PHILIP HOALIM	Defendant

In the High Court of the Republic of Singapore

No.1
Specially Indorsed Writ - 4th March, 1969

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

To
Philip Hoalim
3-C, Malacca Street,
Singapore

We command you, that within eight days after 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 Bank Negara Indonesia a body corporate incorporated in Indonesia and having a place of business at No.3 Malacca Street, Singapore; and take notice, that in default of your so doing the Plaintiffs may proceed therein to judgment and execution.

WITNESS, Mr. Eu Cheow Chye, Registrar of the High Court of Singapore, the 4th day of March 1969.

Sd: Tan, Rajah & Cheah
Solicitors for the
Plaintiffs

Sd: Tay Chin Chye
Dy. Registrar

N.B. - This Writ is to be served within twelve months from the date thereof, or, if renewed, within six months from the date of such renewal, including the day of such date, and not afterwards.

The Defendant(s) may appear hereto by entering an appearance(s) either personally or by solicitor at the Registry of the Supreme Court at Singapore.

A defendant appearing personally may, if he desires, enter his appearance by post and the appropriate forms may be obtained by sending a Postal Order for $5.50 with an addressed envelope to the Registrar of the Supreme Court at Singapore

In the High Court of the Republic of Singapore

No.1
Specially Indorsed Writ - 4th March, 1969

STATEMENT OF CLAIM

1. The Plaintiffs are entitled to the possession of the front room on the third floor of the building known as No.3 Malacca Street, Singapore which was let out by the Plaintiffs to the Defendant on a monthly tenancy at a rent of $280.00 per month.

2. The tenancy was duly determined by a Notice in writing to quit expiring on the 28th day of February 1969 which was served on the Defendant on the 13th day of January 1969.

3. The Plaintiffs are not precluded by the Control of Rent Ordinance, 1947, to recover possession of the said premises as the same were built and completed after the 7th day of September 1947.

4. The Defendant wrongfully continues to hold possession of the said premises.

And the Plaintiffs claim :-

(1) possession of the said premises;

(2) mesne profits from the 1st day of March 1969 until judgment or possession

(3) costs;

(4) further or other relief.

Sd: Tan, Rajah & Cheah
Solicitors for the Plaintiffs

SPECIALLY INDORSED WRIT

And the sum of $48.00 (or such sum as shall be allowed on taxation of costs). If the amount claimed is paid to the Plaintiffs or their solicitors within the time limited for appearance further proceedings will be stayed.

In the High Court of the Republic of Singapore

No.1 Specially Indorsed Writ - 4th March, 1969

TAKE NOTICE that in default of your entering an appearance hereto final judgment may be entered at once against you for the above amount and costs.

AND TAKE FURTHER NOTICE that if you enter an appearance you must also deliver a defence within ten days from the last day of the time limited for appearance, unless such time is extended by the Court or a Judge; otherwise judgment may be entered against you without notice, unless you have in the meantime been served with a summons for judgment.

Sd. Tan, Rajah & Cheah
Solicitors for the Plaintiffs

This Writ was issued by Messrs. TAN, RAJAH & CHEAH of No.2, Raffles Place, (2nd Floor), Singapore, Solicitors for the said Plaintiffs whose place of business is at No.3 Malacca Street, Singapore.

This Writ was served by R.M.Muthu the Defendant at 3-C Malacca St. Singapore who was pointed out to me by Pl.Rep;Lie Tiang Beng on Tuesday the 11th day of March 1969 at 11.05 a.m.

Indorsed the 11th day of March 1969.

Sd: R.M.Muthu
11/3/69

No. 2

DEFENCE - 31st March, 1969

In the High Court of the Republic of Singapore

No.2
Defence - 31st March, 1969

D E F E N C E

1. The Defendant denies that the Plaintiffs are entitled to possession of the front portion of the third floor of the building No.3C Malacca Street, Singapore, and will rely on the provisions of the Rent Control Ordinance 1953.

2. Since the year 1945 the Defendant was a tenant of the front portion of the first floor of the said building built prior to the 7th September 1947 which consisted of a ground floor, first floor and second floor.

3. During the year 1958 a third floor was added to the said building by Lee Cheng Kiat who acquired the said building.

4. By an agreement oral and partly in writing in 1958 between Lee Cheng Kiat and the Defendant, the Defendant removed at the expense of Lee Cheng Kiat and by Lee Cheng Kiat's own contractor to the front portion of the third floor with the same ground space and at the same rent and protection the Defendant had enjoyed on the first floor, so as to allow the first floor to be occupied by a Bank for which the said building was acquired by Lee Cheng Kiat. Accordingly the Defendant occupied the third floor No.3C Malacca Street, Singapore in or about the middle of 1959 and paid the rent to the Bank which was subsequently known as Bank Negara Indonesia, the Plaintiffs. The Plaintiffs are estopped from claiming possession of 3C Malacca Street, Singapore, from the Defendant.

5. It was implied term of the said agreement between Lee Cheng Kiat and the Defendant that the Plaintiffs would not take or cause to be taken any claim action or proceeding in relation to the said front portion of the third floor.

In the High Court of the Republic of Singapore

Dated and Delivered this 31st day of March, 1969.

HILBORNE & CO.

SOLICITORS FOR THE DEFENDANT.

No.2
Defence - 31st March, 1969

To the above named Plaintiffs and to their Solicitors, Messrs. Tan, Rajah & Cheah, Singapore.

No.3
Reply - 7th April,1969

No. 3

REPLY - 7th April,1969

R E P L Y

1. The Plaintiffs deny Paragraph 1 of the Defendant's Defence and repeat Paragraph 3 of the Plaintiffs' Statement of Claim herein.

2. Paragraphs 2 and 3 of the Defence herein are admitted.

3. Save that the Defendant now occupies the front portion of the third floor of the premises known as No.30, Malacca Street, Singapore (hereinafter referred to as "the demised premises") Paragraphs 4 and 5 of the Defence are denied and the Plaintiffs put the Defendant to strict proof thereof.

4. The Plaintiffs further say that the allegations contained in Paragraph 4 of the Defence herein do not constitute a good defence to the Plaintiffs' claim herein.

5. In the alternative, the Plaintiffs say that if there was such an agreement as alleged in Paragraphs 4 and 5 of the Defence herein (which is denied), the Plaintiffs will object that evidence of the agreement is inadmissible and will also rely on Section 4 of the Registration of Deeds Ordinance (Chapter 255).

6. In the further alternative, the Plaintiffs say that if there was such an agreement as alleged in Paragraphs 4 and 5 of the Defence herein (which is denied), the Plaintiffs are not bound by the terms thereof as there was no privity of contract between the Plaintiffs and the Defendant and the Plaintiffs will rely on the doctrine of "jus quaesitum tertio".

7. The Plaintiffs also say that on or about the 29th day of March 1961, by a written agreement made between the Plaintiffs and the Defendant (hereinafter referred to as "the said agreement") it was agreed (inter alia) that the demised premises would be leased to the Defendant for a term of three (3) years commencing from the 1st day of March 1961 and expiring on the 28th day of February 1964. The said agreement truly represents and contains, and is the only agreement made between the Plaintiffs and the Defendant, as the Defendant always well knew.

8. Thereafter, no renewal of the said agreement or any new agreement whether oral or in writing was entered into between the Plaintiffs and the Defendant.

9. By reason of Paragraph 7 hereof, the Defendant became a monthly tenant of the Plaintiffs, which monthly tenancy was duly terminated as stated in Paragraph 2 of the Statement of Claim herein.

10. The Plaintiffs will refer to the said agreement at the trial for its full terms and effect.

11. Save and except as hereinbefore expressly admitted, the Plaintiffs deny each and every allegation contained in the Defendant's Defence as if the same were set forth herein seriatim and specifically traversed.

Dated and Delivered this 7th day of April, 1969.

Tan Rajah & Cheah
SOLICITORS FOR THE PLAINTIFFS

To: The above named Defendant and to his Solicitors Messrs. Hilborne & Co., Singapore.

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr. Justice Chua 12th March, 1970 20th and 21st May, 1970

No. 4

NOTES OF EVIDENCE BEFORE THE HONOURABLE MR. JUSTICE CHUA - 12th March, 1970 20th and 21st May, 1970

NOTES OF EVIDENCE

IN THE SUPREME COURT IN SINGAPORE

Thursday, 12th March, 1970P

Suit No. 431 of 1969

Between

Bank Negara Indonesia — Plaintiffs

and

Philip Hoalim — Defendant

Coram: CHUA, J.

Notes of Evidence

Freddy Yin for Plaintiffs
Jumabhoy for Defendant

Yin: Issue - whether the premises No.3 Malacca Street in which the Defendant occupies 3C on 3rd floor as a result of renovations and repairs carried out to the premises the Court would hold as a question of fact that the premises is a new building within Section 2 of the Control of Rent Ordinance.

If Court finds it is a new building I don't see what else there is in this case.

I don't know if my learned friend agrees there is only one issue.

Jumabhoy: I do not agree. Defence para.4 "Plaintiffs estopped" para. 5 "implied terms of agreement".

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr. Justice Chua 12th March, 1970 20th and 21st May, 1970
(continued)

Two issues and defendant entitled to rely on both.

1st, defendant says that the premises is not a new building and onus of showing it is new building rests on plaintiffs.

2nd issue is, even if it is a new building in this particular instance the plaintiffs are estopped by agreement between themselves, their nominees or their predecessors in title from claiming possession.

If Court holds the building is not a new building then Court will not have to decide the second issue.

Yin: Para.4 of Defence, no pleading in the alternative. He only pleads protection of Rent Control. My learned friend says Lee Cheng Kiat is plaintiffs' nominee, no where in defence is that pleaded. Para.4 states the agreement is between Lee Cheng Kiat and the defendant to which plaintiff was not a party.

In Reply we pleaded there is no privity of contract.

Assuming Court holds as a fact it is a new building what my learned friend is asking Court to consider is "even it it is a new building certain parties have contracted to give the defendant certain rights under the Control of Rent Ord.". If that is what my learned friend is contending then my learned friend would be prepared to look at the case of Rogers v. Hyde (1951) 2 K.B. at 923 where the parties were attempting by a contractual provision to bring the house within the protection of the Rent Acts, this in my view they cannot do, parties cannot of their own volition oust or reduce the jurisdiction of the Courts to grant an order for possession.

My learned friend is also saying that a lease has been granted to the defendant in perpetuity. Defendant must be able to show that there was a deed registered under the Registration of Deeds

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr. Justice Chua 12th March, 1970 20th and 21st May, 1970

(continued)

Ord. giving him that right, otherwise such evidence is not admissible by virtue of S.4 of Registration of Deeds Ord..

I submit the only issue is, is this a new premises?

Jumabhoy: If evidence discloses at end of plaintiffs' case that Lee Cheng Kiat is a nominee I shall make formal application to amend by the addition of these words and it would not prejudice my learned friend in any way.

Court: If you wish to plead Lee Cheng Kiat is a nominee of plaintiff then you should apply to amend now.

Jumabhoy: I apply to amend para.4 of the Defence by the addition of the words after the words "Lee Cheng Kiat" appearing in line two to read "between Lee Cheng Kiat the plaintiffs' nominee and/or predecessor in title".

Yin: I have to apply to amend my Reply that Lee Cheng Kiat is a nominee.

Jumabhoy: I am not pressing, it can be on record that plaintiffs deny that Lee Cheng Kiat is their nominee.

Court: Application to amend para. 4 granted. We will proceed on the basis that there are two issues.

Yin: Agreed Bundle - Ex. AB.

32 photos. of building before and after renovation put in by consent - Ex. P1 to P.32.

Plaintiffs' evidence

Calls -

Teo Hur Eng Examination

P.W.1 Teo Hur Eng - a.s. (in English):

X1. by Mr. Yin.

Living at 10 Walshe Road, Business Adviser of Bank Negara Indonesia.

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr. Justice Chua 12th March, 1970 20th and 21st May, 1970

Plaintiffs' evidence

Teo Hur Eng
Examination (continued)

To Court: I am an officer of the Bank.

In 1959, July, the plaintiff Bank purchased No.3 Malacca St., Singapore. The conveyance is on page 1 of AB. The Bank bought it from one Lee Cheng Kiat for $550,000.

As far as I know Lee Cheng Kiat was not a nominee of the Bank. I am sure he was not a nominee of the Bank at the date of purchase.

The plaintiff Bank is a Government Bank fully owned by the Government of Indonesia. As such all officers or representatives of the Bank must be appointed by our Board of Directors in Jakarta. There is no record that Lee Cheng Kiat was appointed a nominee of the Bank.

Prior to the purchase of the property, in 1958, Lee Cheng Kiat was not a nominee of the Bank.

I have gone through the records of the Bank and Lee Cheng Kiat has never been appointed a nominee of the Bank.

Photo P1 shows the front of the Bank premises before renovation.

Negotiations for the purchase of the property started in 1957 and I had in that year been to see the premises. It was then a very old building. The ground floor was used as a godown, the first floor with wooden partitions and wooden staircase railings were occupied by various offices. Similarly with the 2nd floor, The 1st and 2nd floors had wooden flooring.

The Bank discussed the purchase in 1957 with Tan Sri Khoo Teck Puat. To all intents and purposes we regarded Khoo Teck Puat as the owner of the building and all negotiations were conducted with Khoo Teck Puat. The purchase sum was paid direct to Khoo Teck Puat.

AB 24 shows the payment of two sums of $275,000 on the 1st of February, 1958 in respect of the premises, No. 3 Malacca St.

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr. Justice Chua 12th March,1970 20th and 21st May, 1970

Plaintiffs' evidence

Teo Hur Eng
Examination (continued)

At time of negotiation Khoo Teck Puat was not a nominee of the Bank nor was he a Director of the Bank.

The intention of the Bank was to remove from 253 South Bridge Road, our old premises, to No.3 Malacca Street.

Before moving into No.3 Malacca St. it was our intention to rebuild the whole of No.3 as it was an old building.

Photo P.32 shows the front of the present building The building consists now of the ground floor, the first floor, the 2nd floor and a third floor. There is a mezzanine floor between the ground floor and the first floor.

(Yin: AB. 3 and AB.4)

AB 3 is a letter the Bank instructed their solicitors to write to the Consultant Assessor regarding the assessment of the premises as result of the renovation.

AB.4 sets out how the figure of $306,656.89 is arrived at.

(Yin: AB.30,)

AB.30 is a certificate from the Comptroller Property Tax that the annual value of No.3 Malacca St. before renovation was $12,525 per year.

(Yin: AB 6, 8 and 9)

AB 6 - NO.3C is the third floor front portion of the bank premises and it was assessed for 1/6/69 at $6204 per year.

No.3C - 1 refers to the back portion of the third floor, that was assessed at $3144 per year.

For 3C and 3C-1 the third floor the assessment was $9348 per year from 1/6/59 to 30/6/60.

NOTES OF EVIDENCE

AB 8 shows 3, 3A and 3B Malacca St.. No.3 is the ground floor, 3A is the first floor and 3B the second floor. The annual value for the period 1/6/59 to 30/6/60 was $28,260 per year for all the three floors.

The annual value of the whole property is $6204 + $3144 + $28,260 = $37,608. This is the annual value up to today.

(Yin: The renovations.)

The renovations commenced towards the latter part of 1957. The Bank carried out a discussion about the renovations with Khoo Teck Puat. All payments for the renovations were made to Khoo Teck Puat.

(Yin: AB. 24)

The figure of $200,000 of the 20th June, 1958 was an advance payment for the renovations.

(Yin: AB 26 - 15th June 1959)

The sum of $74,757.58 was another advance payment for the renovations paid to Khoo Teck Puat. The sum of $38,900 of the 18th June, 1959 was the balance for the renovations paid to Khoo Teck Puat.

Khoo Teck Puat was the person who arranged for the renovations. He told the Bank what the cost was and the Bank paid him.

I visited the premises during the course of renovation.

Photo P.2 shows the staircase leading to the 2nd floor before renovation.

Photo P.3 shows the 2nd floor of premises partly demolished for reconstruction.

P. 4 shows the 2nd floor in course of demolition, the front portion of the 2nd floor.

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr. Justice Chua 12th March, 1970 20th and 21st May, 1970

Plaintiffs' evidence

Teo Hur Eng
Examination (continued)

P.5 shows the first floor before renovation. The partitions were the old offices.

P.6 shows the ground floor in course of renovation.

P.7 shows the first and second floor being torn down. The windows were that of the first floor. The 2nd floor had been pulled down.

P.8 shows the first floor being demolished.

P.9 shows the first floor in course of reconstruction.

P.10 shows the third floor, the new floor, being constructed.

P.11 shows the ground floor being reconstructed.

P.12 - 1st and 2nd floor staircases being torn down. Photo taken from 2nd floor looking down.

P.13 - the 3rd floor being constructed.

P.14 - another picture of the building being torn down.

P.15 - first floor partitions being torn down.

P.16 - 1st floor being constructed.

P.17 - ground floor being reconstructed, the foundation work.

P.18 - the ground floor and the mezzanine being constructed.

P.19 - 1st floor being reconstructed.

P.20 - 1st floor being reconstructed.

P.21 - 3rd floor being reconstructed.

NOTES OF EVIDENCE

P.22 - 2nd floor being reconstructed.

P.23 - 3rd floor, back, being constructed.

P.24 - Erection of concrete staircase from 1st to 2nd floors.

P.25 - Ground and mezzanine floors being constructed.

P.26 - 3rd floor being constructed.

P.27 - 3rd floor, back portion, being constructed.

P.28 - Ground floor strong room.

P.29 - Staircase from 1st to 2nd floor.

P.30 - 3rd floor, front portion.

P.31 - Building nearing completion showing front portion.

P.32 - The building completed, the front portion.

(Yin: AB.4).

Shows all the type of work done to the premises.

The old materials of the building had to be discarded as they could not be used again.

All the tenants had shifted except the defendant during the renovation.

The defendant was a tenant occupying a portion of the first floor when the Bank negotiated the purchase. I have forgotten the room number.

We started renovating the ground floor and the mezzanine floor. When the mezzanine floor was completed the defendant shifted to the mezzanine floor after which renovations were carried out to the first floor, the 2nd floor and the third floor.

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr.Justice Chua 12th March, 1970 20th and 21st May, 1970

Plaintiffs' evidence

Teo Hur Eng
Examination (continued)

When the whole building was completed the defendant was given premises on the 3rd floor, front portion. The Bank granted him the tenancy of No.3C. When he first moved to the 3rd floor he paid a rent of $147.40.

In 1961 the Bank gave defendant a Notice to Quit, AB.11, dated 12/1/61. The defendant did not quit. Neogitations took place resulting in a lease being entered into between the Bank and the defendant, the lease is at AB.18, for a term of 3 years at a rental of $280 p.m., as from 1st March, 1961.

After this lease had expired no new lease was entered into.

(Yin: AB.13).

This is a letter written by the Bank's solicitors to the defendant dated 4th March, 1961 showing the negotiations which took place leading to the lease in AB.18.

(Yin: AB.29).

This a Notice to Quit. After the expiry of lease in 1964 the defendant stayed on and the Bank accepted the rent and on 13th January, 1969, the Bank instructed their solicitors to send defendant the Notice to Quit. The defendant failed to vacate the premises and the Bank instructed their solicitors to commence the present proceedings.

Q. According to the defendant the Bank through Lee Cheng Kiat agreed to allow the defendant to occupy the front portion of 3C at rent of $147.40 and also that the defendant would have the protection of the Rent Control Ordinance?

A. No.

When the Bank accepted the defendant as the tenant of No.3C the Bank agreed to the same facilities, the same floor area, the electricity and the water bill to be paid by defendant and

defendant to have free use of the lift. The whole building was air-conditioned and defendant had to pay for the air-conditioning based on the power consumption of the units in the defendant's premises.

XXd. by Mr. Jumabhoy:

Been a Business Adviser since 1967. In 1957 I was the General Affairs Officer of the Bank; the Bank did not have a Business Adviser in 1957.

Business Adviser is a compradore.

I did not advise the Bank on the purchase of the premises, someone else did. The Manager at that time entered into negotiations.

I joined the Bank on 1st August, 1955 as General Affairs Officer.

The Manager entered into negotiations with Khoo Teck Puat. I had nothing to do with that.

I know about the payments to Khoo Teck Puat. The manager sanctioned the payments of the two sums of $275,000 on 1st February 1958 and I initialled on the vouchers.

On 1st February 1958 we paid for the premises. I knew we had purchased the property and we had made the payments to Khoo Teck Puat.

The Manager of the Bank entered into negotiations with Khoo Teck Puat. Apparently the Manager must be satisfied that Khoo Teck Puat can give a good title before he sanctioned the payments.

I knew we purchased the property. I attended some of the discussions. It was not for me to check if Khoo Teck Puat could convey, it was the duty of my Manager to do so.

(J: AB.24, entry of 20th June, 1958)

The sum of $200,000 was paid to Khoo Teck Puat for advance for renovation. The entry in

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr.Justice Chua 12th March, 1970 20th and 21st May, 1970

Plaintiffs' evidence

Teo Hur Eng
Cross-Examination (continued)

AB.24 not made by me but by the book-keeper, but I initialled the voucher. Yes, you are right I depended on the manager.

Khoo Teck Puat did give receipts. I can produce them.

There was no contract between the Bank and Khoo Teck Puat regarding the renovation, only exchange of correspondence.

Yes Khoo Teck Puat was given a free hand as regards the renovation. Khoo Teck Puat was not agent or nominee of the Bank, there was no such appointment. He was not appointed by the Board of Directors in Jakarta to do this.

I don't know what was the special position of Khoo Teck Puat. No, I did not inquire. Yes I don't know if he paid all the money advanced by us to the contractor. I don't know if he kept a part of it.

(J: AB.4).

The details in AB.4 were given by Khoo Teck Puat. Yes I don't know if these were accurate figures.

I don't know if Khoo Teck Puat had a special position with the Bank.

I don't know if Khoo Teck Puat negotiated with the contractor for the renovation through another person.

We did not have solicitors to act for us in getting the tenants to leave for renovation to be done. Khoo Teck Puat was supposed to give us vacant possession. He himself negotiated with the tenants.

- Adjourned to 2.15 -.

Sgd. F.A.Chua.

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr.Justice Chua 12th March, 1970 20th and 21st May, 1970

Plaintiffs' evidence

Teo Hur Eng Cross-Examination (continued)

2.15 Hearing resumed.

P.W.1 Teo Hur Eng - o.h.f.a. s(in English)

XXd. (Contd.)

(J: I have photostat copies of cashier's order for $200,000 and the voucher.)

I produce the photostat copies of cashier's order for $200,000 showing payment of that sum to Khoo Teck Puat (Ex.P.33).

Yes AB. 4 states "Cost of renovating No.3 Malacca Street".

Yes AB.24 states "Advance payment of renovation".

Yes AB.26 states "Renovation and repair works".

It is not so that these premises were renovated and repaired.

Q. Why in the documents exhibited the words used were "Renovation", "Repairs".

A. It might only be terminology, choice of words.

We used the word "Renovation" through the accounts.

We did not use the word "Reconstruction" as it would not be appropriate in this case as we were adding a new floor.

I first visited the premises in 1957. Yes I found it to be like photo P.1 on the outside. Yes I found the staircase like P.2 from the inside.

We did not have a plan of the inside of the premises made before the renovation. I do not know how many partitions there were and where they were. Yes I knew what these partitions were made of, most of them. The partitions were on the

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr.Justice Chua 12th March, 1970 20th and 21st May, 1970

Plaintiffs' evidence

Teo Hur Eng Cross-Examination (continued)

first and second floors and were made of wood and soft boards.

There was a plan of how the renovation was to be carried out. The plan was submitted to the City architect.

This building was never completely knocked down at one time. It was knocked down in stages.

We started renovating from the ground floor, then the mezzanine, the first floor, the second floor and then third floor and then the roof.

Yes the mezzanine is above the back portion of the ground floor.

Yes I have visited other banks. Not all banks have their safety deposit boxes in the basement. Hong Kong Bank's is on the ground floor.

(J: AB.4).

Yes foundation works....$25,650. Concrete and steel structure were laid on the ground floor. We had to do that as we were adding an extra floor and the existing foundations were not strong enough.

(J: Photo P.17).

That is part of the foundation work. There was no piling down.

After the mezzanine floor was completed Khoo Teck Puat arranged for the defendant to move into the mezzanine floor. I never saw the defendant occupying the mezzanine floor.

I do not know the arrangement between Khoo Teck Puat and the defendant. I was told by Khoo Teck Puat.

On one or two occasions when I visited the premises while renovation was being carried on,

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr.Justice Chua 12th March, 1970 20th and 21st May, 1970

Plaintiffs' evidence

Teo Hur Eng
Cross-Examination (continued)

I met the defendant on the five-foot way of 3 Malacca St., I was going in and he was coming out of 3 Malacca St.. When I went in I did not find out which portion defendant was occupying. I don't remember when I met defendant how far the building had been repaired.

I don't know that the defendant came to consult Malall & Namazie in 1958. Yes in 1958 the defendant was occupying the first floor. I do not know the nature of defendant's complaint to his solicitors.

(Witness shown a letter - Ex.D1 f.i. letter from Mallall & Namazie to Allen & Gledhill dated 4th October, 1958).

(J: Work did not start from the ground floor.)

May be part of the roof had been removed. Look at Ex.P9 the roof had been removed. The reconstruction was started from the ground floor and then to the mezzanine floor and then the first floor and defendant was asked to shift to the mezzanine.

I can't remember if in October 1958 the ground floor had been renovated and the mezzanine floor constructed.

I don't know if any letter followed the letter of 4th October, 1958.

(J: Look at the letter of 7th October, 1958 - Ex. D.2 f.i.).

Yes I see there was no mentioned of the mezzanine floor. Look at P.18, this shows the mezzanine floor in course of construction. This photo taken on 27/2/59. Ex. D2 is dated 7th October 1958 so at that time the mezzanine floor was not ready.

I don't know when defendant agreed to move into the mezzanine floor. Yes I don't know whether he agreed or not. I was informed he moved into

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr.Justice Chua 12th March, 1970 20th and 21st May, 1970

Plaintiff's evidence

Teo Hur Eng
Cross-Examination (continued)

the mezzanine floor, yes I don't know of my own knowledge.

Q. I put it to you the defendant did not move into the mezzanine floor?

A. I would not know.

I do not know if there were more complaints by the defendant.

(J: I show you another letter, of 8th October, another complaint - Ex. D4 f.i.).

I don't know about this complaint.

(J: I show you another letter dated 18th November, 1958, another complaint - Ex. D4 f.i.)

I don't know about this.

I don't remember if during October and November, 1958 I visited the premises.

(J: Two days later Allen & Gledhill wrote to defendant asking defendant to be a little more patient - Ex. D5 f.i.).

I don't know about this.

To Court: As far as I know we had not given any instruction to Allen & Gledhill.

I don't know who gave them instruction.

I don't know the defendant but I know him by sight. I don't know if defendant knows me.

The mezzanine floor was not completed in April 1959. As far as dates are concerned I am not good at recollecting but P.18 shows the condition of the mezzanine floor on 27/2/59. I don't know if in April it was completed.

I don't know who C.A.B.Chew is; he was our

architect during the renovation.

(J: I show you a letter of 14th April, 1959 from defendant to Lee Cheng Kiat c/o C.A.B. Chew- Ex. D.6 for idn.)

Yes this indicates that on 14th April 1959 the 3rd floor was not yet ready. I don't know if it indicates that defendant was still in occupation of the first floor. I can't tell whether at that time the defendant was or was not in occupation of the mezzanine floor.

(J: I show you another letter of 16th April 1959, a reply - Ex D.7. fi.)

Yin: I object to this going in, for what purpose is it?

J: We are trying to show that Lee Cheng Kiat is an agent of the bank or its nominee. The Bank is bound by any agreement which discloses a prior existing tenancy.

Court: I allow it.)

Yes this letter does not mention the mezzanine floor.

J: I produce the last letter - (Ex. D.8 f.i.) - defendant agreeing to move to the 3rd floor.

Yes in 1957 there was a lift in the premises. I can't say if the present lift is in the same position. The lift is the same old lift after renovation. It is not a new lift.

Yes I am sure the old materials were discarded as they could not be used. I was there now and then. I am not quite sure if any of the old materials were not used again.

Yes the defendant was occupying the larger portion of the first floor; I do not know the floor area occupied by defendant, I don't know

NOTES OF EVIDENCE

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the bank area not occupied by the defendant. I don't know if there was a partition dividing defendant's portion and the back portion.

My visit to the premises was to see progress of the work. My visit was not cursory. No necessity for me to make a plan.

- Adjourned to another date to be fixed by the Registrar -

Sgd. F.A. Chua.

No.4
Notes of Evidence before the Honourable Mr. Justice Chua 12th March, 1970 20th and 21st May, 1970

Certified true copy. 10

Sgd.

Private Secretary to Judge
Court No.2
Supreme Court, Singapore.

Plaintiffs' evidence

Teo Hur Eng
Cross-Examination (continued)

Re- examination
Victor Chew
Examination

NOTES OF EVIDENCE

Wednesday, 20th May, 1970

Suit No. 431/69 (P.heard).

Bank Negara Indonesia

vs.

Philip Hoalim 20

Counsel and parties as before.

P.W.1: Teo Hur Eng - a.s. (in English):

EXd.: by Yin.

NOTES OF EVIDENCE

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Notes of Evidence before the Honourable Mr.Justice Chua 12th March,1970 20th and 21st May, 1970

Plaintiffs' evidence

Teo Hur Eng
Re-Examination
Victor Chew
Examination (continued)

(Yin: P.11 Notes of Evidence "I do not know if Khoo Teck Puat had a special position in the Bank". What do you mean?).

As far as I am aware Khoo Teck Puat was not given any papers or authority to act on behalf of the Bank.

Sgd. F.A.Chua.

P.W.2: Victor Chew - s.s. (in English) :-

22B South Canal Road, Singapore, architect.

I was the architect for No.3 Malacca Street, Singapore. My client was a Mr. Lee Cheng Kiat who gave me instructions with regard to the building No.3 Malacca St. I think he was then the owner of the building.

(Yin: The photos.).

I recognise photo P1, it is photo of the building No.3 Malacca St. before the renovations and alterations.

Photo P.32 is No.3 Malacca St. after the alterations and renovations.

I recognise photo P.2, this is the passage at the top of the staircase from the lower floor to the upper floor; a wooden staircase.

P.3 is the second floor of the old premises in process of being pulled down.

P.4 is the second floor, the rear.

P.5 is the passage leading to the offices on the side on the second floor.

P.6 is what later became the airwell, the concrete, it is on the ground floor.

P.7 is the building when the front part was being demolished with the roof also taken off.

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Plaintiffs' evidence

Victor Chew
Examination (continued)

P.8 is back part of the ground floor.

(Y: Is it not the first floor?)

Yes I think it is the 1st floor.

P.9 is I think the rear part of the first floor.

P.10 is the 2nd floor, difficult for me to say if it was 2nd or 3rd floor but it is floor without the roof, it is on the 3rd floor.

P.11 is the ground floor.

P.12, don't know if it is first or 2nd floor. The staircase in course of demolition.

P.13 is the top floor without the roof.

P.14 is the front portion demolished.

P.15, not sure if this is 1st or 2nd floor; it is 12 years ago since I saw the building. It could be 1st floor being demolished.

P.16 is the third floor and the roof being constructed, not quite sure.

P.17 is the ground floor.

P.18 I think is the mezzanine and the ground floor.

P.19 I don't know if it is 1st or 2nd floor, I think it is the mezzanine floor.

P.20 one of the upper floors, can't recognise it.

P.21 is the 2nd floor.

P.22 I don't know what floor.

P.23 I don't know what floor.

P.24 I don't know which floor; a new staircase being constructed.

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Plaintiffs' evidence

Victor Chew
Examination (continued)

P.25 is the ground floor and mezzanine.

P.26 one of the upper floors.

P.27 rear part of the 3rd floor, 2nd floor.

P.28 don't know which floor.

(Court: there is a strong room).

It is the ground floor. The copy I have does not show the strong room.

P.29 a staircase. This was P.28 in my bundle.

P.30 one of the upper floors, 1st, 2nd, or 3rd.

P.31 the front facade of the building with the scaffolding.

Before the renovations it was a three-storeyed building - ground, 1st floor and 2nd floor. The rear portion of the ground floor was used for storage like a godown. The 1st and 2nd floors were sub-divided into offices of various sizes. The floor of the ground floor was concrete. The rear part of the 1st floor I think was of timber. The 2nd floor was concrete. 12 years ago I don't quite remember. The partitions were mostly of timber.

A new floor was added when I did the renovations. I submitted plans. I have the original plans with me, the approved plans and I have made copies (original plan - Ex. P.34).

In the plans all those areas that are coloured show that it is new work, either altered, new or it has been redone.

(Yin: The last plan - elevation).

The front elevation shows that the whole thing is new, similarly the rear elevation; the

NOTES OF EVIDENCE

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Plaintiffs' evidence

Victor Chew Examination (continued)

sections show the alterations done on the various floors.

To Court: The rear portions of the 1st floor demolished. We used some of the floors as a base and added extra 4" of concrete

All the staircases are new, not in their original positions.

Existing columns were strengthened for the mezzanine floor and the third floor. We had to dig into the footings of the columns to reinforce them.

We knocked the ground floor out and redid it.

The partitions in the 1st and 2nd floors were completely knocked down.

The materials knocked down were not re-used.

After renovations the interior of the building does not look anything like the old one.

I would describe the work done to the building as extensive.

I supervised the work.

I had nothing to do with the people occupying the premises.

I have no record of how much the renovations cost.

Cross-Examination

XXd. by Mr. Jumabhoy

Yes I took my instructions from Lee Cheng Kiat. I can't remember if he paid me. I never billed the Bank Negara. I did not receive anything from the Bank. I don't

remember if I was paid by Khoo Teck Puat. I am looking through my files to see. I will try and find out later.

I did prepare a statement of the costs of renovation but I can't find it in my file.

(J: 3 AB.)

In the absence of my own records I have no reason to doubt the figures given at 3 AB.

I think a new building could have been built at that time for $306,656.89. I based that on the floor area. This building in any case is quite bare, a typical type of office building. The $306,000 would include air-conditioning, a strong room minus the door.

Yes P.1 shows a building of brick and plaster. It was standing but it was in need of repair; sections of the floors in the rear were not in very good condition and which subsequently collapsed during the renovations. Yes it would collapse if support was taken away. We did not take away the supports, it collapsed due to building activity. Yes it was repairable.

(J: The ground floor).

Yes I said the rear poirtion used as storage. The floor was concrete.

(J: The first floor).

The floor was concrete except for a portion at the rear. I should point out that the concrete floor was of peculiar construction, constructed many many years ago. If you refer to photo P.18 and look at the very top you will see the old floor - beams spanned by corrugated iron sheets in a flat arch. These corrugated sheets acted as support for the floor which they cast 3 or 4" of concrete on top these corrugated iron arches.

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Plaintiffs' evidence

Victor Chew
Cross-Examination (continued)

As a result after sometime some of these corrugated sheets had rusted which caused collapse of part of the floor as I have already mentioned. It collapsed and left a hole in some sections. I think it was the 2nd floor. (J: We are talking now about the first floor).

Floor of 1st floor concrete except for rear portion which was of timber. There was collapse of 1st floor or 2nd floor, exactly where I cannot now remember. This collapse took place during building activities.

(J: The 2nd floor).

Yes the floor is of concrete in the manner which I have described, concrete throughout.

(J: The walls - Ex. P.1).

Yes the walls were independent walls.

(J: The works which you did).

Yes bare building, office space; floor by floor.

The floor of the ground floor - we took off the whole floor and we redid it. In fact at the rear we excavated for the strong room, 18" deep. I suppose the materials knocked out could be used again as rubble. We leave it to contractor to use or not use it. We required a 4" hard core for the floor. I did not know how thick was the old floor. We had 4" hard core on top of it 4" of concrete and then another ¾" cement screen and then tiles.

Yes the mezzanine is new, it occupies a portion of the ground floor, it does not come up to the road.

(J: The first floor).

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Plaintiffs' evidence

Victor Chew Cross-Examination (continued)

It had existing concrete floor in front portion as I have described. We added 3" of concrete, the front section. The rear portion of timber was demolished and we made a new floor of concrete; the timber section was about ⅓ of the floor. Yes the existing concrete floor was made use of and we added thickness. Yes it was a bare floor, the partitions had been knocked off.

(J: The 2nd floor)

Yes the floor of concrete. We added thickness on the concrete and finished off the floor except those portions which had collapsed which had to be redone.

The third floor is completely new. The floor of which similarly made of concrete.

We tiled the ground floor. Part of 1st floor was tiled. 2nd floor also tiled, the whole of it and used as offices. I can't remember what type of tiling.

(J: The roof).

I don't remember what sort of roof there was; at present it has a pitched corrugated asbestos roof.

(J: The walls).

Yes I had to strengthen the walls to take on the 3rd floor. We had to take off some of the bricks of the party wall because they were very old and some were found to be defective, this had disintegrated through age. We had to strengthen the columns which were against the wall. If you look at the 2nd floor plan you will see that the party walls is coloured red, a new wall altogether. In the case of the 2nd floor the new wall was added on to the existing wall. The 3rd floor wall was completely new.

Yes it entailed the digging of the walls on either side of the ground floor. I can't remember to what depth but to where the original footings

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Plaintiffs' evidence

Victor Chew
Cross-Examination (continued)

were and put up the new support for the third floor.

No piling was necessary but we enlarged the footings.

Yes the 18" depth for the strong room no piling was necessary.

Yes the old building had a 5 ft. way; yes it is still there even today.

Yes the old building had a lift. The lift had to be reconditioned, the lift well is not the same lift well, originally a completely new lift well was constructed. I am sure of this. 10

I do not have a copy of the contract with me. That will not show any more than what appears in the plans. I lost my copy of the contract.

(J: I have a copy which I have disclosed in my affidavit of documents (shown to witness)).

Yes, p.3 bears my signature. It looks like the contract. Yes it relates to renovations of 3 Malacca St. (Ex. D9.) 20

(J: Page 1 "Additions and Alterations to existing building").

Yes.

(J: Page 2 remuneration to contractor $157,900.)

Yes.

Yes clause 3 names me as the architect.

Yes attached are the conditions. 30

(J: What we are interested in is the summary)

The specification.

- Adjourned to 2.15 -

Sgd F.A.Chua

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Plaintiffs' evidence

Victor Chew Cross-Examination (continued)

P.W.2. Victor Chew - o.h.f.o. s (in English)

XXd: 'Contid.)

I have tried but I have no record of who actually signed the cheque for my fees.

(J: Appendix to the specifications, p.8. Summary of additions and alterations.)

I knew the strong room was for a bank.

(J: The lift well).

The lift well then was of asbestos sheets, frame work with asbestos sheet. These specifications showed the intention after survey. Quite often when we started work we find that modifications to the specifications have to be effected. The original intention was not to touch any more than was necessary but when the work was put to hand we found that we could not retain any part of the original lift well and it had subsequently to be completely rebuilt. I am quite sure of it. The original lift well was somewhere near where the lift well is now. See photo P.14. It can be seen there was no trace of theold lift well at all. It was somewhere on the right of the photo in the front. I am quite sure it is not exactly where it was. The whole thing had to be shifted slightly. The same lift is used, reconditioned.

(J: The staircase).

There was only one staircase before in front. We now have two staircases, one in front and one at the back. Photo P.2 shows the old staircase coming straight up from the side of the wall. The new staircase is behind the lift and about 6 feet from the side wall.

(J: The ceiling).

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Plaintiffs' evidence

Victor Chew
Cross-Examination
(continued)

Yes the steel joists were already there. R.S.J. is rolled steel joist.

(J: Miscellaneous)

RWDP - drain water down pipe

Yes the mezzanine floor is new.

(J: 1st and 2nd floors).

The floor - we later found we could not preserve the wooden floor and we had it done in concrete.

½" @ 3" means ¼" bars and 3" centres.

(J: The 3rd floor).

The wall - the new wall sticks to the old wall, satisfactorily bonded.

(J: The new roof).

Yes the roof was new.

(J: Front facade).

Facade is the face of the building. Yes that appears when you look at photos P.1 and P.32. If you look at P.14 you will see that the whole front was taken down. Yes on P.1 there was a balcony on the first floor (J: That was part of my clients' office). Yes we did away with the balcony. The 2nd floor originally also had a balcony but it had already been covered by the tenant.

Yes the frontage of No.3 was in line with the frontage of the adjoining buildings. Yes the front of No.3 is still in line with the adjoining buildings. Yes by doing away with the two balconies we had extra space.

We started work from the ground upwards. We had to clear the ground floor, hack off the existing floor, work on the foundations to

support the anticipated 3rd floor. We started by cleaning the ground floor. We hacked off the floor, the walls. Then the staircase and the work proceeded to the first floor. There would have been work on the 2nd floor at same time. We could not finish the 1st floor as there was a tenant there at the front portion and we proceeded to the 2nd floor. When the rear portion of the 2nd floor was ready the tenant on the front portion of 1st floor agreed to move to the rear portion of the 2nd floor. To the best of my memory the tenant moved to the back of the 2nd floor. Yes the back of the first floor could have been ready by then.

I have no idea of the terms offered to the tenant, I knew nothing of the negotiations with the tenant.

I cannot remember if the tenant moved to the mezzanine floor.

Yes the tenant was Mr. Philip Hoalim.

After the tenant moved we demolished the front as seen in photo P.14. Then we finished the 3rd floor and the roof.

Yes I say until the 2nd floor had been completed we did not remove the roof.

Yes in contract, D9, the estimated value was $157,900. I have no reason to dispute the final figure given by plaintiff of $306,656.89.

Yes I said in 1958 it was possible to put up a new building there for $306,656.89. This plot of land is about 30 ft. x 160 ft., that would make it approximately 4800 sq. ft. If we work on approximately 5000 sq. ft. of building each floor multiply by 4 it would be 20,000 sq. ft. Building costs at that time was approximately about $10 per sq. ft. Today same building possibly $15 to $20 per sq. ft.

In the $157,900 air-conditioning was not included, also there were contingencies not covered

In the High Court of the Republic of Singapore

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Plaintiffs' evidence

Victor Chew
Cross-Examination (continued)

by the contract, e.g. the rear portion of 1st floor had to be rebuilt and things like that. I don't know what was included in the $306,656.89.

(J: Page 4 AB.)

Those figures do not come from me, may be from the contractor. It is contractor who works out how much it would cost. I don't know how the costing was arrived at, it was what the contractor wanted for the work.

(J: Photo P.18 the corrugated arches).

When we hacked off the floor we did not go down to level of the corrugated sheets. See p.2 of the Appendix to the contract. "Hack off the entire concrete.....".

Yes the joists were preserved.

Re-Examination

RXD.

The contract was signed on 19th June 1958 and was supposed to be completed within 16 weeks from date of approval of plans but due to difficulties we had in progress the works went on to the end of 1958 as far as the basic contract was concerned but there were other works, the partitions, furniture etc. which were right up to early part of 1961.

They were extensive works and not a simple question of repairing.

(Witness Released).

Sgd. F.A.Chua

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

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Notes of Evidence before the Honourable Mr. Justice Chua 12th March, 1970 20th and 21st May, 1970

(continued)

Jumabhoy addresses the Court:

Two issues: (a) Whether or not the building is a new building.

(b) Even if it is a new building we say plaintiffs are estopped from claiming possession against the defendant in view of an agreement between the plaintiffs or their nominees or their predecessors in title and the defendant. We are pleading an equitable estoppel.

Law: Control of Rent Ordinance, 1953 (Cap. 242) Section 2, definition of "premises" - "but does not include any new building.....completed after the 7th day of September, 1947".

Our Ordinance different from the English Act and the purposes of these acts also different. English cases very rarely of very great assistance.

It has to be a new building. What is "new"? Shorter Oxford Dictionary definition of "New".

The burden of proving that No.3 Malacca St. is a new building within the meaning of S.2 is on the plaintiffs - 1958 M.L.J. 193 - Dadhi Rai Yado v. Mukat Rai.

Eastern Realty Co. Ltd. v. Chan Hua Seng.

1967 2 M.L.J. 195 h.n. - this case dealt with sheds. Success Enterprise Ltd. v. Eng Ah Boon (1968) 1 M.D.J. 75 - sheds. Mohamed Ibrahim v. Lee Eng Kim - Malayan Cases Vol. 3, 175. row of shophouses.

Estoppel - Will address Court after close of defendant's case.

Calls -

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
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Defendant's evidence

Philip Hoalim Examination

D.W.1 Philip Hoalim - s.s. (in English):

Xd.

Advocate & Solicitor, Singapore, practising at 30 Malacca Street, Singapore. I have been at No.3 Malacca Street since September, 1945.

In September 1945 I was occupying the front portion of the first floor and was paying a rent of $110 p.m. and subsequently increased to $147.40.

As far as I can remember in August or September, 1948 the premises were being repaired. In latter part of September or early October the roof of the building was taken off and the 2nd floor became the roof of the first floor. Whenever rain fell round about that period my office was flooded with water, no work could be done and in order to protect my books plastic sheetings had to be put over the books.

Complaints were made to the Landlord. D1 was a letter written by Messrs. Mallal & Namazie on my behalf, (Ex.D1 admitted). D.2 was aletter written on behalf of the landlord (Ex. D2 admitted). I recognise Mr. Brash's signature.

(J: The 3rd para. of Ex. D2. With regard to area .....total area").

At that stage my office was in such a bad condition. I told Brash I refused to move out. He sympathised with me. He said the Bank needed the building as quickly as possible and the repairs had to be rushed. He asked me to put up with the position because he could not do anything else, the rain had fallen. He said he would try and prevent further rain from falling into my office.

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

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Defendant's evidence

Philip Hoalim
Examination
(continued)

At that stage the roof was being repaired and on the ground floor there was a concrete mixer.

As far as I can remember the third floor was completed first and after that the 2nd floor and after that the back portion of the floor.

At that time I was asked to go to the back portion of the 1st floor by which time my office had been flooded 4 or 5 times and I was so much annoyed. I was requested to move to the back portion but I told them I would not shift from where I was. I remained there for a week or so and Mr. Brash and Mr. Atkinson, both of Allen & Gledhill, came to see me.

Mr. Brash asked me to shift to the back portion of the first floor so that the front portion could be repaired. He begged me, he said he wanted the repairs to be finished as quickly as possible and he said if I shifted to the front portion of the 3rd floor I would have the same protection as I had on the front portion of the first floor under the Rent Control Ordinance.

Mr. Brash at first asked me to move to the back of the first floor, I refused. Later Mr. Brash and Mr. Atkinson came several times during the week. I was offered the front portion of the 3rd floor but I was to move to the back of the first floor first. I was asked to go to the 3rd floor when the lift was working and the premises painted.

When I was asked to move to the back of the first floor the floor had been done and the interior painted. Whereas the 2nd and 3rd floor the insides were not painted, still some more work to be done.

I was asked to move to the back so that repairs could be done to the front. I went there after both of them gave me the assurance that I would have the same protection under the Rent

NOTES OF EVIDENCE

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Defendant's evidence

Philip Hoalim Examination (continued)

Control Ordinance which I had for the front portion. They also told me that the Bank would not ask me to leave from the premises so long as I was practising my profession.

Then I moved to the back portion of the first floor. The removal was done at their expense. I remained there for 3 or 4 months, may be a bit shorter.

I was given the assurance that I was not to be moved to the 3rd floor until it was properly painted and the lift operating from ground floor to 3rd floor.

- Adjourned to 10.30 tomorrow -

Sgd. F.A.Chua

Thursday, 21st May, 1970

S.No. 431/69 (P.heard).

Parties and counsel as before.

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

Xd. (contd.)

(J: Ex. D1 to D8).

I recognise all the signatures in these letters (admitted for identification) (Court to decide on their admissibility later).

Repairs started on the building about middle of September 1958. The first thing I knew was that the roof of the building was taken off. I was surprised.

The building had two portions, a front and a back; the front portion was one long room and so was the back divided by an airwell.

NOTES OF EVIDENCE

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Defendant's evidence

Philip Hoalim
Examination (continued)

To Court: The design of the front of the 3rd floor is exactly the same as the front portion of the first floor and the area is exactly the same.

Brash and Atkinson came to see me. The nuisance commenced in October 1958 and aggravated in November and December and hence all these letters were written. In November the office became so flooded that I wrote on the 18th November to Allen & Gledhill and complained about the flooding. Allen & Gledhill admitted the flooding and regretted it. In December it worsened, many books damaged. Brash came to see me and he told me not to pay the rent any more.

To Court: I was paying the rent to Allen & Gledhill and they were acting for Lee Cheng Kiat.

At end of December the top floor was finished but not ready for occupation, lift not working, no painting. 2nd floor was finished also but not ready for occupation. The back portion of 1st floor also completed, painted up and ready for occupation and they asked me to move there. I refused to move out as they had not done anything about the downpipes and the drain. I stayed on for one week and work was held up. During that week Brash came to see me several times and asked me to remove so that the front portion could be repaired. He repeated his assurance that when I moved to the 3rd floor the bank would never ask me to leave. He also said I would be protected under the Rent Control Ordinance in same way as I was protected as regards the first floor. He told me he would not deceive me. I thought over the matter and I agreed to move to the back portion of the 1st floor. Brash told me that he would get his men to move my things including the heavy safe. The contractor and his men moved my things to the back portion of the 1st floor.

NOTES OF EVIDENCE

In the High Court of the Republic of Singapore

No.4
Notes of Evidence before the Honourable Mr.Justice Chua 12th March, 1970 20th and 21st May, 1970

Defendant's evidence

Philip Hoalim
Examination (continued)

I remained in the back portion for 3 or 4 months. In the meantime they were preparing the 3rd floor for my occupation. When painting was finished I still refused to move as the lift did not go up to the 3rd floor. When they got the lift to operate to the 3rd floor and place was painted Brash came to see me and asked to inspect the place and see how I liked the place.

The contractor and his men moved my things from the back of first floor to the front portion of 3rd floor which I now occupy.

The ground floor after sometime was occupied by the plaintiffs and so was the first floor. The 2nd floor was occupied by several companies connected with Khoo Teck Puat. Mr. Brash occupied a room in the 2nd floor and he was practising there under his own name.

The lift is in the same portion where it was, it was the same old lift except that it now goes up to the 3rd floor.

The design of 3rd floor is exactly the same as the design of 1st floor and the back portion was the same. Except for the staircase which was taken off, the design of the interior of the 3rd floor is exactly the same as the interior of the front portion of the 1st floor. The back portion they have put on stairs; the design of back portion of 3rd floor is also the same as the back portion of the 1st floor except that there is a new staircase.

(J: AB.11).

I received this Notice to Quit. On receipt of Notice I went to see Mr. C.C.Tan who was then acting for the plaintiff bank. He told me if I agreed to pay $280 p.m. instead of $147.40 p.m. and sign a lease for 3 years I could stay where I was. I agreed at once. At same time I received AB.11 I received AB.12. I did not agree to that and I went to see Mr. Tan and I agreed to AB.13.

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No.4
Notes of Evidence before the Honourable Mr.Justice Chua 12th March, 1970 20th and 21st May, 1970

Defendant's evidence

Philip Hoalim
Examination (continued

Cross-Examination

The lease is AB.18. They sent over the lease to me and I signed it.

I received several Notices to Quit and I ignored them after the lease had expired. Finally I received AB.29 and then they commenced this action.

I would not have moved out of the first floor but for the representation. I believed the representation.

I never spoke to Lee Cheng Kiat, I don't know who he is. All the time I spoke to Brash of Allen & Gledhill who were Solicitors for the owner. Whenever I spoke to Brash and Atkinson they mentioned that the bank was taking over.

XXd. by Mr. Yin

Brash told me so long as I practised as an Advocate & Solicitor there the bank would not interfere with me. Yes I was told I would enjoy the protection of the Control of Rent Ordinance for the 3rd floor.

(Y: Ex. D2 last 2 paras.)

Yes it is a letter written to me by Brash as result of my discussion with him.

(Y: No mention of you being protected under Control of Rent Ord.).

I agree there is no mention.

(Y: Your letter Ex. D.6).

Yes it is letter written by me to Lee Cheng Kiat.

(Y: No mention of Control of Rent Ordinance)

I agree. I had a conversation with the architect Mr. Chew. He said "You want the front portion of the 3rd floor". and I said "Yes, that was the arrangement." Why should I write to him

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Defendant's evidence

Philip Hoalim Cross-Examination (continued)

about the Control of Rent Ord.? After all I was dealing with Brash.

(Y: Ex.D7 letter from Brash to you).

He was trying to put me in the back portion of the 3rd floor instead of the front.

(Y: The 3rd para.)

He has been saying that since October. Brash was only carrying out instructions.

(Y: The 4th para. "new premises").

Of course it is new.

(Y: Ex. D8 your letter to Brash).

He was afraid I would not move to the 3rd floor.

(Y: No mention of Control of Rent Ord.)

That was mentioned in the conversations.

The 3rd floor is an addition to an existing building.

Whenever Brash came to see me he never mentioned Lee Cheng Kiat. He said the bank wanted the building to be completed as soon as possible.

To Court: I took it Brash was acting for the bank?

In my search I learnt that Lee Cheng Kiat was the owner and when Brash came to see me I thought he was acting for Lee Cheng Kiat but all the time he was mentioning the bank. Because of air-conditioning I thought Brash must be acting for the bank.

Court: As far as I could see Brash was acting for both Lee Cheng Kiat and the Bank.

(Y: D.7)

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Defendant's evidence

Philip Hoalim
Cross-Examination
(continued)

The letter speaks for itself.

(Y: D8).

I can't go behind those letters, they are here. My conversation with Brash is not in the letters.

There was no cause for me to write and tell the bank that I was protected under the Control of Rent Ordinance when they gave me notice they they were my landlords.

When I received the first Notice to Quit I went to see Mr. C.C.Tan and asked what it was all about. I was asked to pay the $517 and I refused to pay. Mr. C.C.Tan suggested $280 and I agreed. Yes my old rent was $147.40. Yes $280 represented about 100% increase. Mr. Tan suggested $280 and I agreed as landlord had spent money on the building.

On the first floor I paid for the lights but not the water. On the 3rd floor I did not pay for water but I paid for light and air-conditioning.

Everything in the lease I agreed to.

I willingly agreed to the lease because I felt I could not contract out of the Control of Rent Ordinance.

I did not raise with Mr. Tan the issue of Control of Rent Ordinance.

Why should I raise this defence when I received the first Notice to Quit? I went to see Mr. C.C.Tan.

I am not calling Mr. Brash. The letters are here, it is for plaintiffs to call him. I have not seen Mr. Brash.

RXd. Nil.

Sgd. F.A.Chua

NOTES OF EVIDENCE

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(continued)

Defendant's - case.

Jumabhoy addressed the Court:

Equitable estoppel. We say equitable estoppel arises as a result of the representations made to my client by Brash. The authority I wish to refer to is Kingswood Estate Co.Ltd. v. Anderson - 1963 2Q.B. 169.

Is this a new building within the meaning of the Ordinance? I have prepared a written submission on this issue. 10

The supports for the floors are the same, only they wanted thicker floors.

Facade is merely a face lift of a building, nothing structural about it. P.32 shows a different front but that does not make it a new building.

Addition of new floor makes no difference.

New wall to same depth of old wall put up to take the 3rd floor - that is only new structure apart from the 3rd floor. 20

Position of Lee Cheng Kiat or Khoo Teck Puat vis a vis the bank..... .

- Adjourned to 2.15 p.m. -

Sgd. F.A.Chua.

2.15 Hearing resumed.

Jumabhoy continues:

(Court: The letters D1 to D8 admitted).

Do the changes which had been effected constitute a change in the identity of the

building? That is the test to be applied in all cases under S.2 meaning of "premises". Looking at premises can you say, has it shed all its old attributes and put on a completely new identity? That is test which has been accepted in our courts.

Estoppel: Evidence of P.W.1, p.4 "As far as I knew.....purchase" (7th July, 1959). He gave his reasons, p.5 "The Bank discussed the purchase.....direct to Khoo Teck Puat". "At time of negotiations.....of the Bank." P.6 "The Bank carried out a discussion.....to Khoo Teck Puat". I asked what was Khoo Teck Puat's special position, his answer at p.11, he does not know if Khoo Teck Puat had a special position with the Bank. "We did not have solicitors.....with the tenants". It may well be that Lee Cheng Kiat was the front man for Khoo Teck Puat. But we know as far as defendant was concerned all negotiations were carried out by Brash of Allen & Gledhill and as far as defendant was concerned Brash acted for Lee Cheng Kiat and the Bank. I submit it is reasonable for defendant to infer that Brash was in fact acting for Lee Cheng Kiat and the Bank.

Who paid the money for the purchase and for the renovations and alterations? No doubt it was the Bank. No matter what P.W.1 now says the Bank acted through agents, certainly Khoo Teck Puat was an agent, an agency can easily be implied, everything went through Khoo Teck Puat. A nominee is an agent. In absence of evidence to the contrary on these facts the only inference which can stand is that these two gentlemen, one or both of them at different times, were the bank's nominees. It must be so as Khoo Teck Puat was given carte blanche. Now the Bank cannot retreat from that position.

A solicitor is agent for his client. In this instance the solicitor was Brash.

Were the representations which the defendant has said made by Brash? I submit the evidence is

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(continued)

overwhelming that he did. A lot of it I admit is circumstantial. All tenants had vacated except the defendant. The defendant has said he refused to vacate so much that they had to renovate and alter around him and at one stage all building operations had to stop, nothing could be done to the front portion of 1st floor. It is in these circumstances that defendant said Brash came over to his office several times in order to persuade him to vacate. I submit one should assume that defendant knew about the Control of Rent Ordinance and therefore he would only vacate if and only if certain assurances were given. He said these assurances were duly given and these assurances must be read with the exhibits D1 to D8 in which there is evidence he was offered the 3rd floor front portion of approximately the same floor area at the same rent he was paying. Defendant did not pay for the moving of his office and so on. In view of damage to his books they agreed he need not pay any rent for the few months before he moved to the back portion of the 1st floor. There is no evidence to the contrary, nor have they called any evidence in rebuttal, so that on this point the defendant must be believed despite the fact that there is no reference of the Ordinance in the letters. Defendant's explanation is, can't he take the word of a brother solicitor, must it also be put in black and white. As soon as defendant moved out there had been part performance. Had he moved out without these assurances he would be losing a very valuable right. Very unlikely defendant would do that.

Notices to Quit - 1st notice received and he went to see Mr. C.C.Tan and he asked Tan what it was all about. He refused to pay $517. Tan suggested $280 and defendant agreed. Defendant wanted to be reasonable as he thought the Bank had made improvements. He did not think it was necessary for him to point out the law to C.C.Tan, if he was protected he would still be protected.

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(continued)

S. 4 of Registration of Deeds Ordinance - this has no relevance to this case. This is not a lease in perpetuity, it is certain. Brash told defendant "So long as you are practising the bank will not kick you out". The fact that defendant refused to move shows that he was a very stubborn man.

If Court not satisfied Khoo Teck Puat and Lee Cheng Kiat were nominees of the Bank, it is clear they are predecessors in title and plaintiffs took property subject to rights of the tenants.

Yin addresses the Court: I submit the crux in this case centres on the fact whether the premises can be considered "new premises" within the meaning of the Ordinance. My learned friend has cited three cases.

(a) Easter Realty Co. Ltd.; (b) Success Enterprises F. Ltd.; (c) Mohamed Ibrahim.

The test depends on extent of repairs resulting in change of identity.

Case (a) - h.n. "held (1)....." .....held (2).....had replaced it". 197 l.c.E "In my opinion.....even though a building ..... of what it is composed" "With regard to.....has replaced it".

Case (b) - p.77 l.c.B "In 1961....." It does not matter if there is a certificate of fitness. It is for Court to decide whether it is a new building. 79 l.c. A "It now remains....." E "It seems to me ..... .

Case (C) - p.177 "In the present case all.....

Plaintiffs have called the architect. Defendant has not called evidence in rebuttal. Architect said repairs were substantial. Court has the photos. and Ex. D9. Architect said in course of work amendments to the contract were made.

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(continued)

Looking at Ex.D9 it is obvious work to be carried out was extensive. See appendix p.8. Like tearing down the whole building. Facade in this case is not only a face, where is the balcony? A completely new front has appeared.

My learned friend suggests "new" means "completely new", that is not correct.

In light of evidence adduced I submit this is new premises.

Defendant relies on estoppel. I submit defendant cannot succeed on this defence.

Kingswood's case shows that if such a doctrine is applicable to our case it must be that the parties to be bound by the equitable doctrine of estoppel must be the actual parties to the agreement, not strangers to the contract.

Kingswood's case p.173 "It will be convenient....in the present case".

Is my learned friend right to say that Lee Cheng Kiat or Khoo Teck Puat was nominee of the bank? As far as bank is concerned it purchased the property in 1959 and purchased with vacant possession. Money paid to Khoo Teck Puat that does not make him agent of the bank. Khoo Teck Puat and LeeCheng Kiat dealt with the tenants not the bank.

How does promise of Brash for Lee Cheng Kiat bind the bank?

Clear from the letters that Brash was acting for Lee Cheng Kiat. Defendant was more concerned about the lift and that he should get the front of the 3rd floor.

It is for defendant to produce Brash to corroborate his evidence of the oral agreement.

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(continued)

If Court finds it is now building the defendant even if he now occupies the first floor would not be a protected tenant.

Ousting jurisdiction of the Court - 1951 2 K.B. 923. Rogers v. Hyde 924 "Held.....", parties cannot do that by agreement.

I submit if defendant still contends there is this agreement partly oral and partly written Roger's case clearly shows that is not allowed and Court would not enforce such an agreement.

Chitty on Contract 22nd Ed. p.397 paras. 904/905; p.68 para. 135 Central London Property Trust Ltd. v. High Trees House Ltd.; para. 139 p.71; para. 914 p.401; para. 915 p.402.

The space now occupied by defendant is a new place. 3rd floor is a completely new structure.

You cannot bind strangers with the equitable doctrine. No evidence plaintiff knew of the promise made by Brash to defendant.

S.4 applies - defendant claims a long lease.

- C.A.V. -

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

Sgd. F.A.Chua

In the High Court of the Republic of Singapore

No.5
Reasons for Judgment of the Honourable Mr.Justice Chua - 2nd June, 1970

No. 5

REASONS FOR JUDGMENT OF THE HONOURABLE MR. JUSTICE CHUA
2nd June, 1970

JUDGMENT OF CHUA, J.

The Plaintiffs claim (a) possession of the front room on the third floor of the building known as No.3 Malacca Street (hereinafter referred to as "the said building"), which was let out by the plaintiffs to the defendant on a monthly tenancy and (b) mesne profits.

The facts are shortly these. No.3 Malacca Street in 1957 was owned by one Lee Cheng Kiat. It was then an old building consisting of a ground floor, first floor and a second floor. Since 1945 the defendant was a tenant of the front portion of the first floor in the said building and in 1957 he was paying a rent of $147.40. The defendant was carrying on his profession as an Advocate & Solicitor there. In 1957 the plaintiffs negotiated to purchase the said building. In June, 1958, alterations and additions to the said building were commenced. During the alterations and additions all the tenants in the said building moved out except the defendant. A new third floor was added and when that was completed the defendant moved to the front portion of the third floor paying the same rent of $147.40 p.m. The alterations and additions were completed at the end of 1958. In July, 1959, the property was conveyed to the plaintiffs by Lee Cheng Kiat. In January, 1969, the plaintiffs gave the defendant a Notice to Quit. The defendant did not quit. On the 29th March, 1961, the plaintiffs granted the defendant a lease for a term of three years from the 1st March, 1961, at a monthly rent of $280 p.m. After the expiry of the lease in 1964 the defendant stayed on and the plaintiffs accepted the rent. On the 13th January, 1969, the

plaintiffs gave the defendant a Notice to Quit expiring on the 28th February, 1969. The defendant failed to vacate and the plaintiffs commenced the present proceedings in March, 1969.

The plaintiffs contend that the premises occupied by the defendant is excluded from the operation of the Control of Rent Ordinance as being "a new building" within the meaning of Section 2 of the Ordinance in the definition of "premises".

The first question for consideration is whether the said building is a "new building" within the meaning of the Ordinance.

The correct test to apply to decide this question is whether the old building has been subjected to such a substantial structural and/or other alterations that it becomes a new building in fact. This, as Wee Chong Jin, C.J. said in Eastern Realty Co.Ltd. v. Chan Hua Seng ((1967) 2 M.L.J. at p. 197) is "always a question of degree depending on the facts of each particular case. No test of universal application can in my view be laid down."

The word "new" in the definition of "premises" in Section 2 of the Ordinance is used in relation to the building and not to the materials of which it is composed. (see Kai Nam v. Ma Kam Chan, (1956) A.C. 358, a Privy Council decision).

Even though a building is erected on the same foundations and has the same floors as the former building it can nevertheless be a "new building" (see Kai Nam v. Ma Kam Chan).

As I have already said before the alterations and additions the said building was an old three-storeyed building. There was a balcony on the first floor. The rear portion of the ground floor was used as a godown. The first and second floors were sub-divided into offices of various sizes with wooden partitions. The floor of the ground

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floor was concrete. The rear portion of the floor of the first floor was of timber and the front was of concrete. The floor of the second floor was of concrete. The staircase, leading to the first and second floors, was of timber and was in the front portion of the building. The lift well was of asbestos with a frame work.

Now what were the alterations and additions done to the old building?

First of all two new floors were added - a mezzanine floor, between the ground and first floors, and a third floor. A new roof was constructed.

The following works were done on the ground floor. The whole of the floor was broken up and a new concrete floor laid. A strong room for the use of the plaintiffs was constructed. A new lift well of brick was constructed, but the old lift, after reconditioning, is still in use. The wooden staircase was removed and two new concrete staircases were constructed, one at the front and one at the back of the building. The staircase at the front is not in its original position. An airwell was constructed.

The following works were done on the first floor. The wooden partitions were completely knocked down and removed. Three inches of concrete were added on to the existing concrete floor in the front portion. The rear portion of the floor which was of timber was demolished and a new concrete floor was laid.

2 The wooden partitions in the second floor were completely knocked down and removed. Three inches of concrete were added on to the existing concrete floor.

The existing walls and columns were strengthened for the mezzanine floor and the third floor. A new wall was added on to the existing wall to support the third floor.

The whole of the front and the rear of the old building were taken down and a new front and rear constructed. The balcony on the first floor was done away with. The front elevation shows that the whole is new, similarly the rear elevation.

The contract for the alterations and additions was signed for $157,900 but the plaintiffs say that eventually they spent $306,656.89 on the building out of which (a) $73,000 was for air-conditioning, (b) $22,200 for re-rendering all floors and laying new mosaic tiles on the ground floor and asphalt tiles on the first and second floors, (c) $11,250.00 for new ceiling in celotex for all floors. I have no reason to doubt that the Plaintiffs spent $306,656.89 on the alterations and additions.

The nature and extent of the structural alterations and other works carried out to the old building went far beyond repairs as contended by the defendant. In my view there has been such a fundamental change to the old building so that it can no longer be said to exist and that a new building has replaced it.

My finding that the said building is a new building does not resolve this case. The defendant says that even if it is a new building the plaintiffs are estopped from claiming possession of the premises which he occupies by reason of an agreement oral and partly in writing in 1958 between Lee Cheng Kiat, the plaintiffs' nominee and/or predecessor in title and himself.

The defendant's evidence is this. Prior to 1959 he was paying the rent to Messrs. Allen & Gledhill solicitors of the landlord. In 1958 the landlord asked him to move out but he refused. Sometime in October, 1958, the roof of the building was taken off and as a result whenever it rained his office was flooded and he could not do any work and he had to protect his books. On the 4th

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October, 1958, his solicitors wrote to Messrs. Allen & Gledhill complaining of the nuisance and threatening to take out a writ for an injunction and damages unless the nuisance was abated immediately (Ex.D1). Brash and Atkinson of Messrs. Allen & Gledhill came to see him several times and they asked him to move to the back portion of the first floor so that repairs could be carried out to the front portion. They told him that the plaintiffs needed the building as quickly as possible and repairs had to be rushed. They asked him to move to the back of the first floor first and when the third floor was ready he could move to the front portion of that floor. They told him that he would have the same protection under the Control of Rent Ordinance there on the third floor as he had on the front portion of the first floor and that the plaintiffs would not ask him to leave the premises for as long as he was practising his profession. Those assurances were repeated by Brash subsequently and on those assurances he agreed to move out of the front portion of the first floor so that repairs could be carried out there. He moved to the back portion of the first floor where he remained for three or four months. When the front portion of the third floor was ready to his satisfaction and when the lift to the third floor was working he moved there. The removal of his office on both occasions were carried out by the landlord's contractor and at the landlord's expense. His office on the third floor is approximately the same size as the area occupied by him on the first floor.

After the repairs were completed the plaintiffs occupied the ground and first floors. The second floor was occupied by several companies connected with Khoo Teck Puat. By then Brash had left Messrs. Allen & Gledhill and was practising on his own and he occupied a room on the second floor.

On the 12th January, 1961, he received a Notice to Quit. With the Notice was a letter

from the plaintiffs' solicitors informing him that if he wished to continue in occupation the plaintiffs were willing to grant a new tenancy at $517 p.m. He went to see the plaintiffs' solicitors. Negotiations took place and he was asked to pay a rent of $280 p.m. and sign a lease for three years to which he agreed. After the expiry of the lease he received several Notices to Quit which he ignored. He continued to pay the rent. Finally he received the Notice to Quit of the 13th January, 1969, and later the plaintiffs commenced the present action.

He does not know Lee Cheng Kiat, he has never spoken to him. Whenever Brash came to see him Brash never mentioned Lee Cheng Kiat but said that the plaintiffs wanted the building to be completed as soon as possible. He took it that Brash was acting for the plaintiffs as well.

To get a full picture of the situation in 1957 and 1958 it is necessary to set out certain parts of the evidence of Teo Hur Eng the Business Adviser of the plaintiffs bank. He said:

" The Bank discussed the purchase in 1957 with Tan Sri Khoo Teck Puat. To all intents and purposes we regarded Khoo Teck Puat as the owner of the building and all negotiations were conducted with Khoo Teck Puat. The purchase sum was paid direct to Khoo Teck Puat.

.....

.....

The intention of the Bank was to remove from 253 South Bridge our old premises to No.3 Malacca St.

.....

.....

Before moving into No.3 Malacca Street it was our intention to rebuild the whole of No.3 as it was an old building

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The Bank carried out a discussion about the renovations with Khoo Teck Puat. All payments for the renovations were made to Khoo Teck Puat.

.....

.....

Khoo Teck Puat was the person who arranged for the renovations. He told the Bank what the cost was and the Bank paid him.

I visited the premises during the course of renovation. "

It appears that although the property was in the name of Lee Cheng Kiat the true owner was Khoo Teck Puat to whom the plaintiffs paid the purchase price of $550,000 on the 1st February, 1958, and the cost of renovation amounting to $306,656.89 ($200,000 on 20th June, 1958, $74,757.58 on 15th June, 1959, $38,900 on 18th June, 1959). Lee Cheng Kiat was only the front man for Khoo Teck Puat.

It is clear that Khoo Teck Puat did the renovations of the said building on behalf of the plaintiffs and that he was given carte blanche and that he was the agent of the plaintiffs.

There is no doubt that the defendant knew, at the time he was asked to quit the premises together with the other tenants, that the plaintiffs had bought the said building and wanted to renovate it and use part of it for themselves. All the negotiations with the defendant to move out of the front portion of the first floor and eventually to occupy the front part of the third floor was conducted by Brash and it was reasonable for the defendant to infer that Brash was then acting both for

the landlord and the plaintiffs.

Now the question arises as to whether the assurances which the defendant said Brash gave to him were in fact made. It is not in dispute that all the other tenants in the said building had moved out before the renovations commenced, only the defendant refused to go. With the result that works on the building had to be carried out around the defendant and at one stage had to stop as nothing could be done to the front portion of the first floor so long as the defendant was there. The plaintiffs no doubt were anxious that the renovations should be done as quickly as possible so that they could move into the ground and first floors. It was in those circumstances that Brash came to see the defendant several times in order to persuade the defendant to move out. The defendant was a protected tenant. Would he have moved out and give up his valuable rights without the assurances which he said was given him? It is highly unlikely. I accept the defendant's evidence that those assurances were given.

Messrs. Allen & Gledhill were at that time acting for the nominal owner of the property but I have no doubt that it was Khoo Teck Puat who gave them the instructions. Khoo Teck Puat, as I have said, as far as the renovation of the building was concerned, was the agent of the plaintiffs. I find that in fact those assurances were given by Brash on behalf of Khoo Teck Puat the plaintiffs' agent. I think the plaintiffs were aware of the assurances given to the defendant.

The defendant is relying as his defence on a principle which is known as promissory estoppel. This doctrine is derived from a principle of equity and was enunciated in 1877 in the case of Hughes v. Metropolitan Railway Co. ((1877) 2 App. Cas. 439). That was a decision of the English House of Lords on an application for a stay of execution on an order for ejectment made between lessor and lessee. There had been six months' notice to

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repair, which would have entitled the lessor, on non-compliance, to an ejectment order; but negotiations between the parties had supervened upon the notice and it was contended that these precluded the lessor from maintaining that the notice continued to run effectively during their currency. Lord Cairns L.C. expressed the principle as follows (at p.448):

> " It is the first principle upon which all Courts of Equity proceed, that if parties who have entered into definite and distinct terms involving certain legal results - certain penalties or legal forfeiture - afterwards by their own act or with their own consent enter upon a course of negotiation which has the effect of leading one of the parties to suppose that the strict rights arising under the contract will not be enforced, or will be kept in suspense, or held in abeyance, 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 thus taken place between the parties. "

This principle was interpreted in the English Court of Appeal case of Birmingham and District Land Co. v. London & North Western Railway Co. ((1888) 40 Ch. D. 268). Bowen L.J. said (at p. 286):

> " Now, it was suggested by Mr. Clare that that proposition (enunciated in Hughes' case) only applied to cases where penal rights in the nature of forfeiture, or analogous to those of forfeiture, were sought to be enforced. I entirely fail to see any such possible distinction. The principle has nothing to do with forfeiture. It is a principle which lies outside forfeiture, and everything connected with forfeiture, as will be seen in a moment by reflection. It was applied in Hughes v. Metropolitan Railway Company in a case in which equity could not relieve against forfeiture upon the mere ground that it was a forfeiture, but could interfere only

because there had been something in the nature of acquiescence, or negotiations between the parties, which made it inequitable to allow the forfeiture to be enforced. The truth is that the proposition is wider than cases of forfeiture. It seems to me to amount to this, that if persons who have contractual rights against others induce by their conduct those against whom they have such rights to believe that such rights will either not be enforced or will be kept in suspense or abeyance for some particular time, those persons will not be allowed by a Court of Equity to enforce the rights until such time has elapsed, without at all events placing the parties in the same position as they were before. "

In Central London Property Trust Ltd. v. High Trees House, Ltd. ((1947) K.B.130) the defendant lessee alleged that the lessor had agreed (but without consideration) to accept rent at a reduced rate and attempted to set up an estoppel by way of defence to a claim for arrears of rental calculated at a full rate. Denning J. said (at p. 134):

" But what is the position in view of developments in the law in recent years? The law has not been standing still since Jorden v. Money. There has been a series of decisions over the last fifty years which, although they are said to be cases of estoppel are not really such. They are cases in which a promise was made which was intended to create legal relations and which, to the knowledge of the person making the promise, was going to be acted on by the person to whom it was made; and which was in fact so acted on. In such cases the courts have said that the promise must be honoured. The cases to which I particularly desire to refer are: Fenner v. Blake, In re Wickham, Re William Porter & Co.Ltd. and Buttery v. Pickard. As I have said they are not cases of estoppel in the strict sense. They are really

In the High Court of the Republic of Singapore

No.5
Reasons for Judgement of the Honourable Mr.Justice Chua - 2nd June, 1970

(continued)

promises - promises intended to be binding, intended to be acted on, and in fact acted on. Jorden v. Money can be distinguished, because there the promissor made it clear that she did not intend to be legally bound, whereas in the cases to which I refer the proper inference was that the promisor did intend to be bound. In each case the court held the promise to be binding on the party making it, even though under the old common law it might be difficult to find any consideration for it. The courts have not gone so far as to give a cause of action in damages for the breach of such a promise, but they have refused to allow the party making it to act inconsistently with it. It is in that sense, and that sense only, that such a promise gives rise to an estoppel. The decisions are a natural result of the fusion of law and equity: for the cases of Hughes v. Metropolitan R. Co., Birmingham and District Land Co. v. London & North Western R. Co. and Salisbury (Marquess) v. Gilmore, afford a sufficient basis for saying that a party would not be allowed in equity to go back on such a promise. In my opinion, the time has now come for the validity of such a promise to be recognized. The logical consequence, no doubt is that a promise to accept a smaller sum in discharge of a larger sum, if acted upon, is binding notwithstanding the absence of consideration; and if the fusion of law and equity leads to this result, so much the better."

The principle defined by Bowen L.J. in Birmingham and District Land Co. v. London & North Western Railway Co. was considered in the Privy Council case of Emmanuel Ayodeji Ajayi v. Briscoe ((1964) 3 All E.R. 556). Lord Hodson, delivering the judgment of the Board, said (at p.559) :

" The principle, which has been described as quasi estoppel and perhaps

more aptly as promissory estoppel, is that when one party to a contract in the absence of fresh consideration agrees not to enforce his rights an equity will be raised in favour of the other party. This equity is, however, subject to the qualification (a) that the other party has altered his position, (b) that the promissor can resile from his promise on giving reasonable notice, which need not be a formal notice, giving the promisee a reasonable opportunity of resuming his position, (c) the promise only becomes final and irrevocable if the promisee cannot resume his position. "

It is contended on behalf of the plaintiffs that the defendant is an unprotected tenant of the premises he is now occupying. It is submitted that on the authority of Rogers v. Hyde ((1951) 2 K.B. 923) parties are unable to bring a tenancy within the protection of the Control of Rent Ordinance merely by a contractual provision to that effect and they could not of their own volition oust or reduce the jurisdiction of the Court to grant an order for possession. It is further submitted that the defendant is precluded by Section 4 of the Registration of Deeds Ordinance (Cap. 255) from giving evidence that there was an oral agreement granting him a lease in perpetuity of the premises.

It is not the contention of the defendant that the effect of the assurances given to him was to give him a protected tenancy of the premises he is now occupying. Nor did he contend that the plaintiffs have granted him a lease in perpetuity. The defendant's case is simply that the plaintiffs are estopped from serving a notice to quit on him in view of the assurances that were given to him. Ido not, therefore, find it necessary to say anything more about these points raised by the plaintiffs.

It is also submitted by the plaintiffs that estoppels bind only the parties and not a stranger. This is of course correct but the plaintiffs here are

In the High Court of the Republic of Singapore

No.5
Reasons for Judgment of the Honourable Mr.Justice Chua - 2nd June, 1970

(continued)

not strangers, they are privies in title; they derived their title from the person who made the assurances to the defendant and they are bound by the same assurances and consequent estoppel as that which binds the person who made the assurances.

In my view this is a case of promissory estoppel. It would be contrary to conscience to grant the plaintiffs possession which he now seeks. The plaintiffs are estopped from giving the defendant notice to quit for as long as the defendant carries on his profession there.

For these reasons I dismiss the plaintiffs' claim with costs.

(sgd) F.A.Chua

JUDGE

Dated this 2nd day of June, 1970.

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

No. 6

FORMAL JUDGMENT OF THE HIGH COURT OF THE REPUBLIC OF SINGAPORE - 2nd June, 1970

In the High Court of the Republic of Singapore

No.6
Formal Judgment of the High Court of the Republic of Singapore - 2nd June, 1970

THE 2ND DAY OF JUNE 1970

THIS ACTION coming on for trial on the 12th day of March 1970, the 20th and 21st days of May, 1970, before the Honourable Mr. JUSTICE FREDERICK ARTHUR CHUA in the presence of Mr. YUSUF JUMABHOY of Counsel for the abovenamed Defendant and Mr. FREDDY YIN of Counsel for the abovenamed Plaintiffs AND UPON READING the pleadings AND UPON HEARING the evidence adduced and what was alleged on behalf of the abovenamed Plaintiffs and the Defendant THIS COURT DID ORDER that this action should stand for judgment and the same standing for judgment this day THIS COURT DOTH ORDER that this action DO STAND DISMISSED out of this Court with costs to be taxed on the HIGHER SCALE and paid by the Plaintiffs to the Defendant

Entered in Volume CX at page 143 this 26th day of June, 1970 at 3.10 p.m.

sgd. TAN KOK QUAN

ASST. REGISTRAR

In the Court of Appeal in Singapore

No.7
Notice of Appeal to the Court of Appeal in Singapore - 25th June, 1970

No. 7

NOTICE OF APPEAL TO THE COURT OF APPEAL IN SINGAPORE - 25th June, 1970

IN THE COURT OF APPEAL IN SINGAPORE

CIVIL APPEAL NO. 18 of 1970

Between

BANK NEGARA INDONESIA ... Appellants

And

PHILIP HOALIM ... Respondent

And

(In the Matter of Suit No.431 of 1969, in the High Court in Singapore).

Between

BANK NEGARA INDONESIA ... Plaintiffs

And

PHILIP HOALIM ... Defendant

NOTICE OF APPEAL

TAKE NOTICE that the abovenamed Appellants Bank Negara Indonesia, being dissatisfied with the decision of the Honourable Mr. Justice Chua given at Singapore on the 2nd day of June 1970 appeal to the Court of Appeal against such part only of the said decision as decides that :-

(a) it is not the contention of the defendant that the effect of the assurances given to him was to give him a protected tenancy of the premises he is now occupying;

(b) nor did he contend that the plaintiffs have granted him a lease in perpetuity;

(c) this is a case of promissory estoppel;

(d) the plaintiffs are estopped from giving the defendant notice to quit for as long as the defendant carries on his profession there.

DATED this 25th day of June 1970.

sgd. TAN RAJAH & CHEAH

SOLICITORS FOR THE APPELLANTS

To The Registrar,
Supreme Court,
Singapore.

And to

The abovenamed Respondent
and his Solicitors Messrs. Mallal & Namazie.

The address for service of the Appellants is at office of Messrs. Tan, Rajah & Cheah, No.2 (top floor) Raffles Place, Singapore.

In the Court of Appeal in Singapore

No.8
Notice of Cross-Appeal to the Court of Appeal in Singapore - 4th July, 1970

No. 8

NOTICE OF CROSS-APPEAL TO THE COURT OF APPEAL IN SINGAPORE - 5th July, 1970

NOTICE OF CROSS-APPEAL

TAKE NOTICE that on the hearing of the above appeal, Philip Hoalim, the Respondent abovenamed will contend that the decision of the Honourable Mr. Justice Chua given at Singapore on the 2nd day of June 1970 ought to be varied to the extent and on the grounds hereinafter set out :

FACTS:

1. (a) The building 3 Malacca Street, Singapore was a 2 storeyed building. It had tenants on the ground, first floor and the second floor. All the tenants vacated before work was commenced on the building, except the Respondent who was occupying the front portion of the first floor; and he continued to occupy it during the repairs and additions to the building

(b) (i) The ground floor of the building was concrete.

(ii) The first floor front portion was concrete (Respondent occupied); the back portion thereof was timber.

(iii) The 2nd floor was concrete.

2. THE AGREEMENT OF BUILDING CONTRACT dated 19th June 1958 Exhibit D9 page 25 was for "additions and alterations to an existing building" for the sum of $157,900/- page 2 (2) to be completed in sixteen weeks page 19 (16). The existing building was to be used for a Bank.

3. SPECIFICATION OF PROPOSED ADDITIONS AND ALTERATIONS attached to Exhibit D9 page 25.

GROUND FLOOR

Page 8: "Break up the whole of the ground floor including the footway.....construct 6" thick 1:3:6 concrete 6" thick hardcore base."

Page 6: Lay to the whole of the ground floor including the 7'-0" footway....1st class mosaic.

Page 3: "Hack off that area of floor under the proposed Mezzanine and construct new 6" concrete floor on 6" well rammed hardcore etc. also referred to at page 9."

Page 5: Provide and fix "Profil" plywood dados to the Conference, waiting and Manager's room on the Mezzanine to the height of the ceiling (approx. 9'-6" from floor).

Page 6: Mezzanine "Lay to the Mezzanine floor B.M.W. Kempas parquet. "lay to the whole of the ground floor including the 7'-0" footway.....1st class mosaic."

1ST AND 2ND FLOOR:

Page 9(b): "Hack off the entire concrete surface carefully and.....not to break through the concrete base at the centre portions. Any tiling surface is to be stripped out".

Page 6: "lay to the upper floors coloured cement render square."

WALLS:

Page 6: Hack off all existing plaster and replaster with 1/2" undercoat cement of 1:3 cement.

NOTICE OF CROSS-APPEAL

In the High Court of Appeal in Singapore

NO.8
Notice of Cross-Appeal to the Court of Appeal in Singapore - 4th July 1970

(continued)

STAIRCASE:

Page 3: "Demolish the existing staircases and construct new stairs of R.C. to detail. Also referred to at page 8 (appendix)."

LIFT:

Page 7: "allow a P.C. sum of $8,500/- for repairs to the existing lift." (Lift Machinery).

Page 8: "The lift well is to be constructed with new R.C. footings and columns added to the four corners. The existing wall around the lift may remain in position with bricks bounded to the new columns and all the plaster surface hacked off to receive new plaster. Also referred to at page 9".

FRONT FACADE: See page 11.

THE CONTENTION OF THE RESPONDENT:

The Respondent will contend:-

(1) An addition (i.e.) a new third floor added to an existing building does not make the existing building a new building within the meaning of new building in section 2 of the Control of Rent Ordinance.

(2) Repairs done to the existing building (above mentioned) do not make the existing building a new building. The meaning of new building in section 2 of the Control of Rent Ordinance was designed to exclude substantial repairs to an existing building; otherwise it would have said so.

(3) The learned Judge erred in holding that $306,656-89 was spent on the additions and alterations on the existing building - the repairs and additions cost $157,900/- (Exhibit D9 page 25). The extra amount was

NOTICE OF CROSS-APPEAL

In the High Court of Appeal in Singapore

No.8
Notice of Cross-Appeal to the Court of Appeal in Singapore - 4th July 1970

(continued)

not towards repairs - they were for air-conditioning, re-rendering all floors and laying new mosaic tiles on the ground floor (and asphalt tiles on the 1st and 2nd floor in place of coloured cement rendered square, see page 6 of Specification of proposed addition and alteration attached to exhibit D9 page 21), insurance premium, locks, handles, and other materials etc., which were not materials within the scope of repairs properly so called.

(4) The learned Judge erred in placing too much emphasis on the quantum spent on the additions and alterations without regard to the contract cost and what was spent on merely superficial improvements.

(5) The learned judge erred (i)in holding that two new floors were added. The mezzanine floor is not a new floor. It occupied only a small portion of the space between the ground floor and the ceiling of the 1st floor. It did not extend over the whole space between the ground floor and the ceiling of the first floor; and also (ii) in taking into consideration the strong room which would be a sine qua non for a bank and does not affect the premises as such.

In the premises the Respondent humbly submit that this appeal should be allowed, that the judgment of the trial Judge was wrong in holding the existing premises was a new building and ought to be reversed.

Dated this 4th day of July, 1970.

MALLAL & NAMAZIE
SOLICITORS for the abovenamed
Respondent

In the High Court of Appeal in Singapore

No.8
Notice of Cross-Appeal to the Court of Appeal in Singapore - 4th July 1970

(continued)

NOTICE OF CROSS-APPEAL

To:

The Registrar,
Supreme Court,
Singapore.

And to

The abovenamed Appellants,
and their Solicitors, Messrs. Tan, Rajah & Cheah.

The address for service of the Respondent is No.11, D'Almeida Street, Singapore.

No.9
Memorandum of Appeal 6th August, 1970

No.9

MEMORANDUM OF APPEAL - 6th August, 1970

MEMORANDUM OF APPEAL

BANK NEGARA INDONESIA, the Appellants abovenamed appeal to the Court of Appeal against part of the decision of the Honourable Mr. Justice Chua given at the High Court, Singapore on the 2nd day of June, 1970 on the following grounds :-

(1) That the learned Judge misdirected himself and was wrong in law in holding that the representations made by Brash and Atkinson as to the protection which the Defendant/Respondent would have under the tenancy proposed to be granted to him of the front portion of the third floor could form the basis of a promissory estoppel.

MEMORANDUM OF APPEAL

In the Court of Appeal in Singapore

No.9
Memorandum of Appeal 6th August, 1970
(continued)

(2) That the learned Judge should have considered and construed the said representations as a whole and held that the statement as to the landlord not claiming possession or giving notice to quit were merely ancillary to the representation that the Defendant/Respondent should have the same protection under the Control of Rent Ordinance (Chapter 242) as he had enjoyed in respect of the part of the first floor occupied by him.

(3) That the legal effect (if any) of the said representations was to make the said tenancy of part of the third floor subject to an express or implied term that it would be a tenancy protected by the said Control of Rent Ordinance and that such term was void and unenforceable in that it purported to oust the jurisdiction of the Court to make an order for possession.

(4) That in any event the said representations had no application or effect in relation to the new tenancy granted to the Defendant/Respondent in March 1961 at an increased rent for a fixed term of 3 years or any further tenancy created by holding over after the expiry of the said new tenancy.

DATED this 6th day of August, 1970.

TAN RAJAH & CHEAH
Solicitors for the abovenamed
Appellants/Plaintiffs.

To: The Registrar,
Supreme Court,
Singapore.

And to

The abovenamed Respondent and his Solicitors Messrs. Mallal & Namazie.

The address for service of the Appellants is at the office of Messrs. Tan, Rajah & Cheah, No.2 (top floor), Raffles Place, Singapore.

In the Court of Appeal in Singapore

No.10
Notes of Argument recorded by the Honourable Mr. Justice Tan Ah Tah - 3rd September, 1970, 21st January, 1971

No. 10

NOTES OF ARGUMENT RECORDED BY THE HONOURABLE MR. JUSTICE TAN AH TAH - 3rd September, 1970, 21st January, 1971

NOTES OF ARGUMENT

Coram: Tan Ah Tah, J. — Thursday, 3rd September 1970.
A.V.Winslow, J.
Choor Singh, J.

Yin Ee Kheng for Appellants
Y.R. Jumabhoy for Respondent

Yin: Brash and Atkinson were acting for the Plaintiffs as the Judge found. Certain assurances were given to Defendant by Brash and subsequently confirmed by Atkinson. Defendant thereupon moved from the first floor to the third floor. Defendant paid the same rent.

In 1961 Plaintiffs served a notice to quit on Defendant. Negotiations were entered into. Agreed to enter into a lease for three years with a right on the part of the Defendant to give three months' notice terminating the lease.

Judge correctly found that the premises had become a new building.

Grounds (1) and (2).

Assurances given by Brash :-

(1) same space
(2) same rent
(3) same protection - i.e. rent control
(4) so long as you continue to practise as a solicitor we will not take action against you.

Defendant's evidence p.40, p.41C to D, F to G refers to the assurances.

NOTES OF ARGUMENT

In the Court of Appeal in Singapore

No.10
Notes of Argument recorded by the Honourable Mr. Justice Tan Ah Tah - 3rd September 1970, 21st January, 1971
(continued)

Defendant's evidence, p.43G1, p.44C, 45F, 46AB, 46G, 47F, 48A ("I felt I could not contract out of the Control of Rent Ordinance").

Judgment at p. 65DE

Hughes v. Metropolitan Railway Co. (1877) 2 A.C. 439 Ajayi v. Briscoe (1964) 3 All E.R. 556

Kingswood Estate Co.Ltd. v. Anderson (1962) 3 All E.R. 593 at p. 597F

In 1961 when Defendant was given notice to quit negotiations were entered into for a new lease.

Going back to the former point argued by me I cite Rogers v. Hyde (1951) 2 K.B. 923. The effect of this decision: Defendant in our case was relying also on the fact that he was enjoying the protection of the Control of Rent Ordinance.

Adjourned to 2.30 p.m.

Yin: (continuing):

Even if the promise made by Brash regarding giving Defendant the protection of the Control of Rent Ordinance appears to be an empty promise -, the Plaintiffs are entitled to succeed.

(Jumabhoy: Megarry's Rent Act 10th edition p. 21 Snell on Equity 24th edition p. 25).

Events leading to the lease dated 29.3.1961. See notice to quit dated 12.1.61 at p.90, letters at p.91, 92, 93. Lease at p. 97.

Defendant by entering into the new lease has waived the rights acquired by him under the promissory estoppel.

NOTES OF ARGUMENT

In the Court of Appeal in Singapore

No.10
Notes of Argument recorded by the Honourable Mr.Justice Tan Ah Tah - 3rd September 1970, 21st January, 1971
(continued)

(Jumabhoy: I object to this point being raised. Court: But the point was raised in the Reply.)

Defendant failed to incorporate in the Lease the promises made by Brash.

Defendant elected to enter into a new lease and thereby gave up his alleged right to remain on the premises so long as he continued to practise his profession. Defendant cannot now rely on Brash's assurances.

The final Notice to Quit was eventually given on 13.1.69 - see p.108. The writ was issued on 4.3.69.

Jumabhoy: As to the last point re the lease, I refer to Defendant's evidence at p.47E2 to p.48. The Judge refers to this evidence at p.59C.

In 1961 all the parties believed that the premises were rent-controlled premises. Defendant believed that he was protected by the Control of Rent Ordinance.

The promises made by Brash remained effective. An estoppel only arises when action is taken against Defendant.

Both parties believed the premises were rent-controlled. In any event, Defendant believed that to be so.

If he had believed that the premises were not controlled he would have inserted the first promise into the lease.

Parol evidence can always be given on a collateral promise.

As to the point regarding promissory estoppel I cite Snell on Equity 24th edition p.24 "Equitable estoppel". Wakeham v.

NOTES OF ARGUMENT

In the Court of Appeal in Singapore

No.10
Notes of Argument recorded by the Honourable Mr. Justice Tan Ah Tah - 3rd September 1970, 21st January, 1971

(continued)

Mackenzie (1968) 2 All E.R. 783.

(After citing some authorities, Jumabhoy says that more time will be required to consider the points raised.)

Adjourned to the next sitting of the Court of Appeal.

(Sgd.) Tan Ah Tah

Certified true copy.

Sd. Yeo Onn Cheng
Private Secretary to Judge
Court No.3
Supreme Court, Singapore.

28/12/70.

Coram: Tan Ah Tah, J.
A.V.Winslow, J.
Choor Singh, J.

Counsel as before.

Jumabhoy: Ameer Ali on Evidence 11th edition p. 2405. Was there a waiver? There is nothing in the pleadings about waiver.

Waryam Singh v. Channan Singh A.I.R. 1960 Punjab 308.

Both parties thought the premises were rent controlled.

Did Defendant intentionally relinguish his rights to theestoppel by entering into the lease? I submit he did not. My reason for

NOTES OF ARGUMENT

In the Court of Appeal in Singapore

No.10
Notes of Argument recorded by the Honourable Mr.Justice Tan Ah Tah - 3rd September 1970, 21st January, 1971

(continued)

saying so is that at the time he entered into the lease Defendant was of the view that the premises were controlled premises. Consequently he believed that by entering into the lease he was not relinguishing the protection of the Ordinance or the stoppel arising out of the representations made to him by Mr. Brash and Mr. Atkinson. The Judge found as a fact that these representations were made to Defendant and the latter altered his position to his detriment. "So long as you continue in practice the bank will not give you a notice to quit".

Defendant obtained no additional benefit under the lease.

Defendant did not intentionally waive or abandon the rights he obtained under the representation.

As to the cross-appeal I refer to p.70 et seq of the record.

Kai Nam v Ma Kam Chan (1956) A.C. 358.
Mohamed Ibrahim v. Lee Eng Kim 3 Malayan Cases 175.

The cases concerning attap sheds and zinc roofs have no bearing on the present case.

Kai Nam v Ma Kam Chan (1956) A.C.358 at p.368 - the object of the Hong Kong Ord. was to encourage the erection of new buildings.

P.W.1's evidence at p.20. The Bank paid the purchase price plus the cost of renovations and additions to Khoo Teck Puat. No receipts from the contractors were produced.

NOTES OF ARGUMENT

In the Court of Appeal in Singapore

No.10
Notes of Argument recorded by the Honourable Mr. Justice Tan Ah Tah - 3rd September 1970, 21st January, 1971

(continued)

Judge at p. 57D said he had no reason to doubt that Plaintiffs spent $306,656.89.

Figures given at p. 57C

	$73,000
	$22,200
	$11,250
	$106,450
	$306,656.89
	$106,450.00
10	$200,206.89

Only $200,206.89 was spent on additions and alterations.

Condition of the building before renovation. See p. 3101 - PW2's evidence. The concrete floor was made thicker.

First floor - see p. 32 F to G.

Mezzanine floor did not cover the whole of the ground floor. The dimensions are not known.

20 P18 is a photograph - I suggest the mezzanine floor is about ¼ of the length of the ground floor.

As to the second floor, see p. 33A. The top of the concrete had to be hacked off before concrete was added.

Third floor was new.

The walls had to be strengthened to take on the new third floor. See p. 3303.

30 The party walls on both sides were 18 inches thick.

NOTES OF ARGUMENT

In the Court of Appeal in Singapore

No.10
Notes of Argument recorded by the Honourable Mr. Justice Tan Ah Tah - 3rd September 1970, 21st January, 1971

(continued)

Second floor plan. A strengthening wall was added to the original wall in order to hold up the third floor.

At p. 33E2 - the ground was dug to the original footings - these footings were enlarged and the additional walls were propped against the original walls. No piling necessary.

To make a strong room, the floor was dug to a depth of 18 inches to instal a strong room. No piling necessary.

Nothing done to five foot way.

There used to be one staircase (timber), now there are two, both of concrete.

A new facade was put up. At the rear too.

The design of the interior of the building is the same.

P1 - front of old building.

P2 - old staircase.

Additions and renovations and alterations only were made - no new building.

Adjourned to 2.15 p.m.

Jumabhoy: Pages 56, 57 contain a description by the Judge of what was done to the building.

The design is the same - see p.45 - Defendant's evidence.

As to p. 57D3 to E3, I submit the changes are merely repairs, alterations and renovations, bearing in mind what was there before. All rooms were occupied by tenants until the tenants (except the Defendant) left the premises in order that the building work could be carried out.

NOTES OF ARGUMENT

In the Court of Appeal in Singapore

No.10
Notes of Argument recorded by the Honourable Mr. Justice Tan Ah Tah - 3rd September 1970, 21st January, 1971

(continued)

Yin: Waiver by Defendant. I cannot point out any paragraph in the pleadings in which waiver is mentioned. But I submit that by entering into the 1961 lease Defendant waived whatever rights he had. Jumabhoy says Defendant did not waive his rights because he thought the premises were rent controlled.

Assuming everybody thought they were rent controlled, by moving to the third floor Defendant suffered no detriment because the premises were rent controlled and he could not be evicted.

In the lease Defendant was given the right to terminate the lease by giving three months' notice. This right was given to Defendant but not to Plaintiffs. This shows that Defendant should have included Brash's promise in the 1961 lease.

Defendant should have brought up this promise - by way of a shield based on promissory estoppel - when a notice to quit was given to him. Instead of setting up this shield or defence, he willingly entered into negotiations. Turner v Watts (1928) L.J. K.B. 403 at p. 406.

Defendant surrendered his old tenancy when he entered into the lease in 1961.

Foster v Robinson (1950) 2 All E.R. 342.

As to the question whether the building is a new building, the mezzanine floor is about half the length of the other floors.

(Jumabhoy: I agree)

Success Enterprise Ltd. v Eng Ah Koon (1968) 1 M.L.J. 77 at p. 77 col.1 paragraph (b).

NOTES OF ARGUMENT

In the Court of Appeal in Singapore

No.10
Notes of Argument recorded by the Honourable Mr.Justice Tan Ah Tah- 3rd September 1970, 21st January, 1971

(continued)

Eastern Realty Co.Ltd v Chan Hua Seng (1967) 2 M.L.J. 195 at p. 197E Col.1.

See evidence of P.W.2 at p.37, 38. At p.38E2, PW2 said "they were extensive works and not a simple question of repairing".

See the contract Exhibit 9 for work done.

See p.55, 56, 57 for description by Judge of the alterations and additions.

I submit the cross-appeal should be dismissed. 10

C.A.V.

(Sgd.) Tan Ah Tah

Certified true copy.
Sgd. Yeo Onn Cheng
Private Secretary to Judge
Court No.3
Supreme Court, Singapore.

16/3/72

No.11

REASONS FOR JUDGMENT OF THE COURT OF APPEAL IN SINGAPORE 27th November, 1971

In the Court of Appeal in Singapore

No.11 Reasons for Judgment of the Court of Appeal in Singapore (Tan Ah Tah,J. A.V.Winslow,J. Choor Singh,J) 27th November, 1971

Coram: Tan Ah Tah, J.
A.V.Winslow, J.
Choor Singh, J.

JUDGMENT

In this case the plaintiffs brought an action in the High Court against the Defendant claiming, inter alia, possession of the front room on the third floor of the building known as No.3 Malacca Street (hereinafter referred to as "the said building") which said front room was let by the plaintiffs to the defendant on a monthly tenancy. The learned trial judge by his judgment found that the said building was a new building within the meaning of the Control of Rent Ordinance but dismissed the plaintiffs' claim on the ground that the plaintiffs were estopped from giving the defendant a notice to quit for as long as the defendant carries on his profession as an advocate and solicitor on the premises which had been let to him. The plaintiffs now appeal against that part of the judgment which holds that they are estopped from giving the defendant a notice to quit. The defendant on the other hand has filed a cross-appeal against that part of the judgment in which it is held that the said building is a new building.

In 1957 the said building was owned by one Lee Cheng Kiat. At that time it comprised a ground floor, a first floor and a second floor. In 1945 the defendant had become a tenant of the front portion of the first floor in the said building and was carrying on his profession as an advocate and solicitor there. In 1957 the defendant

In the Court of Appeal in Singapore

No.11
Reasons for Judgment of the Court of Appeal in Singapore (Tan Ah Tah, J. A.V.Winslow, J. Choor Singh, J) 27th November 1971

(continued)

was paying a rent of $147.40 per mensem for the premises rented by him. In the same year 1957 the plaintiffs entered into negotiations to purchase the said building. In June 1958, alterations and additions to the said building commenced to be made. During this work all the tenants in the said building moved out except the defendant. A new third floor was added to the said building and when that was completed the defendant went into occupation of the front portion of the third floor paying the same rent of $147.40 per mensem. The alterations and additions were completed at the end of 1958. In July 1959, the property was conveyed by Lee Cheng Kiat to the plaintiffs. In January 1961, the plaintiffs gave the defendant one month's notice to quit the premises. The defendant did not comply with this notice to quit but eventually, after certain negotiations had been entered into, the plaintiffs on the 29th March 1961 granted the defendant a lease for a term of three years commencing on the 1st March 1961 at a monthly rent of $280. After the expiry of the lease in 1964 the defendant remained in occupation of the premises and the plaintiffs accepted the rent. On the 13th January 1969, the plaintiffs gave the defendant a notice to quit expiring on the 28th February 1969. The defendant refused to comply with this notice and the plaintiffs commenced this action in March 1969.

The case was argued in the court below on the basis that there were two issues to be tried. The first issue was whether the said building was a new building within the meaning of the Control of Rent Ordinance. The second issue was whether, if the said building was held to be a new building, the plaintiffs were estopped from giving the defendant a notice to quit the premises.

It is convenient at this stage to quote the following passages from the judgment of the learned trial judge in which he deals with the first issue :-

"As I have already said before the alterations and additions the said building was an old three-storeyed building. There was a balcony on the first floor. The rear portion of the ground floor was used as a godown. The first and second floors were sub-divided into offices of various sizes with wooden partitions. The floor of the ground floor was concrete. The rear portion of the floor of the first floor was of timber and the front was of concrete. The floor of the second floor was of concrete. The staircase, leading to the first and second floors, was of timber and was in the front portion of the building. The lift well was of asbestos with a frame work.

Now what were the alterations and additions done to the old building?

First of all two new floors were added - a mezzanine floor, between the ground and first floors, and a third floor. A new roof was constructed.

The following works were done on the ground floor. The whole of the floor was broken up and a new concrete floor laid. A strong room for the use of the plaintiffs was constructed. A new lift well of brick was constructed, but the old lift, after reconditioning, is still in use. The wooden staircase was removed and two new concrete staircases were constructed, one at the front and one at the back of the building. The staircase at the front is not in its original position. An airwell was constructed.

The following works were done on the first floor. The wooden partitions were completely knocked down and removed. Three inches of concrete were added on to the existing concrete floor in the front portion. The rear portion of the floor whidh was of timber was demolished and a new concrete floor was laid.

In the Court of Appeal in Singapore

No.11
Reasons for Judgment of the Court of Appeal in Singapore (Tan Ah Tah, J. A.V.Winslow, J. Choor Singh, J.)
27th November 1971

(continued)

The wooden partitions in the second floor were completely knocked down and removed. Three inches of concrete were added on to the existing concrete floor.

The existing walls and columns were strengthened for the mezzanine floor and the third floor. A new wall was added on to the existing wall to support the third floor.

The whole of the front and the rear of the old building were taken down and a new front and rear constructed. The balcony on the first floor was done away with. The front elevation shows that the whole is new, similarly the rear elevation.

The contract for the alterations and additions was signed for $157,900 but the plaintiffs say that eventually they spent $306,656.89 on the building out of which (a) $73,000 was for air-conditioning, (b) $22,200 for re-rendering all floors and laying new mosaic tiles on the ground floor and asphalt tiles on the first and second floors, (c) $11,250.00 for new ceiling in celotex for all floors. I have no reason to doubt that the plaintiffs spent $306,656.89 on the alterations and additions.

The nature and extent of the structural alterations and other works carried out to the old building went far beyond repairs as contended by the defendant. In my view there has been such a fundamental change to the old building so that it can no longer be said to exist and that a new building has replaced it."

As was stated by Wee Chong Jin, C.J. in Eastern Realty Co.Ltd. v. Chan Hua Seng (1967) 2 M.J.J. at p. 197, the question whether a building because of substantial structural and/or other alterations becomes a new building

is always a question of degree depending on the facts of each particular case. No test of universal application can be laid down.

It is relevant to note that immediately before the commencement of the work involving alterations and additions to the said building, all the three floors were occupied or used by tenants. All these tenants, with the exception of the defendant, moved out of the said building merely in order to enable the work to proceed. The said building was still a substantial building which was in no danger of collapsing; it could still be used for the purpose of carrying on the various professional or commercial activities of the tenants.

The learned trial judge has stated that he had no reason to doubt that the plaintifs spent the sum of $306,656.89 on the alterations and additions. However, out of this sum, $73,000 was for air-conditioning, $22,200 for re-rendering all floors and laying new mosaic tiles on the ground floor and asphalt tiles on the first and second floors and $11,250 for a new ceiling in celotex for all the floors. The plaintiffs therefore spent only $200,206.89 on what can properly be called alterations and additions in the context of this case.

It is true that two new floors were added to the said building - a mezzanine floor between the ground and first floors, and a third floor. The mezzanine floor was about half the length of the other floors. We have taken into account these additions and others mentioned by the learned trial judge, but on a careful consideration of the whole of the evidence relating to the work done, we have come to the conclusion that the said building has not changed its identity in such a manner as to be described as a new building. So far as this point is concerned, no question as to the veracity and demeanour of witnesses arises. We accordingly find that the said building has not become a new building within the meaning of the defimition

In the Court of Appeal in Singpore

No.11
Reasons for Judgment of the Court of Appeal in Singapore (Tan Ah Tah, J. A.V. Winslow,J. Choor Singh, J.)
27th November 1971

(continued)

of the word "premises" in section 2 of the Control of Rent Ordinance.

In the event of another view being taken of the matter, it is desirable for us to express our opinion on the second issue. We accept the finding of the learned trial judge that Mr.Brash, in persuading the defendant to move out of the front portion of the first floor which he originally occupied and to occupy the rear portion of the first floor while the work was going on, assured the defendant that he would not be asked to leave the premises so long as he was practising his profession. We also agree with the opinion expressed by the learned trial judge that the plaintiffs are estopped from giving the defendant a notice to quit for as long as the defendant carries on his profession on the premises.

Counsel for the plaintiffs has submitted that by becoming a party to the lease dated the 29th March 1961 the defendant waived his right to rely on the defence of estoppel. However, counsel for the plaintiffs was unable to show that the question of waiver was raised in the pleadings. The fact that only two issues were argued in the court below makes it obvious that the point regarding waiver was never taken. Indeed, according to the record, counsel for the plaintiffs in opening his case stated that there was only one issue in the case and that is whether the said building is a new building. The point regarding waiver is therefore not open to the plaintiffs in this court.

We accordingly allow the defendant's cross-appeal with costs and dismiss the plaintiffs' appeal with costs.

(Sgd.) Tan Ah Tah Judge
(Sgd.) A.V.Winslow Judge
(Sgd.) Choor Singh Judge

Singapore
27th November, 1971

Certified true copy
Sgd. Yeo Onn Cheng
Private Secretary to Judge
Court No.3
Supreme Court, Singapore
29/11/71

No. 12

ORDER OF THE COURT OF APPEAL IN SINGAPORE 27th November 1971

In the Court of Appeal in Singapore

No.12
Order of the Court of Appeal in Singapore 27th November, 1971

CORAM:

THE HONOURABLE MR. JUSTICE TAN AH TAH
THE HONOURABLE MR. JUSTICE WINSLOW
THE HONOURABLE MR. JUSTICE CHOOR SINGH

THE 27TH DAY OF NOVEMBER, 1971

ORDER

THIS APPEAL and CROSS-APPEAL coming on for hearing on the 3rd day of September, 1970 and the 21st day of January, 1971 in the presence of Mr. Freddy Yin Ee Kheng of Counsel for the abovenamed Appellants and Mr. Yusaf Jumabhoy of Counsel for the abovenamed Respondent, the Appellants appealing against that part of the judgment of the Honourable Mr. Justice Chua herein dated the 2nd day of June 1970 as directs that the Appellants are estopped from giving the Respondent Notice to Quit that portion of the building occupied by him and known as No.3, Malacca Street, Singapore and erected on Lot 195½ of T.S.1 for as long as he carried on his profession as an advocate and solicitor thereat AND the Respondent cross-appealing by contending that that part of the said judgment as decides that the said building No.3 Malacca Street, Singapore erected on the said Lot 195½ of T.S.1. is a new building within the meaning of the Control of Rent Ordinance ought to be reversed and that instead thereof IT SHOULD BE ADJUDGED THAT the said building No.3 Malacca Street has not become a new building within the meaning of the Control of Rent Ordinance, AND UPON READING the Record of Appeal AND UPON HEARING Counsel aforesaid this Court did order that this Appeal and Cross-Appeal should stand for judgment and

In the Court of Appeal in Singapore

No.12
Order of the Court of Appeal in Singapore 27th November, 1971

the same standing for judgment this day in the presence of Counsel for the Appellants and the Respondent IT IS ORDERED that the Appeal BE DISMISSED and that that part of the judgment of the Honourable Mr. Justice Chua herein dated the 2nd day of June 1970 as directs that the Appellants are estopped from giving the Respondent Notice to Quit that portion of the building occupied by him and known as No.3 Malacca Street, Singapore and erected on Lot 195½ of T.S.1 for as long as he carried on his profession as an advocate and solicitor thereat BE AFFIRMED AND IT IS FURTHER ORDERED that the Cross-Appeal of the Respondent herein BE ALLOWED and that that part of the said judgment dated the 2nd day of June 1970 as decides the said building known as No.3 Malacca Street, Singapore, and erected on Lot 195½ of T.S.1 is a new building within the provisions of the Control of Rent Ordinance BE AND IS HEREBY REVERSED AND IT IS LASTLY ORDERED that the Respondent's costs of the Appeal and Cross-Appeal herein BE TAXED and PAID by the Appellants to the Respondent and that the security for the Respondent's costs paid into Court by the Appellants be PAID OUT to the Respondent or to his Solicitors Messrs. Mallal & Namazie and set-off against the said taxed costs.

Given under my hand and the Seal of the Court the 28th day of January 1972.

Sgd. Chia Quee Khee
ASST. REGISTRAR

No. 13

ORDER GRANTING LEAVE TO APPEAL TO THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL 24th January 1972

In the Court of Appeal in Singapore

No.13
Order granting leave to Appeal to the Judicial Committee of the Privy Council 24th January, 1972

BEFORE: THE HONOURABLE MR. JUSTICE WEE CHONG JIN, CHIEF JUSTICE, SINGAPORE
THE HONOURABLE MR. JUSTICE TAN AH TAH
THE HONOURABLE MR. JUSTICE WINSLOW

IN OPEN COURT

THIS 24TH DAY OF JANUARY, 1972

O R D E R

UPON Motion preferred unto Court this day by Mr. C.C.Tan of Counsel for the abovenamed Appellants, Bank Negara Indonesia, and Counsel for the abovenamed Respondent not appearing AND UPON reading the Motion Paper dated the 29th day of December 1971 and the Affidavit of Bambang Srijanto Salamoen affirmed and filed herein on the 29th day of December 1971 for leave to appeal to the Judicial Committee of Her Britannic Majesty's Privy Council under Section 3(1)(a)(ii) and (iii) of the Judicial Committee Act 1966 AND UPON hearing what was alleged by Counsel aforesaid THIS COURT DOTH GRANT LEAVE to the said Bank Negara Indonesia to appeal to Her Britannic Majesty's Privy Council against the whole of the Judgment of the Court of Appeal delivered herein at Singapore on the 27th day of November 1971 AND THIS COURT DOTH ORDER that the Appellants within 1 month from the date hereof give security in the sum of $3,000/- for the payment of all such costs as may become payable to the Respondent in the event of the Appellants failing to proceed with the Appeal or the Judicial Committee ordering the Appellants to pay the costs of the Respondent, as the case may be.

In the Court of Appeal in Singapore

Given under my hand and the Seal of the Court this 31st day of January, 1972.

ASST. REGISTRAR.

No.13
Order granting leave to Appeal to the Judicial Committee of the Privy Council 24th January, 1972

(continued)

Plaintiffs (Appellants) Exhibits

No.AB 1
Conveyance of No.3 Malacca Street Singapore
7th July,1959

Exhibit No. AB 1

CONVEYANCE OF NO.3 MALACCA STREET, SINGAPORE

STAMP $11,000/-
9/7/59

T.S.1, Lot 195 2/ = 5,273 sq.ft.
Sd. illegible

THIS INDENTURE is made the 7th day of July One thousand nine hundred and fifty nine (1959) Between LEE CHENG KIAT of No.10 Boat Quay, Singapore, Merchant (hereinafter called "the Vendor") of the one part And BANK NEGARA INDONESIA a Company incorporated in the Republic of Indonesia and having a branch office at No.253, South Bridge Road, Singapore (hereinafter called "the Purchase") of the other part

W H E R E A S the Vendor is possessed of or otherwise well entitled to the leasehold lands and premises hereinafter described for all the residues now unexpired of the terms of 999 years created by the respective Leases mentioned in the Schedule hereto subject to the rents or apportioned rents thereby reserved and the covenants and conditions therein contained and he has agreed with the Purchaser for the sale thereof to the Purchaser for a like estate at the price of DOLLARS FIVE HUNDRED AND FIFTY THOUSAND ($550,000.-)

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of DOLLARS FIVE HUNDRED AND FIFTY THOUSAND ($550,000.-) paid by the Purchaser to the Vendor on or before the execution of these presents (the receipt whereof the Vendor hereby acknowledges) the Vendor hereby assigns unto the Purchaser ALL the lands and premises described in the Schedule hereto TO HOLD the same unto the Purchaser its successors and assigns for the residues now unexpired of the terms of 999 years for which the same are respectively held under or by virtue of the said Leases more particularly

Registered on the 10th July 1959 at 3.10 p.m. under Lot 192 Mukim 1 T.S. in accordance with statement presented in Volume 1347 Page 524 No.114
Sd: illegible
Deputy Registrary of Deeds.

Plaintiffs (Appellants) Exhibits

No. AB 1 Conveyance of No.3 Malacca Street Singapore 7th July, 1959

(continued)

mentioned in the Schedule hereto subject to the rents or apportioned rents reserved thereby and to the covenants and conditions therein contained

IN WITNESS WHEREOF the Vendor has hereunto set his hand and seal the day and year first above written

THE SCHEDULE ABOVE REFERRED TO

ALL that piece of land situate in the District of Singapore Town in the Island of Singapore estimated according to Government Resurvey to contain an area of 5,273 square feet and marked on the Government Resurvey Map as Lot 195½ of Town Subdivision I which said piece of land comprises :-

(a) The whole of the land comprised in an Indenture of Lease No.20 dated 10th October 1844 and made between the East India Company of the one part and Chee Tiang Why of the other part and thereby demised for the term of 999 years from the date of the original Lease No.20 dated 20th April 1826 subject to the yearly rent of $3- and to the covenants and conditions therein contained

(b) The whole of the land comprised in an Indenture of Lease Lot No.3 of Lease No.20 dated 10th October 1844 and made between the East India Company of the one part and Chee Tiang Why of the other part and thereby demised for the term of 999 years from the date of the original Lease No.20 dated 20th April 1826 subject to the yearly rent of $3- and to the covenants and conditions therein contained

(c) Part of the land comprised in Government Lease No.147 dated 25th March 1874 and made in favour of Chua Choon Neo and thereby demised for a term of 999 years from 25th March 1874 at a yearly rent of

$3- and subject to the covenants and conditions therein contained, and

(d) Part of the land comprised in Government Lease No.148 dated 25th March 1874 and made in favour of Chua Choon Neo and thereby demised for a term of 999 years from 25th March 1874 at a yearly rent of $3- and subject to the covenants and conditions therein contained.

TOGETHER with the building erected on the said piece of land known as No.3 Malacca Street, Singapore.

SIGNED SEALED AND DELIVERED) by the abovenamed LEE CHENG KIAT in the presence of :-) Sd: Lee Cheng Kiat (L.S.)

Sd. Murray B. Brash,
Solicitor,
Singapore.

On this 1st day of July A.D. 1958 before me MURRAY BRUCE BRASH an Advocate and Solicitor of the Supreme Court of the Colony of Singapore practising in the Island of Singapore personally appeared LEE CHENG KIAT who of my own personal knowledge I know to be the identical person whose name "Lee Cheng Kiat" is subscribed to the above written instrument and acknowledged that he had voluntarily executed this instrument at Singapore.

Witness my hand.

Sd. Murray B. Brash.

Plaintiffs (Appellants) Exhibits

No. AB 2
Letter from Tan Rajah & Cheah to the Consultant Assessor 9th July 1960

Exhibit No. AB 2

LETTER FROM TAN, RAJAH & CHEAH TO THE CONSULTANT ASSESSOR 9th July, 1960

9th July, 1960

Dear Sir,

Nos. 3/A/B/C Malacca St.

With reference to your letter of the 27th ultimo addressed to our client The Bank Negara Indonesia we are instructed to supply you with the following information :-

(a) Purchase price of the premises - $550,000.00

(b) Total cost of the new foundation works etc. - $306,656.89

(c) Total cost of Architect's professional fees - $15,000.00

With regard to the cost shown in the enclosed list we are instructed to suggest that items, 4, 12 (a) and (b) (estimated at $3,000-), 23 and 24 should not be taken into account when assessing the value of the property for rating purposes.

Yours faithfully,

Sd: Tan, Rajah & Cheah

The Consultant Assessor
Assessment & Estates Dept.,
City Hall.

Exhibit No. AB 3

COST OF RENOVATING No.3 MALACCA STREET

Plaintiffs (Appellants) Exhibits

No. AB 3 Cost of renovating No.3 Malacca Street

Cost of Renovating No.3 Malacca Street

	(1)	Foundations works	$	25,650
	(2)	Concreting with R.C. works rear portion of first floor in place of wooden floor		11,202.50
	(3)	Mezzanine floor - extra works including cost of mosaic tiling to staircase, parquet floor, etc.		3,125.00
	(4)	Cost of Third floor		65,000.00
	(5)	Construct air-well in glass blocks		2,499.00
	(6)	Construct sun roof in glass blocks		1,540.00
	(7)	Construct false ceiling in plywood to foyer at lift space complete with aluminium lighting fittings		550.00
	(8)	Supply of ironmongery - locks, handles, etc.		1,176.40
	(9)	Difference in cost of electrical installation :-		
		50 pieces light fittings		
		67 power plugs		
		142 lighting plugs		
		1 lift point		

Plaintiffs (Appellants) Exhibits

No. AB 3
Cost of renovating No. 3 Malacca Street

(continued)

	power system to air-conditioning units Separate main control switches	$ 2,998.50
(10)	Hacking back overlapping pillars at front of building between French Bank and breaking up three windows to ceiling level	433.00
(11)	Insurance premium for public liabilities, workmen's compensation and fire risks	3,158.18
(12)	(a) 1 set alum.lettering (b) 1 set alum. grille for cash counter 1 set alum. sliding doors 1 sliding gear for sliding door 1 set alum. fixed grille	6,170.00
(13)	Cost of installing air-conditionings	73,000.00
(14)	Complete renovation of front elevation according to plans in granolithic finish and new metal windows, etc.	15,100.00
(15)	Alteration to ground floor front including supply of plate glass sliding doors, wrought iron grille gate, etc.	5,200.00
(16)	Erection of new mezzanine floor	6,250.00
(17)	Re-render all floors and lay new mosaic tiles on ground floor and asphalt tiles on 1st and 2nd floors	22,200.00
(18)	Erection of 2 new reinforced concrete staircases with wrought iron railing	8,500.00

(19)	Re-render all walls & ceiling	$ 9,600.00
(20)	Paintwork and distemper	5,700.00
(21)	Sanitary works and new fittings	8,200.00
(22)	Electrical works and new fittings for all floors	5,100.00
(23)	Erection of new strongroom	6,100.00
(24)	New strong room door	5,700.00
(25)	New ceiling in celotex for all floors	11,250.00
(26)	City Council electricity connection fees	850.00
(27)	City Council changing electricity cables	404.31
		$306,656.89

Plaintiffs (Appellants) Exhibits

No. AB 3
Cost of renovating No.3 Malacca Street

(continued)

Plaintiffs (Appellants) Exhibits

No. AB 4 Notice of Property Tax Re: 3/A/B/C/D, Malacca Street

Exhibit No. AB 4

NOTICE OF PROPERTY TAX RE: 3/A/B/C/D Malacca Street

BILL A/H 52410

List 6/22
9
N.D. 27/9/60

CITY COUNCIL OF SINGAPORE
TREASURER'S DEPT., INCOME A/CS. SECTION (RATES)
P.O. BOX No. 3005, SINGAPORE

Bank Negara Indonesia
3/A/B/C/D Malacca Street
Singapore, 1

Dr. TO THE MUNICIPAL FUND.

YOU ARE HEREBY informed that the half-yearly rates at 36% per annum of the Annual Value of premises for the 2nd half-year 1960 are now due and payable at the City Hall, Singapore.

No.	Where situated	Annual Value $	Half-year's Rates $	cts.
3C	Malacca Street	6204	1116	72
	add period:			
	1/1/60 to 30/6/60		1116	72
	1/7/59 to 31/12/59		1116	72
	1/6/59 to 30/6/59		186	12
3C-1	Malacca Street	3144	565	92
	add period:			
	1/1/60 to 30/6/60		565	92
	1/7/59 to 31/12/59		565	92
	1/8/59 to 30/6/59		94	32
			5328	36

Plaintiffs (Appellants) Exhibits

No. AB 4
Notice of Property Tax Re: 3/A/B/C/D Malacca Street

(continued)

PLEASE NOTE.

1. THIS IS ONLY A BILL FORM THAT SHOULD BE PRODUCED AT THE TIME OF PAYMENT FOR REFERENCE AND FOR RETURN TO YOU.
2. OFFICIAL RECEIPT WILL BE ISSUED ON A SEPARATE FORM.

Cheques should be drawn in favour of the Municipal Fund and crossed, and addressed to the City Treasurer, P.O. Box 3005, Singapore. All communications are to be addressed to the City Treasurer.

Exhibit No. AB 5

No. AB 5
Property Tax Receipt

PROPERTY TAX RECEIPT

CITY COUNCIL OF SINGAPORE

RATE RECEIPT

Received from :-

Bank Negara Indonesia

the sum stated below in printed figures being rates at 36 per cent. as per particulars appended, for the period 1.6.59 to 31.12.60

Bill
Premises No. 52410

Cheque total.. 5328-36

Cashier

8 OCT 1968 1613LL -A- 532836
City Treasurer

Plaintiffs (Appellants) Exhibits

No. AB 6
Notice of Property Tax Re: 3C and 3C-1 Malacca Street

Exhibit No. AB 6

NOTICE OF PROPERTY TAX
RE: 3C and 3C-1 MALACCA STREET

ORIGINAL BILL A/H No.52410

List 6/22
9
N.D. 26 SEP 1960

CITY COUNCIL OF SINGAPORE
TREASURER'S DEPT. INCOME A/CS. SECTION (RATES)
P.O. BOX No. 3005, SINGAPORE

27 SEPT 1960

BANK NEGARA INDONESIA

Dr. TO THE MUNICIPAL FUND

YOU ARE HEREBY informed that the half-yearly rates at 36% per annum of the Annual Value of your premises for the 2nd half-year 1960, are now due and payable at the City Hall, Singapore.

Section 121 of the Local Government Ordinance 1957 (71 of the Municipal Ordinance) provides for the issue of Notices of Demand bearing a fee of 50 cents each, if the rates remain unpaid after the 14th August 1960.

House No.	Where situated	Annual Value $	Half-year's Rates $	cts.
3C	Malacca Street	6204	1116	72
	add period:			
	1/1/60 to 30/6/60		1116	72
	1/7/59 to 31/12/59		1116	72
	1/6/59 to 30/6/59		*1116	72
3C-1	Malacca Street	3144	565	92
	add period:			
	1/1/60 to 30/6/60		565	92
	1/7/59 to 31/12/59		565	92
	1/6/59 to 30/6/59		94	32
			$ 6258	96

Plaintiffs (Appellants) Exhibits

No. AB 6 Notice of Property Tax Re: 3C and 3C-1 Malacca Street (continued)

RECEIVED the sum stated below in machine printed figures

No other type of receipt in this space will be recognised.

* See amendment

Cashier

Rates A/cs. Division
Treasurer's Dept.

Bill A/H No. 52410

Led. No. 9 C

Folio A

Fees.

THE RECEIPT WILL BE MACHINE PRINTED ON THIS BILL WHICH MUST BE PRODUCED INTACT WHEN PAYMENT IS MADE

Plaintiffs (Appellants) Exhibits

No. AB 7
Notice of Property Tax Re: 3/A/B/C/D Malacca Street

Exhibit No. AB 7

NOTICE OF PROPERTY TAX RE: 3/A/B/C/D MALACCA STREET

11 OCT 1960 ORIGINAL BILL A/H No. 52409

List 6/22
Led. 9
N.D. 26 SEP 1960 27 SEP 1960

Bank Negara Indonesia
3/A/B/C/D Malacca Street,
Singapore

Dr. TO THE MUNICIPAL FUND.

YOUR ARE HEREBY informed that the half-yearly rates at 36% per annum of the Annual Value of your premises for the 2nd half-year 1960, are now due and payable at the City Hall, Singapore.

Section 121 of the Local Government Ordinance, 1957, (71 of the Municipal Ordinance), provides for the issue of Notices of Demand bearing a fee of 50 cents each, if the rates remain umpaid after the 14th August 1960.

House No.	Where situated	Annual Value $	Half-year's Rates $	cts.
3/A/B	Malacca Street	28260	5086	80
	add period:			
	1/1/60 to 30/6/60		5086	80
	1/7/59 to 31/12/59		5086	80
	1/6/59 to 30/6/59		847	80
			16108	20
	Less credit transfer from 3/A/D Malacca St.)		7139	25
			8968	95

RECEIVED the sum stated below in machine printed figures
No other type of receipt in this space will be recognised

Exhibit No. AB 8

LETTER FROM TAN, RAJAH & CHEAH TO THE MANAGER BANK NEGARA INDONESIA

Plaintiffs (Appellants) Exhibits

No. AB 8 Letter from Tan, Rajah & Cheah to the Manager Bank Negara Indonesia 2nd March, 1961

Tel Nos. 30241-2

TAN, RAJAH & CHEAH
Advocates & Solicitors
Commissioners for Oaths
Notaries Public

2 RAFFLES PLACE
(2ND FLOOR)
SINGAPORE, 1

C.C.Tan
A.P.Rajah

3 MAR 1961

Our ref: CCT/LHB
Your ref:XVI/C/561

2nd March, 1961

/289/C/61

Dear Sir,

Notice of Demand LB/N No. 19888
- do - No. 19889
- do - No. 19890

We acknowledge the receipt of your letter of the 1st instant forwarding three bills from the Comptroller of Property Tax which are returned herewith. These three bills are based on the new assessment agreed to with the City Council.

We therefore suggest that you send them a cheque to pay these bills immediately.

It is to be noted that the bills are made out for the first half of 1961 although according to the letter of the Consultant Assessor the new assessment is to have effect from 1.6.59.

Plaintiffs (Appellants) Exhibits

No. AB 8
Letter from Tan, Rajah & Cheah to the Manager Bank Negara Indonesia 2nd March, 1961

We understand that there is a good deal of upset in the Property Tax Department and there is no point writing them any protest regarding their rather discourteous conduct in this matter. Presumably the bills for 1959 and 1960 will come at some future date.

Yours faithfully,

(Sgd) Tan, Rajah & Cheah

The Manager,
Bank Negara Indonesia.

Encs. 3

Exhibit No. AB 9

NOTICE TO QUIT
12th January, 1961

Plaintiffs (Appellants) Exhibits

No. AB 9 Notice to Quit - 12th January, 1961

COPY

TAN RAJAH & CHEAH

CCT/H

To:
Messrs. Philip Hoalim & Co.,
or other the tenants or occupiers of
the premises known as No.3C Malacca Street,
Singapore.

NOTICE TO QUIT

As instructed by your landlord Bank Negara Indonesia we hereby give you notice and demand and require of you that you do on the 28th day of February 1961 (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 on you) quit and deliver up to our client possession of the premises known as No.3C Malacca Street, Singapore, held by you as a tenant of our client on a monthly tenancy.

Dated this 12th day of January 1961

Sd. Tan, Rajah & Cheah

Advocates & Solicitors
No.2 Raffles Place
(Top floor) Singapore.

Plaintiffs (Appellants) Exhibits

No. AB 10 "Without Prejudice letter from Tan, Rajah & Cheah to Philip Hoalim & Co. 12th January, 1961

Exhibit No. AB 10

"WITHOUT PREJUDICE" LETTER FROM TAN, RAJAH & CHEAH TO PHILIP HOALIM & CO. 12th January 1961

COPY

TAN, RAJAH & CHEAH

12th January 1961

CCT/H

Dear Sirs,

WITHOUT PREJUDICE

re: No.30 Malacca Street, Singapore

With reference to the enclosed notice to quit, we are instructed to inform you that if you intend to continue in occupation of the premises as a tenant of our client, our client is willing to grant you a new monthly tenancy at the rental of $517/- per month. This is the rental at which our client has been assessed by the Comptroller of Property Tax as assessor to the City Council and you will agree that having regard to the nature and condition of the premises occupied by you and the rates levied by the Comptroller the offer made to you herein is very reasonable.

This offer will remain open until the expiration of the notice to quit.

Yours faithfully,

Sd: Tan, Rajah & Cheah

Messrs. Philip Hoalim & Co.
Singapore.

Exhibit No. AB 11

"WITHOUT PREJUDICE" LETTER FROM TAN, RAJAH & CHEAH TO PHILIP HOALIM & CO. 4th March, 1961

Plaintiffs (Appellants) Exhibits

No. AB 11 "Without Prejudice" letter from Tan, Rajah & Cheah to Philip Hoalim & Co. 4th March, 1961

COPY

TAN RAJAH & CHEAH
CCT/LHB

4th March, 1961

WITHOUT PREJUDICE

Dear Sirs,

re: NO.3-C Malacca Street.

Further to the interview between your Mr. Philip Hoalim and the writer we have put the following suggestions to our clients for a settlement of the matter herein :-

1. A lease of the above premises to be granted to Mr. Philip Hoalim for the term of three years at the rental of $280- per month as from the 1st instant.

2. All arrears of rent at the rate of $147.40 per month (without any deduction for electricity charges) are to be paid up to 28.2.61.

3. The lease shall contain an option to the Lessee to terminate the lease by three months' notice in writing and there shall be no assignment or sub-letting.

Our clients have accepted our recommendations in this matter and if you will confirm the above terms we shall proceed to draft the lease.

Yours faithfully,
Sd. Tan, Rajah & Cheah

Messrs. Philip Hoalim & Co.

Plaintiffs (Appellants) Exhibits

No. AB 12 Letter from Philip Hoalim & Co. to Tan, Rajah & Cheah 7th March, 1961

Exhibit No. AB 12

LETTER FROM PHILIP HOALIM & CO.
TO TAN, RAJAH & CHEAH
7th March, 1961

COPY

PHILIP HOALIM & CO. March 7, 1961

PH/J: 472/61

Messrs. Tan Rajah & Cheah,
Singapore.

Dear Sirs,

re: No.3-C Malacca Street

We are in receipt of your letter of the 4th instant and confirm the terms therein stated.

We are checking up the arrears of rent due to your clients up to the 28th February 1961 and will send you a cheque in due course.

Yours faithfully,

Sd. Philip Hoalim & Co.

Exhibit No. AB 13

LETTER FROM PHILIP HOALIM & CO.
TO TAN, RAJAH & CHEAH
22nd March, 1961

Plaintiffs (Appellants) Exhibits

No. AB 13
Letter from Philip Hoalim & Co. to Tan Rajah & Cheah 22nd March, 1961

COPY

PHILIP HOALIM & CO. March 22, 1961

PH/J/BS 642/61

Messrs. Tan Rajah & Cheah,
Singapore.

Dear Sirs,

re: No. 3-C Malacca Street, Singapore

We are in receipt of your letter of the 15th instant, with draft lease in duplicate and return herewith one copy thereof duly approved by us.

Rent for the 7 months from December 1958 to June 1959 amounting to $1,031.80 against our expenses and damages incurred during this period caused by the demolition work has been agreed to. (See our letter dated 7th October 1959 to Messrs. Allen & Gledhill)

Cheques for July, August and September 1959 were sent to Messrs. Allen & Gledhill on 30th June 1959, 5th August 1959 and 7th September 1959 (See letters).

October 1959 rent was paid on 5th November 1959 and receipt No. 8973 dated 6th November 1959 was given therefor.

Electricity charges which have been set off against rent for February, March and April 1960 now waived as agreed to.

Plaintiffs (Appellants) Exhibits

No. AB 13
Letter from Philip Hoalim & Co. to Tan Rajah & Cheah
22nd March, 1961

(continued)

There is therefore now outstanding rent for the 13 months from February 1960 to February 1961 at $147.40 per month amounting altogether to $1,916.20.

Yours faithfully,

Sd. Philip Hoalim & Co.

Enc.

Exhibit No. AB 14

LETTER FROM TAN, RAJAH & CHEAH
TO PHILIP HOALIM & CO.
27th March, 1961

Plaintiffs (Appellants) Exhibits

No. AB 14
Letter from Tan Rajah & Cheah to Philip Hoalim & Co.
27th March, 1961

COPY

TAN, RAJAH & CHEAH

CCT/EO
PH/J/BS642/61 27th March 1961

Dear Sirs,

Re: No.3-C Malacca Street, Singapore

We acknowledge the receipt of your letter of the 22nd inst.

Our clients do not admit that they are liable to pay the expenses and damages amounting to $1,031.80 but as this matter is being settled, they have on our advice taken an amicable attitude and are willing to allow a deduction of seven months rent. We, therefore, enclose herewith two fair copies of the lease. Kindly execute and return the same to us with your cheque for $1,916.20 being the amount mentioned in the last paragraph of your letter. We shall see to the execution of the Lease by the Bank and the stamping thereafter.

Yours faithfully,

Sd. Tan, Rajah & Cheah

Messrs. Philip Hoalim & Co.

Plaintiffs (Appellants) Exhibits

No. AB 15 Letter from Philip Hoalim & Co. to Tan, Rajah & Cheah 28th March, 1961

Exhibit No. AB 15

LETTER FROM PHILIP HOALIM & CO.
TO TAN RAJAH & CHEAH
28th March, 1961

COPY

PHILIP HOALIM & CO.

PH/BS 693/61 28th March, 1961

Messrs. Tan Rajah & Cheah,
Singapore.

Dear Sirs,

Re: No.3-C Malacca Street,
Singapore

We are in receipt of your letter of the 27th instant.

As requested we send you herewith our cheque for $1,916.20 and the Lease.

We are happy that with yourkindly help this matter has been amicably settled.

Yours faithfully,

Sd. Philip Hoalim & Co.

Plaintiffs (Appellants) Exhibits

No. AB 16 Lease of No.3C Malacca Street 29th March, 1961

Exhibit No. AB 16

LEASE OF No.3C MALACCA STREET 29th March, 1961

Stamp Office, Singapore Stamp $28.00
29.III.61

THIS LEASE made the 29th day of March One thousand nine hundred and sixty one (1961) Between BANK NEGARA INDONESIA a body corporate incorporated in Indonesia and having a place of business at No.3 Malacca Street, Singapore (hereinafter called "the Landlord" which expression where the context so admits shall include the persons entitled for the time being to the reversion immediately expectant on the term hereby created) of the one part and PHILIP HOALIM of No.3-C Malacca Street, Singapore, advocate and solicitor practising under the firm or style of Philip Hoalim & Co. (hereinafter called "the Tenant") of the other part

WITNESSETH as follows :-

1. The Landlord hereby demises unto the Tenant ALL that the room and appurtenances known as No.3C Malacca Street, Singapore comprising the front portion of the third floor of the building known as No.3 Malacca Street, Singapore (which said room and appurtenances are hereinafter referred to as "the demised premises") TOGETHER with the right in common with the Landlord and the tenants and occupiers of other portions of the said building known as No.3 Malacca Street, Singapore (hereinafter called "the Bank Negara Building") and all others having the like right to use for purposes only of access to and egress from the demised premises the entrance hall staircases, lifts, passages and landing therein TO HOLD the same unto the Tenant from the 1st day of March 1961 for the term of three years at the monthly rent of Dollars Two Hundred and eighty ($280.00) payable in advance on the first day of

Plaintiffs (Appellants) Exhibits

No. AB 16 Lease of No. 3C Malacca Street 29th March, 1961

(continued)

each calendar month for the month immediately following such payment.

2. The Tenant hereby covenants with the Landlord as follows :-

(i) To pay the said rent in manner aforesaid

(ii) To pay all City Council or Local Government charges for the supply of electricity and other Municipal services.

(iii) To permit the Landlord and its agents with or without workmen and others at all reasonable times to enter the demised premises and to view the state and condition thereof and then to execute such repairs and works as the Landlord may see fit to execute, and also for thepurpose of executing any repairs or work to or in connection with any other part of the Bank Negara Building or enter upon the demised premises or any part thereof with or without any necessary tools and appliances.

(iv) Not to make any structural or material alterations in the demised premises or in any part thereof without first obtaining the written consent of the Landlord

(v) Not to use the demised premises or any part thereof or suffer the same to be used except for business offices and in particular not to permit or suffer any one to sleep therein or use or to permit or suffer the use of the same or any part thereof for residential purposes.

(vi) To keep in good and tenantable repair and condition all the internal parts of the demised premises including all glass in the windows thereof and the Landlord's fixtures and fittings

therein (damage by fire and reasonable wear and tear only excepted)

(vii) Not to fix or exhibit or permit to be fixed or exhibited to or upon any exterior wall or pillar or any other part of the exterior of the demised premises any placard poster, signboard, electric sign or other advertisement except such as shall be previously approved in writing by the Landlord

(viii) To permit all persons having written authority from the Landlord or its agents on reasonably applying for permission at the demised premises to enter and view the same and every part thereof during office hours

(ix) Not to store in or bring into the demised premises any articles of a specially combustible inflammable or dangerous nature.

(x) Not to do anything whereby any insurance of the Bank Negara Building against fire may be rendered void or voidable or whereby the premium for any such insurance may be liable to be increased

(xi) Not to assign or sub-let or part with the possession or the occupation or the use of the demised premises or any part thereof

(xii) Not to do or permit or suffer to be done upon the demised premises anything which in the opinion of the Landlord may be or become a nuisance or annoyance to or in any way interfere with the quiet enjoyment and comfort of the other occupants of the Bank Negara Building.

Plaintiffs (Appellants) Exhibits

No. AB 16 Lease of No.3C Malacca Street, 29th March, 1961

(continued)

(xiii) At the determination of the tenancy to yield up the demised premises and all fixtures and fittings therein in such good and tenantable repair as shall be in accordance with the Tenant's covenants herein contained.

3. The Landlord hereby covenants with the Tenant :-

(a) That the Tenant paying the rents hereby reserved and observing and performing the covenants and stipulations on his part hereinbefore contained shall quietly enjoy the demised premises during the tenancy hereby created without any interruption by the Landlord or any person claiming under or in trust for the Landlord

(b) That during the tenancy hereby created the Landlord will bear pay and discharge all property tax, rates or assessments and other outgoings imposed on and payable in respect of the demised premises or the Bank Negara Building except the charges for the supply of electricity and other municipal services.

(c) That the Landlord will during the said term keep in good structural repair and condition the roof and outside walls and other outside parts of the Bank Negara Building and all the drains and water pipes and sanitary and water apparatus thereof (except as regards damage caused by or resulting from any act or default or negligence of the Tenant or his agents, servants or licencees) and shall not do or permit or suffer to be done by any other occupant or occupants of any other part of the Bank Negara Building anything which may be or become a nuisance or annoyance to the Tenant.

Plaintiffs (Appellants) Exhibits

No. AB 16 Lease of No. 3C Malacca Street, 29th March, 1961

(continued)

PROVIDED ALWAYS AND IT IS EXPRESSLY AGREED as follows :-

(i) If the said rent shall be unpaid for fifteen days after becoming payable (whether in the case of the said rent the same shall have been formally demanded or not) or if any covenant herein expressed and on the part of the Tenant to be performed or observed shall not be performed or observed or if the Tenant shall become bankrupt or enter into any composition with its creditors or suffer any distress or execution to be levied on his goods then and in any of the said cases it shall be lawful for the Landlord at any time thereafter to re-enter upon the demised premises and thereupon this demise shall absolutely determine but without prejudice to the right of action of the Landlord in respect of any breach of the Tenant's covenants herein contained.

(ii) In case the Bank Negara Building or any part thereof shall at any time during the said term be so damaged by fire that the demised premises shall be rendered unfit for occupation and use then and in every such case (unless the insurance money shall be wholly or partially irrecoverable by reason solely or in part of any act or default of the Tenant) no rent shall be payable hereunder by the Tenant in respect of any period while the demised premises shall continue unfit for occupation and use by reason of such damage and any dispute with reference to this proviso shall be referred to arbitration in accordance with the Arbitration Ordinance (Cap.10) or any statutory modification or re-enactment thereof for the time being in force.

Plaintiffs (Appellants) Exhibits

No. AB 16 Lease of No. 30 Malacca Street 29th March, 1961

(continued)

(iii) If as the result of the breach of any covenant on the part of the Tenant hereinbefore expressed, any damage shall be caused to the demised premises the Tenant shall make good such damage before the expiration of the term hereby created

(iv) If as the result of the breach on the part of the Tenant of the covenant expressed in clause (x) of paragraph 2 hereof the Landlord is called upon to pay any additional premium for fire insurance, the Tenant shall upon demand by the Landlord pay to the Landlord the amount of such additional premium without prejudice to the other rights of the Landlord

(v) The Tenant shall be at liberty upon giving three months' prior notice in writing to terminate the Lease hereby created

(vi) Any notice whatsoever including notice to quit and notice of demand for payment of arrears of rent to be served on the Tenant shall be sufficiently served if it is left at or affixed on the door of the demised premises

IN WITNESS WHEREOF the Attorney of the Landlord has hereunto set his hand and seal and the Tenant has hereunto set his hand and seal the day and year first above written

SIGNED SEALED AND DELIVERED)
by RADEN MAS SOEMARDI as the)
Attorney and on behalf of)
BANK NEGARA INDONESIA acting)
under a Power of Attorney)
dated the 13th day of May)
1959 (a copy of which was)
deposited in the Registry of)
the Supreme Court at)
Singapore on the 6th day of)

June 1959 and registered as)
NO.490 of 1959) in the)
presence of :-)

C.C. Tan
Solicitor, Singapore

SIGNED SEALED AND DELIVERED)
by the TENANT in the)
presence of :-)

Sd. PHILIP HOALIM

Sd.

Advocate & Solicitor
Singapore.

Plaintiffs (Appellants) Exhibits

No. AB 16
Lease of No. 3C Malacca Street
29th March, 1961

(continued)

Exhibit No. AB 17

BANK LEDGER CARDS RE: No. 3 MALACCA STREET

Plaintiffs (Appellants) Exhibits

No. AB 17 Bank Ledger Cards Re: No.3 Malacca Street

BANK PREMISES NO. 3 MALACCA STREET.

Date		Particulars	Debit	Credit	Dr or Cr.	Balance
1 FEB 1958	To	Transfer from Bank Premises	15 80		Dr.	15 80
	"	-do-	275000 -		Dr.	275015 80
	"	-do-	500 -		Dr.	275515 80
	"	-do -	275000 -		Dr.	550515 80
9 APR 1958	To	Entry of 4/1/58 in error (Transferred)	59 -		Dr.	550574 80
20 JUN 1958	To	b/Order.Advance payment of Renovation	200000 -		Dr.	750574 80
30 JUN 1958	By	Balance		750574 80		NIL

Plaintiffs (Appellants) Exhibits

No. AB17 Bank Ledger Cards Re: No. 3 Malacca Street (continued)

ACCOUNT: BANK PREMISES NO. 3 MALACCA STREET

ACCOUNT No.

CARD No. 1

Date	Description	Reference	Debit	Credit	Balance
31 AUG 58			750,574.80		750,574.80

Plaintiffs (Appellants) Exhibits

ACCOUNT: BANK PREMISES NO. 3 MALACCA STREET

ACCOUNT No.
CARD No.

No. AB 17 Bank Ledger Cards Re: No. 3 Malacca Street

Old Balance	Date	Description	Debit	Credit	Balance
	31 DEC. 58	Balance brought forward	750574.80		750574.80
750574.80	30 APR. 59	Reverse entry re Bank Premises V DD 9/4/59		59.00	750515.80
750515.80	15 JUN 59	To C/Order Cav Chew Professional Services & Bank Counter Writing Desk No.3 Malacca St V4452	19400.00		
		To C/Order Khoo Teck Puat Adv.Payt letter dd 10/6/59 Renovation 3 Malacca St. V 4454	74757.58		844673.38
844673.38	18 JUN 59	Payt to Khoo Teck Puat Balance of Renovation & Repair Works No.3 Malacca St as per estimate Dd 9/5/58 V5299	38900.00		883573.38

Old Balance	Date	Description	Debit	Credit	Balance
	30 June 59	Balance Bt/fwd	883573.38		883573.38
883573.38	4 JUL 59	To C/Order Allen & Gledhill Charges for drawing & engrossing Assignment V753	13598.50		897171.88
897171.88	10 JUL 59	To C/Order Cav Chew Reimbursement for electrical charges 3 Malacca St V2667	850.00		898021.88
898021.88	16 JUL 59	To C/Order Van Hin Furniture 1 Desk 1 Revolving Chair 4 Visitors Chairs V4489	772.00		898793.88
898793.88	2 SEP 59	Payt to Tong Bros. Re extend partition at 1st floor & remove Peg Peg Partition Store Room Bill TDS/1798/59 DD 14/7/59 V600	444.00		
		Payt to patent woodwork Co. Supply 1 Tel cupboard & 3 Benches Bill 1408 & 1414 V604	580.00		
		Payt to Spotradio Ltd. 4 sets Luxaflex Venetian Blinds V606	249.25		900067.13
9000671.13	9 SEP 59	By Trade discount Re 4 sets venetian blinds from Spotradio Co. V2639		37.39	900029.74

Plaintiffs (Appellants) Exhibits

No. AB 17 Bank Ledger Cards Re: No.3 Malacca Street

Plaintiffs (Appellants) Exhibits	Old Balance	Date	Description	Debit	Credit	Balance
No. AB 17 Bank Ledger Cards Re: No.3 Malacca Street (continued)	900029.74	24 OCT 59	Payt to Tong Bros. Re Cav Chew Certificate 232 work carried out at 1st floor Mal.St. V7897A	3165.00		903194.74
	903194.74	15 DEC 59	Payt to Mr.Cav Chew for Prof.Service Bill No. 808 DD 9/11/59 VC5867	421.30		
			Payt to the Patent Woodwork Co. 6 writing desks 3 Mal St Inc No. 1459 DD 6/11/59 VG 5260	1180.00		904796.04
	904796.04	31 DEC 59	Bank premises written off 10% for the yr 1959 trn to P & L A/C V11049		90479.60	814316.44

Account No. 27,001

Old Balance	Date	Description	Debit	Credit	Balance	Plaintiffs (Appellants) Exhibits
	31 DEC 59	Balance Brought forward	814316.44		814316.44	
814316.44	13 JAN 60	To Diethelm & Co. Ltd. Aluminium Chinese Charac Ters 3 Mal St V3702	183.60			No.AB 17 Bank Ledger Cards Re: No.3 Malacca Street (continued)
		To Tong Bros. Re Extras Bill TBS/1959/59 DD 8/12/59 V3704	929.20			
		To CAV Chew Professional Services rendered for Furniture V3700	47.00		815476.24	
815476.24	16 MAR 60	To payt to Diethelm & Co. Ltd. of Aluminium Signboard estimate 3072 and 8/A B,287 V05007	574.50		816050.74	
816050.74	18 MAR 60	To payt to Municipal Fund Re Changing Electric Service Cable No.3 Malacca Street VC5761	404.31		816455.05	
816455.05	3 MAY 60	To payt to CA Chew fixing and servicing aluminium signboard et. & fabricating 1 staircase VC544	1447.50		817902.55	

Plaintiffs (Appellants) Exhibits

No. AB 18

Notice to Quit 13th January, 1969

Exhibit No. AB 18

NOTICE TO QUIT

CCT/LHB

To

Mr. Philip Hoalim,
or other the tenant or occupier
of the front room of the 3rd floor
of the building known as
No.3 Malacca Street, Singapore

NOTICE TO QUIT

As instructed by your landlord, Bank Negara Indonesia, we hereby give you notice and demand and require of you that you do on the 28th day of February 1969 quit and deliver up to our client possession of the front room on the 3rd floor of the building known as No.3 Malacca Street, Singapore leased to you under a Lease dated 29th March 1961 for a period of three years (from the 1st day of March 1961 and expiring on the 28th day of February 1964) and held over by you since the expiration of the said Lease.

And Take Notice that in case of any refusal or neglect on your part to comply with this notice, legal proceedings will be commenced against you without further notice.

Dated this 13th day of January, 1969

SD. Tan, Rajah & Cheah
Advocates and Solicitors
No.2 Raffles Place
(top floor) Singapore.

Exhibit No. AB 19

CERTIFICATE OF THE COMPTROLLER
OF PROPERTY TAX
10th March, 1970

Plaintiffs
(Appellants)
Exhibits

No. AB 19
Certificate
of the
Comptroller
of Property
Tax
10th March,
1970

GOVERNMENT OF THE REPUBLIC OF SINGAPORE

INLAND REVENUE DEPARTMENT
PROPERTY TAX DIVISION
GOVERNMENT OFFICES
ST.ANDREW'S ROAD,
SINGAPORE 6.

Tel. 2819
In reply please
quote:
A.F.(TLY)

C E R T I F I C A T E

re: No. 3C Malacca Street

This is to certify that the Valuation List for 1958 shows that No.3C Malacca Street was assessed together with Nos. 3, 3A, 3B & 3D Malacca Street at an annual value of $12,525.

Sd. Tan Lau Yong

(Miss Tan Lau Yong)
f. Comptroller of Property Tax

Plaintiffs (Appellants) Exhibits

No. AB 20 Letter from Mallal & Namazie to Tan, Rajah & Cheah 10th March, 1970

Exhibit No. AB 20

LETTER FROM MALLAL & NAMAZIE TO TAN, RAJAH & CHEAH 10th March, 1970

MALLAL & NAMAZIE
Advocates & Solicitors

No.11 D'Almeida Street
Singapore, 1.

Our ref: YRJ/ew
Your ref. YEK/LHK/124/69

10th March 1970

Date rec'd 11 Mar 1970
Time 10.35 a.m.
Reference YEK/LHK

Messrs. Tan, Rajah & Cheah,
Singapore.

Dear Sirs,

Re: Suit No. 431 of 1969

We have your letter of even date.

You are seeking our co-operation at every stage and receiving same, but it seems to the writer that you are not at all prepared to extend your co-operation to us.

Over the telephone your Mr. Yin did not say that he was excluding all but one of the documents, three copies of each of which were sent to you to agree and include in the bundle you still have not prepared. Mr. Yin told our Mr. Jumabhoy that he could not agree to some of the documents being included and the writer then told Mr. Yin to return the ones he could not agree to.

Plaintiffs (Appellants) Exhibits

No. AB 20
Letter from Mallal & Namazie to Tan, Rajah & Cheah 10th March, 1970

(continued)

Next we come to your alleged reasons for the rejection of our documents. In short, we have not understood them. Surely it is not necessary for us to call Messrs. Mallal, Brash, and Atkinson to Court to say that they wrote the letters which were signed by them. Any Court will accept the said letters if produced from proper custody, namely the files of Philip Hoalim & Co. and Allen & Gledhill.

Your only objection to the inclusionof our documents must be on the ground that they are irrelevant and therefore inadmissible in evidence. Let us take the rejected documents first before the letters :-

(1) Assignment to your clients' predecessors in title, Lee Cheng Kiat dd. 31.1.58 :-

This shows No.3 Malacca Street as an existing building before your clients purchased same on 7.7.59. That Lee Cheng Kiat is the same person as the said Lee Cheng Kiat who sold No.3 Malacca Street to your clients. That he is your clients' predecessor in title.

(2) Xerox copy of Articles of Agreement dd. 19.6.58 between Lee Cheng Kiat and Messrs. Tong Brothers :-

This would indicate the additions and alterations to No.3 Malacca Street. Whether it is a new building or not and what changes have been effected. How irrelevant?

(3) Letters and copy letters :-

These are all open letters showing how Mr. Hoalim acted while the premises were being repaired and renovated and what your clients' predecessor in title offered him. This has also been referred to in the pleadings and evidence will be led as being highly relevant and in issue.

Plaintiffs (Appellants) Exhibits

No. AB 20 Letter from Mallal & Namazie to Tan, Rajah & Cheah 10th March, 1970

(continued)

In your Reply, you say that you are relying on S.4 of the Registration of Deeds Ordinance for the exclusion of this evidence. It seems to us that you have not understood the said Ordinance and we would request you to refer to same again. As we see it, there is nothing in the said S.4 to exclude the said letters.

Please rethink.

You yourselves have produced a number of letters now and you may include same in the bundle. We do not take unnecessary objections. Similarly you may include the other documents you have mentioned in your letter under reply. Please also include copies of this letter in the bundle which you prepare.

Herewith your copy letters.

Yours faithfully,

Sd. Mallel & Namazie

Encs.

P1 to P32 In Folder

Exhibits P1 to P32

In Folder

Exhibit No. P 33

Voucher and Cashier's Order showing payment of $200,000/- to Khoo Teck Puat 20th June, 1958

Plaintiffs (Appellants) Exhibits

No. P.33 Voucher and Cashier's Order showing payment of $200,000/- to Khoo Teck Puat 20th June, 1958

NEGARA INDONESIA
Singapore Branch

V O U C H E R

DEBIT	AMOUNT	CREDIT
BANK PREMISES NO.3 MALACCA STREET	$200,000.00	CASHIER'S ORDER 54121

(Dollars Two hundred thousand only)

Payment to Mr. Khoo Teck Puat a/c of Mr. Lee Cheng Kiat for advance payment of renovations etc. of No.3 Malacca Street

Entries passed 20 JUNE 1958

BN CASHIER'S ORDER
No. 1 054121 Singapore 20th June 1958

BANK NEGARA INDONESIA
SINGAPORE BRANCH

Pay Mr. Khoo Teck Puat
Dollars Two hundred thousand

PAID 20 JUNE 1958

$200,000.-

Defendants (Respondents) Exhibits

No. D1 Letter from Mallal & Namazie to Allen & Gledhill 4th October, 1958

Exhibit No. D 1

LETTER FROM MALLAL & NAMAZIE TO ALLEN & GLEDHILL 4th October, 1958

MALLAL & NAMAZIE
ADVOCATES & SOLICITORS

Our ref: NAM/OAA/ 4th October, 1958

U R G E N T

Dear Sirs,

Re: No.3 Malacca Street

As you know, we have been and are still acting for Messrs. Philip Hoalim & Co. in connection with their dispute with the owner of the premises as regards the tenancy.

This morning, we received an urgent call from Mr. Philip Hoalim, Sr., asking us to go over and have a look at his office. The writer went over and found that parts of Messrs. Philip Hoalim & Co's office were actually swimming in water which had come through the ceiling. On going up to the second floor we found that there were pools of water on that floor caused, partly, but not to a very large extent by the removal of the roofing material and substitution therefor of paper and partly, and this to a very great extent, by overflow of water from the down drains which, presumably, had been blocked up by debris. We would request a member of your firm to call and inspect the premises. This is to inform you that unless the nuisance is abated immediately our instructions are to take out a Writ claiming an injunction and damages, which our clients trust will not be rendered necessary.

It is already 10.30 a.m. and if your clients are to move in the matter they will have to do so immediately.

Kindly acknowledge receipt.

Yours faithfully,
Sd. Mallal & Namazie

Messrs. Allen & Gledhill
Singapore

Exhibit No. D 2

LETTER FROM MURRAY BRASH
TO PHILIP HOALIM
7th October, 1958

Defendants (Respondents) Exhibits

No. D2
Letter from Murray Brash to Philip Hoalim
7th October, 1958

ALLEN GLEDHILL
ADVOCATES & SOLICITORS

59 & 61 The Arcade,
Raffles Place
Singapore.

Our ref: MBB/VB

7th October, 1958

Philip Hoalim (sr) Esqr.
Messrs. Philip Hoalim & Company,
Singapore.

Dear Philip,

re: No.3 Malacca Street

With reference to our telephone conversation this morning I am obliged to you for agreeing to move back in your premises at any time that the Landlord desires in order that the front of the building can be repaired and I assure you that within one week room B will be placed at your disposal so that you will not be short of any accommodation in the meanwhile.

As I explained to you this morning on the telephone the supporting walls are not sufficiently strong to take the cement floor which is now the present roof of your office. The floor has no reinforced concrete at all and at the moment it constitutes a danger and whilst the building is being reconstructed the landlord will reinforce the supports so that the ceiling will be safe.

With regard to areaas I assured you there will bea lift to the top floor and the landlord will give you approximately the same area as your present office less the balcony and passage ways which are at the moment taken into consideration in your total area.

Defendants (Respondents) Exhibits

No. D2
Letter from Murray Brash to Philip Hoalim 7th October 1958

(continued)

The landlord has stressed that he wants to have the work carried out as quickly as possible now so that everything may be completed before the end of the year and I would be obliged if you would assist in every way possible.

Yours sincerely,

Sd. Murray.

No. D3
Letter from Philip Hoalim to Murray Brash 8th October, 1958

Exhibit No. D 3

LETTER FROM PHILIP HOALIM TO MURRAY BRASH 8th October, 1958

PHILIP HOALIM & CO.
ADVOCATES & SOLICITORS

PH(SR)/J. October 8, 1958

Dear Murray,

re: 3 Malacca Street

I am in receipt of your letter of the 7th instant a little while ago.

I am distressed to find that the roof and drainpipes of the building complained of have not been remedied notwithstanding my telephone conversation and letters on the matter.

I cannot agree to anything at all about the office until the aforesaid matters have been attended to.

It appears to me that the landlord does not care what happens.

Yours sincerely,
Sd. Philip

M.B.Brash, Esq. Singapore

Exhibit No. D 4

LETTER FROM PHILIP HOALIM & CO. TO ALLEN & GLEDHILL 18th November, 1958

Defendants (Respondents) Exhibits

No. D4 Letter from Philip Hoalim & Co. to Allen & Gledhill 18th November, 1958

PHILIP HOALIM & CO.
ADVOCATES & SOLICITORS

Our ref: PHS/RT 5024/58 18th November, 1958

Messrs. Allen & Gledhill,
Singapore.

Dear Sirs,

Attention Mr. Atkinson

3 Malacca Street

We are constrained to inform you that the leakage in our office caused by the repairs affected by the owner on the building has not been completely ameliorated.

The office was flooded by the heavy rainfall this morning and we shall be glad if your Mr. Atkinson will be good enough to bring home to the owner of the building the urgency of remedying the said leakage.

We don't mind the deafening noise above and below as this must needs occur if the repairs are to be done but the leakage may involve inconvenience, discomfort and cessation the work.

Yours faithfully,

Sd. Philip Hoalim & Co.

Defendants (Respondents) Exhibits

No. D5
Letter from Allen & Gledhill to Philip Hoalim & Co. 20th November, 1958

Exhibit No. D 5

LETTER FROM ALLEN & GLEDHILL TO PHILIP HOALIM & CO. 20th November, 1958

ALLEN & GLEDHILL
ADVOCATES & SOLICITORS

59 & 61 The Arcade
Raffles Place,
Singapore.

Our ref: TEA/VB
Your ref: PHS/RT 5024/58

20th November, 1958

Messrs. Philip Hoalim & Company,
Singapore.

Dear Sirs,

re: No.3 Malacca Street

We have taken our client's instructions on your letter of the 18th November.

Our client had hoped that by this time the leakage in your ceiling would have been completely remedied but the work has taken a little longer than was anticipated. It is unfortunate that during the same period abnormally heavy rainfall has taken place which has resulted in your being very inconvenienced in the matter. Our client very much regrets this further inconvenience but you will appreciate that it has been due to circumstances beyond his control.

Our client's contractors assure him that the repairs to your ceiling will have been completed by the end of this week and that there will be no further possibility of leakage, after that date. In the circumstances our client trusts that you will exercise a little further forbearance and is obliged for your cooperative attitude in the matter.

Yours faithfully,
Sd. Allen & Gledhill.

Exhibit No. D 6

LETTER FROM PHILIP HOALIM & CO. TO LEE CHENG KIAT 14th April, 1959

Defendants (Respondents) Exhibits

No. D 6
Letter from Philip Hoalim & Co. to Lee Cheng Kiat 14th April, 1959

PHILIP HOALIM & CO.
ADVOCATES & SOLICITORS

Our ref: PH(SR)/J: 1049/59 April 14, 1959

Lee Cheng Kiat, Esq.
c/o C.A.V. Chew, Esq.,
No. 22-B South Canal Road,
Singapore.

Dear Sir,

re: No.3 Malacca St., Singapore

We refer to the conversation with Mr. Chew today, and on his assurance that the floor space of the front portion of the 3rd floor will be the same, if not more than, the floor space of the premises we have been occupying, we confirm that we are prepared to move up and occupy the front portion of the 3rd floor as soon as it is ready.

We are also willing to take over the back portion of the 3rd floor and should like to negotiate with you on this.

Yours faithfully,

Sd. Philip Hoalim & Co.

Defendants (Respondents) Exhibits

No. D 7
Letter from Murray Brash to Philip Hoalim
16th April, 1959

Exhibit No. D 7

LETTER FROM MURRAY BRASH TO PHILIP HOALIM
16th April, 1959

ALLEN & GLEDHILL
ADVOCATES & SOLICITORS

59 & 61 The Arcade,
Raffles Place,
Singapore.

Our ref: MBB/JS

16th April, 1959

Philip Hoalim Sr, Esq.,
3 Malacca Street,
SINGAPORE.

Dear Philip,

I have now seen your letter to Mr. Lee Cheng Kiat dated the 14th of April, and I have also carried out the promise given to you yesterday when we inspected the premises.

The position is that our Client had agreed to let the front portion of the premises to another tenant and as you stated that you specifically wanted the front portion and not the back he has with great difficulty managed to persuade the intended tenant of the front portion to take the back instead of the front. It is therefore quite impossible for our Client to agree to giving you the whole of the floor.

However, he is prepared to give you the front portion which we inspected yesterday at the same rental which you were previously paying for your old premises.

The premises into which you will move will, I understand, be completed shortly before the end of this month, and I should be grateful if you could confirm that you will make all arrangements for moving all your office personnel and equipment into the new premises so that the

rooms now being occupied by you will be vacated on or before the 1st of May next. This is, of course, subject to the premises being completed but I am assured that this will be done.

I think if you would please confirm this letter that the position is now in order before your departure.

Yours faithfully,

Sd. Murray

Defendants (Respondents) Exhibits

No. D 7
Letter from Murray Brash to Philip Hoalim
16th April, 1959

(continued)

Exhibit No. D 8

LETTER FROM PHILIP HOALIM TO MURRAY BRASH

No. D 8
Letter from Philip Hoalim to Murray Brash
16th April, 1959

PHILIP HOALIM & CO.
ADVOCATES & SOLICITORS

PH(SR)/J: 1069/59 April 16, 1959

M.B.Brash, Esq.,
Singapore.

Dear Murray,

I am in receipt of your letter of even date and with reference to the telephone conversation I had with you this morning I confirm that I will move into the front portion of the third floor as soon as it is completed subject to the lift then being ready for use, as you have agreed to.

Yours sincerely,

Sd. Philip.

Defendants (Respondents) Exhibits

No. D9 Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

Exhibit No. D 9

ARTICLES OF AGREEMENT BETWEEN LEE CHENG KIAT AND TONG BROTHERS
19th June, 1958

ARTICLES OF AGREEMENT made the 19th day of June Between LEE CHENG KIAT ESQ. of (or whose registered office is situate at) 10 Boat Quay Singapore (hereinafter called "the Employer") of the one part and M/S TONG BROTHERS of (or whose registered office is situate at) 37 Tannern Lane Singapore (hereinafter called "the Contractor") of the other part

Stamp to be impressed here if contract is under hand ...

WHEREAS the Employer is desirous of * Additions and alterations to existing building (hereinafter called "theWorks" at No.3 Malacca Street Singapore and has caused Drawings and a Specification marked "A" + showing and describing the work to be done to be prepared by or under the direction of C.A.V.CHEW, B.A. (cantab) DIP. ARCH (the polytechnic) A.R.I.B.A. Chartered Architect of 22b South Canal Road, Singapore 1 his Architect: AND WHEREAS the said Drawings numbered BP 160/58 (hereinafter referred to as "the Contract Drawings"), and the said Specification have been signed by or on behalf of the parties hereto: AND WHEREAS the Contractor has made an estimate of the sum which he will require for carrying out the said work:

*State nature of intended works.

It is important that the document to be used as Specification should be marked "A".

NOW IT IS HEREBY AGREED AS FOLLOWS :-

1. For the consideration hereinafter mentioned the Contractor will upon and subject to the Conditions annexed hereto execute and complete the works shown upon the said Drawings and described by or referred to in the said Specification and Conditions.

2. The Employer will pay to the Contractor the sum of Dollars ONE HUNDRED AND FIFTY SEVEN THOUSAND NINE HUNDRED ONLY ($157,900/-) (hereinafter referred to as "the Contract Sum") or such other sum as shall become payable hereunder at the times and in the manner specified in the said Conditions.

3. The term "the Architect" in the said Conditions shall mean the said C.A.V.CHEW, B.A. (cantab) DIP. ARCH. (the polytechnic) A.R.I.B.A. chartered architect of 22b South Canal Road, Singapore 1 or, in the event of his death or ceasing to be the Architect for the purpose of this contract, such other person as shall be nominated for that purpose by the Employer, not being a person to whom the Contractor shall object for reasons considered to be sufficient by the Arbitrator mentioned in the said Conditions. Provided always that no person subsequently appointed to be Architect under this contract shall be entitled to disregard or overrule any decision or approval or direction given or expressed by the Architect for the time being.

4. The term "the Surveyor" in the said Conditions shall mean in the event of his death or ceasing to be the Surveyor for the purpose of this contract, such other person as shall be nominated for that purpose by the Employer or the Architect on his behalf, not being a person to whom the Contractor shall object for reasons considered to be sufficient by the Arbitrator mentioned in the said Conditions.

*In Witness whereof the parties hereto have hereunto set their hands the day and year first

Defendants (Respondents) Exhibits

No. D9 Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

Defendants (Respondents) Exhibits

No. D9
Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

above written

Signed by the said LEE CHENG KIAT
10 Boat Quay
in the presence of:

Sd. Lee Cheng Kiat

Name: C.A.V.CHEW,B.A.
(cantab) DIP.ARCH
(the polytechnic)
A.R.I.B.A
Chartered Architect

SD C.A.V.Chew

10

Address: 22b South Canal Road,
Singapore 1

Signed by the said
.....

Sd.

.....

TONG BROTHERS

in the presence of:

Name:
Address:
Description:

Sd. C.A.V.Chew

*Footnote. - If the contract is to be executed under seal, this clause and the words following it must be altered accordingly.

Defendants (Respondents) Exhibits

No. D9 Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

Note. - Alternatives must be struck out in clause 15 and 24(d). Attention is also called to the footnotes to clauses 10 and 22 (a).

THE CONDITIONS HEREINBEFORE REFERRED TO

1. The Contractor shall carry out and complete the Works in accordance with this contract in every respect in accordance with the directions and to the reasonable satisfaction of the Architect. If the Contractor shall find any discrepancy in or divergence between the Contract Drawings and/or Specification he shall immediately refer the same in writing to the Architect and specifically apply in writing for any necessary instructions from the Architect in relation thereto. The Architect may in his absolute discretion and from time to time issue further drawings, details and/or written instructions, written directions and written explanations (all of which are in these Conditions collectively referred to as "Architect's Instructions") in regard to :

(a) The variation or modification of the design, quality or quantity of the Works or the addition or omission or substitution of any work

(b) Any discrepancy in or divergence between the Contract Drawings and/or Specification

(c) The removal from the site of any materials brought thereon by the Contractor and the substitution of any other materials therefor

(d) The removal and/or re-execution of any works executed by the Contractor

(e) The postponement of any work to be executed under the provisions of this contract

(f) The dismissal from the Works of any person employed thereupon

(g) The opening up for inspection of any work covered up

Defendants (Respondents) Exhibits

No. D9 Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

(h) The amending and making good of any defects in accordance with the provisions of clause 12 of these Conditions

If any verbal instructions, directions or explanations involving a variation are given to the Contractor or his foreman upon the Works by the Architect or by the Clerk of Works appointed by the Employer, such instructions, directions or explanations shall be confirmed in writing by the Contractor to the Architect within seven days, and if not dissented from in writing by the Architect to the Contractor within a further seven days shall be deemed to be Architect's Instructions. The Contractor shall forthwith comply with all Architect's Instructions. If compliance with Architect's Instructions involves any variation, such variation shall be dealt with under clause 9 of these Conditions and the value thereof shall be added to or deducted from the Contract Sum.

If compliance with Architect's Instructions involves the Contractor in loss or expense beyond that provided for in or reasonably contemplated by this contract, then, unless such instructions were issued by reason of some breach of this contract by the Contractor, the amount of such loss or expense shall be ascertained by the Architect and shall be added to the Contract Sum.

If within seven days after receipt of a written notice from the Architect requiring compliance with Architect's Instructions the Contractor does not comply therewith, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to such instructions and all costs incurred in connection therewith shall be recoverable from the Contractor by the Employer as a debt or may be deducted by him from any monies due or to become due to the Contractor under this contract.

Drawings and Specification

2. The Contractor shall furnish to the Architect on the signing of this contract a Schedule of

Defendants (Respondents) Exhibits

No. D9
Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

Rates upon which the Contractor's estimate has been based, unless such Schedule has already been furnished. The Contract Drawings and the said Specification and the said Schedule of Rates shall remain in the custody of the Architect so as to be available at all reasonable times for the inspection of the Employer or the Contractor. The Architect without charge to the Contractor shall on the signing of this contract furnish him with two copies of the Contract Drawings and of the Specification, and shall within a reasonable time also furnish him with such further Drawings as are reasonably necessary to enable him to carry out all Architect's Instructions and with any further details which in the opinion of the Architect are necessary for the execution of any part of the work. If any Bills of Quantities are provided, nothing contained therein shall confer any rights or impose any obligations beyond those conferred or imposed by the Contract Documents, namely, by the Contract Drawings, Specification and Conditions referred to in the Articles of Agreement. The Contractor shall keep one copy of the Contract Drawings and the Specification on the works so as to be available to the Architect or his representative at all reasonable times. Upon receiving final payment the Contractor shall forthwith return to the Architect all drawings and specifications bearing his name.

None of the documents hereinbefore mentioned shall be used by either of the parties hereto for any purpose other than this contract, and neither the Employer, the Architect nor the Surveyor shall divulge or use except for the purposes of this contract any information contained in the said Schedule of Rates.

Local and other authorities notices and fees

3. (a) The Contractor shall comply with and give all notices required by any local Ordinance or by any regulation or byelaw of any local authority or of any public service company or authority who have any jurisdiction with regard to the Works or with whose systems the same are or will be connected, and he shall pay and

Defendants (Respondents) Exhibits

No.D9 Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

indemnify the Employer against any fees or charges (including any rates or taxes) legally demandable under such Ordinance, regulation or byelaw in respect of the Works; provided that the said fees and charges (including any rates or taxes) if not expressly included in the Contract Sum or stated by way of provisional sum shall be added to the Contract Sum.

(b) The Contractor before making any variation from the Contract Drawings or Specification necessitated by such compliance shall give to the Architect written notice specifying and giving the reason for such variation and applying for instructions in reference thereto.

(c) If the Contractor within seven days of having applied for the same does not receive such instructions he shall proceed with the work conforming to the provision, regulation or byelaw in question and any variation thereby necessitated shall be deemed to be a variation under clause 9 of these Conditions.

Setting out the works

4. The Architect shall furnish to the Contractor, either by way of carefully dimensioned drawings or by personal supervision at the time of setting out the Works, such information as shall enable the Contractor to set out the enclosing walls of the building at ground level after which the Contractor shall be responsible and shall at his own cost amend any errors arising from his own inaccurate setting out, unless the Architect shall otherwise direct.

5. All materials and workmanship shall so far as procurable be of the respective kinds described in the Specification and the Contractor shall upon the request of the Architect furnish him with vouchers to prove that the materials comply therewith. The Contractor shall arrange for and/or carry out any test of any materials which the Architect may in writing require and the cost thereof shall be added to the Contract Sum unless provided for in the Specification or unless the test shows that the said materials are not in accordance with this contract.

Defendants (Respondents) Exhibits

No. D9 Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

6. The Contractor shall constantly keep upon the Works a competent general foreman and any instructions given to him by the Architect shall be deemed to be given to the Contractor in pursuance of clause 1 of these Conditions.

7. The Architect and his representatives shall at all reasonable times have access to the Works and/or to the workshops or other places of the Contractor where work is being prepared for the contract, and in so far as work in virtue of any sub-contract is to be so prepared in workshops or other places of a sub-contractor (whether or not a nominated Sub-Contractor as defined in clause 21 of these Conditions) the Contractor shall also by a term in the sub-contract so far as possible secure a similar right of access to those workshops or places for the Architect and his representatives and shall do all things reasonably necessary to make such right effective.

8. The Employer shall be entitled to appoint a Clerk of Works whose duty shall be to act solely as inspector on behalf of the Employer under the directions of the Architect and the Contractor shall afford every facility for the performance of that duty.

9. No variation shall vitiate this contract. All variations authorised by the Architect or subsequently sanctioned by him in writing shall be measured and valued by the Surveyor (or if none then by the Architect) who shall give to the Contractor an opportunity of being present at the time of such measurement and of taking such notes and measurements as the Contractor may require. The Contractor shall be supplied with a copy of the priced Bills of Variations not later than the end of the Period of Final Measurement stated in the appendix to these Conditions and before the date of the Architect's certificate in respect of such variations, and the valuation thereof unless previously or otherwise agreed shall be made in accordance with the following rules :-

Defendants (Respondents) Exhibits

No. D9 Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

(a) The Schedules of Rates mentioned in clause 2 of these Conditions shall determine the valuation of extra work of similar character executed under similar conditions as work priced therein;

(b) The said rates, where extra work is not of a similar character or executed under similar conditions as aforesaid, shall be the basis of prices for the same so far as may reasonable, failing which a fair valuation thereof shall be made;

(c) Where extra work cannot properly be measured and valued the Contractor shall be allowed day-working prices at the rates, if any, inserted by the Contractor in the Schedule of Rates above mentioned or in the Form of Tender. Provided that vouchers specifying the time daily spent upon the work (and if required by the Architect the workmen's names) and the materials employed shall be delivered for verification to the Architect or his authorised representative not later than the end of the week following that in which the work has been executed;

(d) The prices in the above-mentioned Schedule of Rates shall determine the valuation of items omitted; provided that if omissions substantially vary the conditions under which any remaining items of work are carried out the prices for such remaining items shall be valued under rule (b)of this clause.

The measurement and valuation of the Works shall be completed within the Period of Final Measurement stated in the appendix and if no other period is so stated then within three months from the practical completion of the Works and effect shall be given to the measurement and valuation of variations by adjustment of the Contract Sum.

Quantities

10. Any Bills of Quantities or other statements as to quantities of work supplied to the Contractor

shall not form nor be deemed to form any part of this contract and the rates inserted by the Contractor in the said Schedule of Rates shall continue to be applicable for the purposes of clause 9 of these Conditions notwithstanding any departure from such Bills of Quantities or other statements. The quality and quantity of the work included in the Contract Sum shall be deemed to be that which is shown upon the Contract Drawings or described in the Specification, but save as aforesaid nothing contained in the said Contract Drawings or Specification shall override, modify or affect in any way whatsoever the application or interpretation of that which is contained in these Conditions.)

*The fees and expenses for preparing Bills of Quantities and for measuring and valuing variations shall be paid by the Employer

Unfixed materials when taken into account to be the property of the Employer

11. Where in any certificate of which the Contractor has received payment the Architect has in accordance with clause 24(b) of these Conditions included the value of any unfixed materials and goods intended for and placed on or adjacent to the Works, such materials and goods shall become the property of the Employer and shall not be removed except for use upon the Works unless the Architect has authorised in writing such removal, but the Contractor shall remain responsible for loss or damage to the same.

* Footnote - This sentence may be struck out, if the parties so agree.

Defects after completion

12. Any defects, shrinkage or other faults which appear within the Defects Liability Period stated in the appendix to these Conditions and shall be due to materials or workmanship not in accordance with this contract shall within a reasonable time after receipt of the Architect's written instructions in that behalf be made good by the Contractor and (unless the Architect shall otherwise direct) at his own cost.

Defendants (Respondents) Exhibits

No. D9 Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

Assignment and sub-letting

13. The Contractor shall not without the written consent of the Architect assign this contract or sub-let any portion of the Works; provided that such consent shall not be unreasonably withheld to the prejudice of the Contractor.

Injury to persons and property.

14. (a) Injury to Persons. The Contractor shall be solely liable for and shall indemnify the Employer in respect of any liability, loss, claim or proceedings whatsoever arising under any statute or at Common law in respect of personal injury to or the death of any person whomsoever arising out of or in the course of or caused by the execution of the Works, unless due to any act or neglect of the Employer or of any person for whom the Employer is responsible.

(b) Injury to Property. Except for such loss or damage by fire as is at the risk of the Employer under clause 15(b)(B) of these Conditions the Contractor shall be liable for and shall indemnify the Employer against any loss, liability, claim or proceedings in respect of any injury or damage whatsoever to any property real or personal in so far as such injury or damage arises out of or in the course of or by reason of the execution of the Works, and provided always that the same is due to any negligence, omission or default of the Contractor, his servants or agents or of any Sub-Contractor

Insurance

15. (a) Without prejudice to his liability to indemnify the Employer

Defendants (Respondents) Exhibits

No. D9 Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

under clause 14 hereof, the Contractor shall effect or shall cause any Sub-Contractor to effect such insurances (including insurance against third party fire risk) as may be specifically required by the Specification and shall produce or cause such Sub-Contractor to produce as the case may be the relevant policy or policies and premium receipts as and when required by the Architect; should the Contractor make default in so doing, the Employer may insure against any risk with respect to which the default shall have occurred and may deduct the premiums paid from any monies due or to become due to the Contractor.

* (b) (A) deleted

* Footnote. In clause 15 sub-paragraph (b) (A) applies to a new building and sub-paragraph (b) (B) to an existing building to be altered or extended; therefore strike out sub-paragraph (b)(A) or (b)(B) as the case may require.

* (b)(B) The existing structures together with the contents thereof and the Works and all unfixed materials and goods (except plant, tools and equipment) shall be at the sole risk of the Employer as regards lossor damage by fire and the Employer shall maintain a proper policy of insurance against the risk, which policy and the receipt for the last paid premium for its renewal he shall upon request produce for inspection by the Contractor and, if any loss or damage affecting the Works is so occasioned by fire, the Employer shall pay to the Contractor the full value of all work and materials then executed and delivered calculated as provided in clause 9 of these Conditions, and this contract as to subsequent work may at the option of either party be determined by notice by registered post from either party to the other, provided that on receipt of such a notice the other party may himself give notice in pursuance of clause 26 of these Conditions that a dispute or difference has arisen on the question whether such determination will be just and equitable

If the Employer shall have failed upon request to produce any receipt showing the policy to be effective the Contractor shall be entitled in the name and on behalf of the Employer to insure the

Defendants (Respondents) Exhibits

No. D9 Articles of Agreement between Lee Cheng Kiat and Tong Brothers 19th June, 1958

(continued)

said structure (together with the contents thereof) and Works and all unfixed materials and goods against the said risks and for that purpose to have such right of entry and inspection as may be required to make a survey and inventory of the existing structure and its contents and shall upon production of the receipts for any premiums be entitled to add their amount to the Contract Sum.

Date for possession at completion

16. On or before the Date for Possession stated in the appendix to these Conditions possession of the site shall be given to the Contractor who shall thereupon begin the Works forthwith and regularly and diligently proceed with the same and shall complete the same on or before the Date for Completion stated in the said appendix subject nevertheless to the provisions for extension of time contained in Clause 18 of these Conditions.

Damages for non-completion

17. If the Contractor fails to complete the Works by the date stated in the appendix to these Conditions or within any extended time fixed under clause 18 of these Conditions and the Architect certifies in writing that in his opinion the same ought reasonably so to have been completed, the Contractor shall pay or allow to the Employer a sum calculated at the rate stated in the said appendix as Liquidated and Ascertained Damages for the period during which the said Works shall so remain or have remained incomplete, and the Employer may deduct such damages from any monies otherwise payable to the Contractor under this contract.

Delay and Extension of time

18. If in the opinion of the Architect the Works be delayed

(i) by force majeure, or

(ii) by reason of any exceptionally inclement weather, or

(iii) by reason of such loss or damage by fire as is referred to in clause 15 of these Conditions, or

Defendants (Respondents) Exhibits

No. D9
Articles of Agreement between Lee Cheng Kiat and Tong Brothers
19th June, 1958

(continued)

(iv) by reason of civil commotion, local combination of workmen, strike or lockout affecting any of the trades employed upon the Works, or

(v) by reason of Architect's Instructions given in pursuance of clause 1 of these Conditions, or

(vi) because the Contractor has not received in due time necessary instructions from the Architect for which he shall have specifically applied in writing, or

(vii) by delay on the part of nominated Sub-Contractors or nominated Suppliers which the Contractor has in the opinion of the Architect taken all practicable steps to avoid or reduce, or

(viii) by delay on the part of other contractors or tradesmen engaged by the Employer in executing work not forming part of this contract,

then in any such case the Architect shall make a fair and reasonable extension of time for completion of the Works. Upon the happening of any such event causing delay the Contractor shall immediately give notice thereof in writing to the Architect, but he shall nevertheless use constantly his best endeavours to prevent delay and shall do all that may reasonably be required to the satisfaction of the Architect to proceed with the Works.

18. (a) If in the opinion of the Architect the Contractor shall be unable for reasons beyond his control to secure such labour and materials as may be essential to the proper carrying out of the Works and such inability on the part of the Contractor shall result in the Works being delayed, then and in any such case, subject to the provisions of clause 18 of these Conditions, the Architect shall make a fair and reasonable extension of time for completion of the Works.

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(continued)

Determination by Employer

19. (a) Default. If the Contractor shall make default in any of the following respects, viz :-

(1) If without reasonable cause he wholly suspends the Works before completion,

(2) If he fails to proceed with the Works with reasonable diligence,

(3) If he refuses or persistently neglects to comply with a notice in writing from the Architect requiring him to remove defective work or improper materials and by such refusal or neglect the Works are materially affected,

and if he shall continue such default for fourteen days after a notice by registered post specifying the default has been given to him by the Architect, the Employer may, without prejudice to any other rights or remedies, thereupon by notice by registered post determine the employment of the Contractor under this contract; provided that notice in pursuance of this clause shall not be given unreasonably or vexatiously and shall be void if the Employer is at the time of the notice in breach of this contract

(b) Bankruptcy of Contractor. If the Contractor commits an act of bankruptcy or being a company enters into liquidation whether compulsory or voluntary except liquidation for the purposes of reconstruction the Employer may, without prejudice to any other rights or remedies, by notice by registered post determine

the employment of the Contractor under this contract.

(c) In either of the cases for which the two preceding sub-clauses provide the following shall be the respective rights and duties of the Employer and Contractor, viz :-

(1) The Employer may employ and pay another contractor or other person or persons to carry out and complete the Works and he or they may enter upon the site and use all temporary buildings, plant, machinery, appliances, goods and materials thereon, and may purchase all materials necessary for the carrying out and completion of the Works.

(2) The Contractor shall, if so required by the Employer or Architect, assign to the Employer without further payment the benefit of any agreement for the supply of materials and/or for the execution of any works for the purposes of this contract and the Employer shall pay for any such materials or works supplied or executed under such agreement after the said determination the price fixed by such agreement in so far as it has not been already paid by the Contractor.

(3) The Contractor shall during the execution or after the completion of the Works under this clause remove from the site as and when required, within such reasonable time as the Architect may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to or hired by him, and in default the Employer may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor

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(continued)

(4) Until after completion of the Works under this clause the Employer shall not be bound by any other provision of this contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefor the Architect shall certify the amount of expenses properly incurred by the Employer and, if such amount added to the monies paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion in accordance with this contract, the difference shall be a debt payable to the Employer by the Contractor; and if the said amount added to the said monies be less than the said total amount, the difference shall be a debt payable by the Employer to the Contractor.

Determination by Contractor

20. (1) If the Employer within the period after the presentation of any certificate of the Architect which is named in the appendix to these Conditions and thereafter for seven clear days after written notice from the Contractor does not pay to the Contractor the amount due on that certificate, or if the Employer interferes with or obstructs the issue of any such certificate, or if he commits an act of bankruptcy or being a company enters into liquidation whether compulsory or voluntary except liquidation for purposes of reconstruction, or if the whole or substantially the whole of the Works (other than work required under clause 12 of these Conditions) is delayed for one month by one or more of the causes, other than local combination of workmen, strike or lockout, which are named in clause 18 of these Conditions, the Contractor may, without prejudice to any other rights or remedies, thereupon by notice by registered post to the Employer or Architect determine the employment of the Contractor under this contract.

(2) Upon such determination, then without prejudice to the accrued rights or remedies of either party or to any liability of the classes

mentioned in clause 14 of these Conditions which may accrue either before the Contractor or any sub-contractors shall have removed his or their temporary buildings, plant, machinery, appliances, goods or materials or by reason of his or their so removing the same, the respective rights and liabilities of the Contractor and the Employer shall be as follows, viz :-

(a) The Contractor shall with all reasonable dispatch and in such manner and with such precautions as will prevent injury or damage of the classes for which before such determination he was liable under clause 14 of these Conditions remove from the site all his temporary buildings, plant, machinery, appliances, goods and materials and shall give facilities for his sub-contractors to do the same, but subject always to the provisions of sub-clause (b)(iii) of this clause.

(b) The Contractor shall be paid by the Employer :-

(i) The contract value of the Works completed at the date of such determination subject to clause 9 of these Conditions.

(ii) The value of work begun and executed but not completed at the date of such determination, the value being ascertained mutatis mutandis in accordance with clause 9 of these Conditions

(iii) The cost of materials or goods properly ordered for the Works for which the Contractor shall have paid or of which the Contractor is legally bound to accept delivery, and on such payment by the Employer any materials or goods so paid for shall become the property of the Employer

(iv) The reasonable cost of removal under sub-clause (a) of this clause

(v) Any loss or damage caused to the

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Nominated Sub-Contractors

Contractor owing to such determination.

Provided that in addition to all other remedies the Contractor upon such determination may take possession of and shall have a lien upon all unfixed materials intended for the Works, which may have become the property of the Employer under this contract until payment of all monies due to the Contractor from the Employer

21. Where prime cost or provisional sums are included in the Specification for persons to be nominated or selected by the Architect to supply and fix materials or to execute work on the site,

(a) Such sums shall be deemed to include 2½ per cent cash discount and shall be expended in favour of such persons as the Architect shall direct, and all specialists or others who have been nominated or selected by the Architect are hereby declared to be sub-contractors employed by the Contractor and are referred to in these Conditions as "nominated Sub-Contractors". Provided that no nominated Sub-Contractor shall be employed upon or in connection with the Works against whom the Contractor shall make reasonable objection or (save where the Architect and Contractor shall otherwise agree) who will not enter into a sub-contract providing :-

(1) That the nominated Sub-Contractor shall indemnify the Contractor against the same obligations in respect of the sub-contract as those for which the Contractor is liable in respect of this contract.

(2) That the nominated Sub-Contractor shall indemnify the Contractor against claims in respect of any negligence by such Sub-Contractor, his servants or agents or any misuse by him or them of any scaffolding or other plant, and shall insure himself against any such liability and produce the policy or policies and premium receipts as and when required by the Architect

(3) That payment in respect of any work, materials or goods comprised in the sub-contract shall not be due until receipt by the Contractor of the Architect's certificate under clause 24 of these Conditions which includes the value of such work, material or goods, and shall when due be subject to a discount for cash of 2½ per cent.

(4) That the Architect and his representatives shall have a right of access to the workshops and other places of the nominated Sub-Contractor as mentioned in clause 7 of these Conditions.

(b) The sums directed by the Architect to be paid to nominated Sub-Contractors for work, materials or goods comprised in the sub-contract shall be paid by the Contractor within 14 days of receiving from the Architect a certificate including the value of such work, materials or goods less only (i) any retention money which the Contractor may be entitled to deduct, and (ii) a cash discount of 2½ per cent.

(c) Before any certificate is issued to the Contractor he shall, if requested by the Architect, furnish to him reasonable proof that all nominated Sub-Contractors' accounts included in previous certificates have been duly discharged, in default whereof the Employer may pay such accounts upon a certificate of the Architect and deduct the amount so paid from any sums otherwise payable to the Contractor.

(d) If the Architect desires to secure final payment to any nominated Sub-Contractor before final payment is due to the Contractor, and if such Sub-Contractor has satisfactorily indemnified the Contractor against any latent defects.

(e) Neither the existence nor the exercise of the foregoing powers nor anything else contained in these Conditions shall render the Employer

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in any way liable to any nominated Sub-Contractor.

(f) Where the Contractor in the ordinary course of his business directly carries out works for which prime cost or provisional sums are included in the Specification and where items of such works are set out in the appendix to these Conditions and the Architect is prepared to receive tenders from the Contractor shall be permitted to tender for the same or any of them without prejudice to the Employer's right to reject the lowest or any tender. If the Contractor's tender is accepted, he shall not sublet the work without the consent of the Architect

Nominated Suppliers

22. Where prime cost or provisional sums are included in the Specification in respect of any materials or goods to be fixed by the Contractor,

(a) Such sums shall be deemed to include 5 per cent cash discount and the term prime cost or the abbreviation P.C. as used in these Conditions shall be understood to mean the net cost to be defrayed as a prime cost or to be defrayed from the said provisional sums as the case may be after deducting any trade or other discount except a cash discount of 5 per cent, and shall include the cost of packing and of carriage and delivery. Provided that where in the opinion of the Architect the Contractor has incurred expense for special packing or special carriage, the Architect* shall allow for the same as part of the sums actually paid by the Contractor.

(b) All specialists, merchants, tradesmen or others who have been nominated or selected by the Architect to supply such materials or goods are hereby declared to be suppliers to the Contractor and are referred to in these Conditions as "nominated Suppliers". All payments by the Contractor for such materials or goods shall be in full and shall be paid within 30 days of the end of the month during which delivery is made less only a cash discount of 5 per cent if so paid.

* Deletion of six words

Provided that the Contractor shall not be bound to place an order for the supply of materials or goods with a nominated Supplier who will not agree to allow such 5 per cent discount for cash.

Artists and Tradesmen

23. The Contractor shall permit the execution of work not provided for in the Specification by artists, tradesmen or others engaged by the Employer. Every such person shall for the purpose of clause 14 of these Conditions be deemed to be a person for whom the Employer is responsible and not to be a sub-contractor.

Certificates and payments

24. (a) At the Period of Interim Certificates named in the appendix to these Conditions interim valuations shall be made whenever the Architect considers them necessary, and the Contractor shall subject to clause 21 of these Conditions be entitled to receive within ten days of his written application for the same a certificate from the Architect stating the amount due to the Contractor from the Employer, and shall on presenting any such certificate to the Employer be entitled to payment therefor within the period named in the appendix.

(b) The amount so due shall, subject to clause 21 (c) of these Conditions and to any agreement between the parties as to stage payments, be the total value of the work properly executed and of the materials and goods delivered upon the site for use in the Works up to and including a date not more than seven days before the date of the said certificate less the amount to be retained by the Employer (as hereinafter provided) and less any instalments previously paid under this clause. Provided that such

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certificate shall only include the value of the said materials and goods as and from such time as they are reasonably, properly and not prematurely brought upon the site and then only if adequately stored and/or protected against weather or other casualties.

(c) The amount which may be retained by the Employer in virtue of this clause shall be the percentage of the value of the work and materials aforesaid which is named in the appendix as percentage of Certified Value Retained and up to the amount there named as Limited of Retention Fund (which in neither case shall exceed 10 per cent.) Provided that where the limit named in the appendix or the limit reduced in pursuance of clause 21 of these Conditions, as the case may be, has been reached, the full value of the work and materials shall be certified by the Architect

(d) (A) deleted.

* (B) The amounts retained in virtue of this clause shall be dealt with in the following manner :-

On practical completion of the Works the Contractor shall subject to clause 17 of these Conditions be entitled to a certificate for one moiety of the total amounts so retained and the other moiety shall be paid to the Contractor upon the issue of the Architect's final certificate.

(e) In the settlement of accounts the amounts paid or payable by the Contractor to nominated Sub-Contractors or nominated Suppliers (including the cash discounts mentioned in clauses 21 and 22 respectively of these Conditions) and the value of any works executed

* Footnote. In clause 24(d) strike out (A) or (B) as the case may require

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by the Contractor in pursuance of clause 21 (f) of these Conditions shall be set againstthe prime cost or provisional sum or sums, or sums for additional works mentioned in the Specifications as the case may be, and the balance, after allowing pro rata for the Contractor's profits at the rates contained in the Schedule of Rates mentioned in clause 2 of these Conditions, shall be added to or deducted from the Contract Sum. Provided that no deductions shall be made by or on behalf of the Employer in respect of any damages paid or allowed by any sub-contractor or supplier to the Contractor, the intention being that the Contractor and not the Employer shall have the benefit of any such damages.

(f) Upon expiration of the Defects Liability Period stated in the appendix to these Conditions or upon completion of making good defects under clause 12 of these Conditions, whichever is the later, the Architect shall, subject to the provisions of clause 21 of these Conditions, issue a final certificate of the value of the Works executed by the Contractor and such final certificate save in cases of fraud, dishonesty or fraudulent concealment relating to the Works or materials or to any matter dealt with in the certificate and save as regards all defects and insufficiencies in the Works or materials which a reasonable examination would not have disclosed, shall be conclusive evidence as to the sufficiency of the said Works and materials

(g) Save as aforesaid no certificate of the Architect shall of itself be conclusive evidence that any Works or materials to which it relates are in

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accordance with this contract.

25. Deleted

Arbitration

*26. Provided Always that in case any dispute or difference shall arise between the Employer or the Architect on his behalf and the Contractor, either during the progress or after the completion or abandonment of the Works, as to the construction of this contract or as to any matter or thing of whatsoever nature arising thereunder or in connection therewith (including any matter or thing left by this contract to the discretion of the Architect or the withholding by the Architect of any certificate to which the Contrator may claim to be entitled or the measurement and valuation mentioned in clause 9 of these Conditions or the rights and liabilities of the parties under clauses 19, 20 or 25 of these Conditions), then either party shall forthwith give to the other notice in writing of such dispute or difference shall be and is hereby referred to the arbitration and final decision of

or, in the event of his death or unwillingness or inability to act, of a person to be appointed on the request of either party by the President or a Vice-President for the time being of the Royal Institute of British Architects, and the award of such Arbitrator shall be final and binding on the parties. Such reference, except on article 3 or article 4 of the foregoing

*Footnote. As soon as any dispute or difference arises which is to be referred to arbitration, it is desirable that each party shall furnish the other with a written report signed by him or by some responsible representative stating the facts on which he will rely either by way of claim or by way of defence. This course will not prevent his calling further evidence before the Arbitrator, but is likely to reduce the area of dispute and thus reduce the cost of arbitration.

Articles of Agreement, or on the questions whether or not a certificate has been improperly withheld or is not in accordance with clause 24 of these Conditions, or on any dispute or difference under clause 25 of these Conditions, shall not be opened until after the completion or abandonment of the Works, unless with the written consent of the Employer or the Architect on his behalf and the Contractor. Without prejudice to the generality of his powers the Arbitrator shall have power to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requisition or notice and to determine all matters in dispute which shall be submitted to him, and of which notice shall have been given as aforesaid, in the same manner as if not such certificate, opinion, decision, requisition or notice had been given.

A P P E N D I X

	Clause
Period of Final Measurement (if none other stated is 3 months from the practical completion of the Works.)	9 .....

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	Clause	
Defects Liability Period (if none other stated is 6 months from the practical completion of the Works)	12 and 24 (f).....	
Date for Possession	16 Date of Approval of Plans	
Date for Completion	16. Sixteen weeks from date of Approval	10
Liquidated and Ascertained Damages	17. at the rate of $ per	
Prime Cost or Provisional Sums for which the Contractor desires to tender	21 (f).....	
	.....	
	.....	
	.....	20
	.....	
	.....	
Period of Interim Certificates	24 (a) As work progresses	
	.....	
Period for Honouring of Certificates	24 (a) Two weeks	
Percentage of Certified Value Retained (not to exceed 10 per cent.)	24 (c) 10%	30

	Clause	
Limit of Retention Fund (half of which is to be released in accordance with clause 24 (d)	24 (c)	10%
Name and Branch of Bank	24 (d)(A)	

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THIS IS THE SPECIFICATION REFERRED TO IN CONTRACT NO. 58/3

SPECIFICATION OF PROPOSED ADDITIONS & ALTERATIONS TO No.3 MALACCA STREET, S.1. FOR LEE CHENG KIAT ESQ

GENERAL

SCOPE OF WORK: The Contract comprises of everything necessary for the proper execution and expeditions completion of the proposed Additions & Alterations in accordance with the true intent and meaning of the Drawings and the following Specification taken together

The Contractor shall therefore make a thorough inspection of the existing Building to satisfy himself as to the exact nature and extent of the new work proposed and the general repairs necessary to the existing structure (e.g. patching up cracks on walls and floors, adjusting the windows, replacing missing or defective ironmongery, etc.)

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If the Contractor shall find any discrepancy in or divergence between the Specification and or the Drawings, reference shall be made to the Architect, whose interpretion shall be final.

Provide all materials labour, cartage, plant, tools, machinery, hoardings, scaffolding, staging, water and temporary plumbing, and all else necessary for the due fulfilment and completion of the Contract.

The whole of the works shall be executed in a skilled workmanlike manner of a standard equal to the best obtainable and to the entire satisfaction of the Architect, and shall be delivered up well finished, complete and ready for occupation.

Notices — The Contractor shall conform to the regulations of Local Authorities and shall be responsible for giving notices, pay all fees and obtain all necessary permits in connection with this work

Damage to Services — The Contractor shall take precautions against and be wholly responsible for any damage to the water & sewage services, Electrical & Gas mains, telephone and all other conduits, in the execution of the Works.

Specialists — The Contractor shall attend upon and allow the use of water, scaffolding, storage, and the usual facilities to Specialists and Nominated Sub-contractors employed on the works, and shall repair and reinstate any damage necessitated in the course of their work

Completion — Time is the essence of this contract. The whole of the works shall be completed by 1958.

Removal of Rubbish

Collect and clear at regular intervals all Builders' and other rubbish from the Site, including broken bricks, tiles, wastes of all kinds and garbage and under no circumstances shall any such matter or material be buried within the precincts of the premises.

Allow for permanent coolie labour employed in keeping free of unnecessary encumbrances all floor spaces, stairs, steps, courts and access, which at all times shall be easily accessible and free of obstruction.

Maintenance

The Contractor shall maintain the works for a period of three (3) months after the date of completion and make good any defects arising during this period in accordance with the Contract.

E X C A V A T O R

Hack off that area of the existing floor below the mezzanine and excavate to the proposed level as shown on the Drawings. Set aside the broken pieces of concrete or brick and re-use as hardcore for the new floor. The concrete or brick pieces shall be broken to pass a 2½" ring, rammed, watered and thoroughly consolidated and finished off on top to an even and true surface with fine chippings, or blinded on top with sand to receive new concrete floor. Surplus earth or chippings shall be carted away; no Borrow pits shall be opened on the site.

C O N C R E T O R

R.C. Quantities

The Contractor may base his tender on the following approximate quantities:-

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370 Yards cubic of 1:2:4 concrete and 30 Tons of Reinforcing Steel Bars.

Comprising the beams, slabs, columns, and footings.

The above quantities do not include other concrete works such as fins, lintols, etc.

Materials: CEMENT: The Cement used shall be ordinary setting cement complying with B.S.S. No.12 (1947) for portland cement, stored dry. Cement of different makes shall not be mixed with one another.

SAND: The sand shall be clean sharp pit sand devoid of clay, dirt or any earthy or vegetable matter.

AGGREGATE: Course aggregate shall be crushed granite and shall be free from decomposed stone, clay, earth or other deleterious substances. The grading of aggregate shall be such that not more than 5% shall be larger than $\frac{3}{4}$" and not more than 10% shall be smaller than 3/16" and not less than 25% or more than 55% shall be smaller than $\frac{3}{8}$".

WATER: Water shall be that obtained from the public supply.

Proportions a) R.C. shall compose of 1:2:4 cement: sand: aggregate and comply with the requirements of the L.C.C. and Local Bye-laws.

b) Mass Concrete shall compose of 1:3:6 cement: sand: aggregate

The materials shall be thoroughly mixed together in a batch type mechanical mixer, hand turned on a delivery board as necessary before immediate use. Measuring shall be done

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with proper measure boxes, and the quantity of water used shall be the minimum necessary to produce concrete of a workable nature. Any concrete left in the mixer at the end of a working shift shall be discharged.

Reinforcement — The Steel used for reinforcement shall comply with the relevant B.S.S.

The bars shall be correctly fixed and maintained in position and approved by the Architect before concreting commences.

Shuttering — Shuttering shall be removed by gradual easing without jarring. The following are minimum periods between the placing of the concrete and the removal of the shuttering :-

Beams sides & columns	7 days
Beam soffits (props left under)	14 days
Props to beams & slabs (except where supporting other work)	21 days

Ground Floor — Hack off that area of floor under the proposed mezzanine and construct new 6" concrete floor on 6" well rammed hardcore, reinforce with B.R.C. 610 throughout to new levels as shown on the Drawings.

Upper Floors — The new R.C. Floors for the third storey and the mezzanine shall be of Hollow Tile Rib Construction. The tiles shall be sound, hard cement tiles, and shall be thoroughly soaked with water immediately before concreting. There shall be a cover of at least 2" over the tiles, reinforced with B.R.C. 610 and watered continuously for at least 36 hours after the concrete has hardened.

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Flat Roof	The flat roof over the lift machinery room shall be in R.C. Engineers' Drawings.
Lintols	Concrete Lintols over openingsnot more than 7'-0" span shall be reinforced with 2 Nos. ½" diameter steel bar for every 4½" width of wall thickness. For spans of more than 7'-0", detail R.C. drawings will be supplied.
Bond Ties	Bond the ends of Brick walls to R.C. columns with 5/16" diameter mild steel bonding ties 18" long at 18" C.C.S. one end butting into brickwork and the other end cast into the R.C. Column hooked round the reinforcement
Stair-case	Demolish the existing staircases and construct new stairs of R.C. to detail. The steps shall be carefully set out before casting with treads, not less than 10" and risers not exceeding 7".
Cills	Provide 3" concrete cills to all window openings, pre-cast with cambers and throats on the undersides; the cills shall project 3" from the external face of the walls. Where shown on the Drawings provide & fix 3" thick P.C. concrete frames to the windows.
P.C.Conc. Screen Wall	Provide & fix to the top of the main stair well, pre-cast concrete blocks to detail
Strong Room	Construct strong room walls, floor, and ceiling in 9" thick reinforced concrete with Ventilation and door openings as required.

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BRICKLAYER & MASON

Bricks — The bricks shall be sound, well burnt kiln bricks of approved manufacture and shall give a clear ring when struck with a trowel

Laying — Soak the bricks in water and lay in 1:3 cement: sand mortar. Rake the joints to provide key for plaster. To 4½" Brick work provide mesh reinforcement at every 4th course.

The facing bricks on the ground floor entrance shall be of the best quality and made up to sample approved by Architect. The joints shall be uniformly ⅜" wide, raked & pointed.

D.P.C. — Provided to all new walls on the ground floor, 3-ply Damp proof course lapped 6" at joints and intersections, free from tears or holes, laid in a bed of 1:3 cement: sand mortar and coated on the upper surfaces with hot liquid bitumen.

CARPENTER & JOINER

The timber used shall be the best procurable and of the types hereinafter specified. They shall be sound, thoroughly seasoned, sawn dead square, free from sap, shakes, cracks, wavy edges, loose or large dead knots and other defects. They shall be thoroughly impregnated with "Solignum" wood preservative before fixing.

The work 'Framed' as applied to woodwork shall be understood to include all the best known methods of joining woodwork together with mortice, tenon, dovetail or other approved methods.

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	Detail Drawings of carpentry & joinery work will be provided where necessary
	The sizes of timber specified or shown on the Drawing are the finished sizes after planning.
	All exposed timber faces shall be wrot.
Roof	Construct pitch roof frame in sawn kapor timber as shown on the Drawings & details, accurately formed and firmly secured with nails & bolts.
Ceilings	Provide ½" thick termiteproof "Celotex" to false Ceilings under the pitch roof and under the existing floors
Door and Window Frames	All the door frames shall be of wrot kapor timber, 2" x 6" securely tenoned throughout. Provide 2" x ¾" lightly moulded architraves where frames join wall surfaces on both sides.
	Provide similarly 2" x 6" wrot kapor frames to windows where adjustable louvres are indicated on the Drawings.
Doors	Generally shall be Standard Flush Plywood 1½" thick
Hand Rails	Provide 3" x 2" Teak twice splayed, rounded and grooved hand-rails to Staircases and form all bends, knues, and fair ends.
	Provide coping to balustrade walls out of 6" x ¾" teak.
	Provide and fix "Profil" plywood dados to the Conference, waiting and Manager's room on the mezzanine to the height of the ceiling (approx 9'-6" from floor.)

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Access to Roof

Provide in convenient positions access to the roof as directed by the Architect Cover the access with similar material as that used for the ceiling, and frame each panel in 1" x 3" kapor

On top of the beams in the roof provide kapor boarding 6" x 7/8" to width of 2'-0" for access into the roof for inspection purposes. Access shall be provided both ways.

R O O F E R

The roof shall be covered with coloured corrugated Asbestos sheets to a pitch of 15°

Provide the necessary ridge tiles and flashings to the R.C. gutters eaves, gable walls, etc. in 4 lb lead.

Rainwater goods

Provide and fix the necessary R.W.Heads, pipes etc. for the proper discharge of Rainwater.

The rainwater goods shall be in cast Iron as shown in the Drawings.

Flat Roof

The R.C. Flat roof over the lift machinery room shall be waterproofed with "SIKA" waterproofing compound screeded to proper falls.

IRONMONGERY

Allow a P.C. Sum of $800/- for this item.

METAL WORKER

Windows

Allow a P.C.Sum of $600/- for the windows to the Front Elevation.

Provide and fix the adjustable louvre windows as shown in the Drawings.

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Windows (contd)	The louvres shall be fitted with locking devices, and provide all necessary weather beads and window boards to detail
Work	Provide a P.C. Sum of $4000/- for Wrot Iron work to include Balustrades, the Cash cage and sliding doors to the Front entrance.
	The Contractor shall provide however for the installation and fixing of the above.
Strong Room Door	Provide a P.C. Sum of $7,000/- for the strong room door which shall be executed by a specialist Firm.

PLASTERER

Generally: The cement and sand shall be as described for concretor except that the sand shall be fine and light in colour.

Where lime is used it shall be Kuala Lumpur Lime and thoroughly slaked before use

All plaster and rendering work shall be perfectly straight and plumb.

Walls — Hack off all existing plaster and replaster with ½" undercoat of 1:3 cement: sand with rough surface ready to receive ¼" setting coat of 1:3 cement: sand gauged with 25% lime.

WALL & FLOOR TILER

Floor — Mezzanine Lay to the Mezzanine floor B.M.W. Kempas parquet to a pattern as directed by the Architect.
Ground Floor lay to the whole of the ground floor including the 7'-0"

footway, the W.C. and lavatories, 1st class mosaic. Provide a 4" skirting of similar material and 4'-0" dados to the W.C. and lavatories.

Upper Floors lay to the upper floors coloured cement render squared to pattern as directed by Architect.

Provide a 4" Damar-in skirting to the floors.

W.C.s and Lavatories shall be tiled with mosaic and with a dado 4'-0" high.

Stairs — The stair treads & risers shall be in mosaic with nosings strips of alternatively raised tiles.

G L A Z I E R

Glass — Glass shall be "Pilkington", "Chance" or approved equivalent. Provide and fix 3/16" glass for glazing Front entrance windows and adjustable louvres.

Putty wherever used shall be hard and quick setting tropical putty (Arbolite or equivalent) and receive 1 coat of paint ten days after glazing.

Skylight — Provide and fix reinforced glass bricks for skylight in air well over cash cage.

Main Entrance Doors — The armourplate doors to the main entrance will be executed by a specialist firm and allow $4,000/- for this item

P A I N T E R

Generally: The paints used shall be of the best quality and sample patches executed for approval before general application.

Defendants (Respondents) Exhibits

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(continued)

Walls	Internal Rub down all plaster work including concrete surfaces and apply 1 coat of Alkali resisting primer and 3 coats of synthetic emulsion paint, 'Super-kemtone' or approved equivalent.
	External Rub down rendered surfaces and apply 1 coat approved primer and 3 coats 'Super-kemtone' or approved equivalent in accordance with Manufacturer's instructions.
Woodwork	Stop, knot, prime and paint undercoat and two coats "Dulux" or approved equivalent.
Metal Work	Brush down and remove rust and apply metallic primer, undercoat and 2 coats of Synthetic enamel paint.
Polish	Handrails and other unpainted woodwork surfaces shall receive first class French polish.

WATER, PLUMBING & SANITARY SERVICES

Allow a P.C. Sum of $6,500/- to be expended on this item. The work shall be executed by a nominated Sub-contractor.

ELECTRICAL WORK

Allow a P.C.Sum of $3,000/- for all electrical re-wiring work to be executed by a Nominated Sub-contractor.

LIFT MACHINERY

Allow a P.C.Sum of $8,500/- for repairs to the existing Lift. This work shall be executed by a specialist firm.

VENTILATION

Air Conditioning	Allow for the installation of Air-conditioning ducts, the positions and

openings are shown on the Drawings and the contractor shall demolish and or make good such demolitions as may be required for this installation.

SPECIAL FINISHES

Allow a sum of $5,000/- to be expended on Special finishes and Decorative effects.

A P P E N D I X

Summary of Additions & Alterations to No.3 Malacca Street, for LEE CHENG KIAT Esq.

GROUND FLOOR

Generally the existing timber staircase, sliding doors, asbestos ceiling above footway stores, existing W.C. and back doors are to be taken down and carted away.

Floor Break up the whole of the ground floor including the footway, set aside chippings, and make use later for the 6" thick hardcore base. Construct 6" thick 1:3:6 concrete floor over reinforced with B.R.C. 610 and finish the surface in 1st class mosaic tiles to different levels as indicated.

Wall All the existing plastering surface to be hacked clean. Bond up defective brickwork. Replaster ⅝" in smooth finish as stated in the general specification.

Strong Room Strong room to be in 9" thick 1:2:4 R.C.slabs (heavily reinforced in 2 meshes of ½" @ 4" C.C.S. bothways) on all six sides including top and bottom. Care to be taken to see that the door jambs are of the thickness and size as required by manufacturers.

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(continued)

R.C.footing columns All R.C. works are to be in accordance with the Engineer's drawings. Depth of new foundations to be level with existing wall footings.

Lift Well The lift well is to be reconstructed with new R.C. footings and columns added to the four corners. The existing walls around the lift may remain in position with the bricks bounded to the new columns and all the plaster surface hacked off to receive new plaster.

Staircase The existing staircase and the walls are to be demolished, the bricks to be broken up and used as hardcore, the timber carted away. Provide new staircases one in front and one at back to R.C. detail drawings.
Where the new staircase cut across the existing floor extreme care to be taken that only the disturbed portions are cut away and trimmed to fit in the new beams. New R.S.J. are to be provided for support of the cut-away beams and slabs. (see also 1st and 2nd floor.)

Ceiling (including the 1st floor)
Provide new ceiling in ½" celotex soft boards to conceal the existing steel joists. All the R.S.J. are to be wire-brushed cleaned thoroughly and applied with 2 coats of anti-corrosive paint before concealing. Allow for special concealed treatment to the supporting bracket to detail instruction.
The ceiling above footway and elsewhere at 1st floor are to be similarly treated.

Miscellaneous all existing R.W.D.P.s and existing sewer pipes and electrical wires are to be pulled away and replaced with new ones to concealed positions as directed by the Architect. Allow for use of water and all usual facilities and full cooperation with the appointed trade specialists, particularly the lift engineer and the air-conditioning engineer in fixing cables, ducts, etc. to their requirements.

Miscellaneous (continued)

Refer to general specification and detail drawings regarding glazed tiles in lavatories sliding doors, armour plate swing doors, flower boxes, windows W.I. and bronze work, handrails, built-in closets & counters, painting, etc.

MEZZANINE FLOOR

This floor is entirely new work with R.C. beams and slabs supported on the existing brickwork. Refer to R.C. details for the butt-joints of beams inside the brickwork.

The entire floor to be finished in B.M.W. parquet bathrooms to have glazed tile dado.

Where the existing beams are exposed allow for encasing to detail drawings.

The soffit of the timber floor over the mezzanine, is to be covered up in "V" joint asbestos soft board screwed on to the boardings.

See general specification for the new partition walls, windows doors W.I. grillwork stair railing, etc. and allow for full co-operation with specialist for the duct work, etc.

1st FLOOR and 2nd FLOOR

a) In general, the requirements of ground floor renovation apply to these two floors.

b) Floors Hack off the entire concrete surface carefully and take care not to break through the concrete base at the centre portions. Any tiling surface is to be stripped out. Finish the surface in $\frac{3}{4}$" coloured cement rendering with skirting to match; except in the lavatories where the floor is to receive Mosaic tiling. (Where the floor is timber boarding all the crevices are to be sealed with seasoned Damar-in strips, and then planed level and polished. All the defective boarding are to be replaced with well seasoned ones, and

Defendants (Respondents) Exhibits

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(continued)

wherever possible tongued and grooved jointed. Provide a 4" timber skirting to the timber floor.

c) Wall similar to ground floor (see also 3rd floor)

d) Lift Well The existing asbestos wall partitions to be demolished replacing with 9" brick work.

e) Staircase as in ground floor. Where the existing beams have to be cut to make way for the stairwell, care to be taken that the floor level is not disturbed and the whole floor is well strutted before the beams are cut. The existing beams are to be jointed to detail drawings to new R.S.J.s which is to be encased in concrete.

Contractor may use weld-joints provided the work shall be approved and supervised by the supervising Engineer.

Where the floor is cut along the rib, Contractor may use the salvaged "I" beams as end stiffeners instead of new R.C. beams, where possible.

Provided ¼" @ 3" C.C.S. mesh joining the existing rib floor with the new beams where the rib floor is found to be without reinforcement or where the reinforcement is not sufficient to bond into the new beam.

e) False Ceiling & Miscellaneous As for the ground floor. Allow for full co-operation and usual facilities to appointed trade specialist.

3rd FLOOR

a) Approximately in the portion where the existing roof is the work is entirely new; floor in reinforced concrete and wall in 9" brickwork.

b) The party wall from the new 3rd floor down to 2nd floor, is to be increased by 4½" thick new brickwork (to be 'Alexandra' or 'Jurong' 1st class brick) after the existing plaster has been cleaned off. The new brickwork is to be bonded into the existing at random every 2'-0" C.C.S.

Sufficient mortar to be provided between the new work and the existing.

The party walls above the 3rd floor is 9"O measured from the centre of the party wall line.

Contractor is advised to check properly as no extras will be entertained if the existing wall is found only 4½" from centre of the party wall and extra brickwork has to be provided

c) Floor generally is to be ¾" coloured cement .O rendering and the wall is ¾" smooth plaster rendering.

d) For lift well, partitions, lavatory floor and wall, hand rail, windows etc. refer to general specification. Allow for trade specialists' work as specified elsewhere.

e) Existing roof The existing roof and ceiling is to be stripped off with great care not to disturb the neighbouring building. Provide adequate cover to stairwell and lift well so that O rainwater will not pour in during progress of work.

NEW ROOF

a) The new roof is in corrugated asbestos sheetings, preferably the "Artex" fixed on to portions. The supporting walls are to be in new 9" brickwork as stated under 3rd floor. Ceiling in ½" soft boards.

b) R.C. gutters to be constructed W.R.C. drawings with the cast Iron R.W.D.P. concealed into the wall down to ground floor. Allowance for the chasing) in the wall and R.C. beams for accommodation of the pipe must be made while the construction work is carrying on. The entire inside surface of the gutter is to render in 1" water proof compound.

c) For timber sizes, type, etc. etc. see general specification

Defendants (Respondents) Exhibits

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(continued)

NEW ROOF (continued)

d) Provide R.C. flat roof to the lift and stairwell and allow for providing R.C. lintol to support the R.S.J. lift beams where required by the Lift Engineer.

FRONT FACADE

The panels under and above the windows are to be finished in Mosaic.

The 9" walls facing the footway to be 1st class sand faced Jurong or Alexandra bricks neatly raked and pointed.

The two corner brick pillars are to be removed and replaced by new R.C. columns to detail drawings and instructions.

Provide a chasings in the columns for R.W.D.P.

The column faces are to be finished in 1st class mosaic. Care to be taken not to damage the neighbouring wall which is to receive plaster or other finishes to match existing.

Cover over roadside drain, if damaged is to be replaced at contractor's expenses.

Floor finish of the footway is similarly treated as the Ground floor. (see underground floor)

THIS IS THE SPECIFICATION
REFERRED TO IN CONTRACT
No. 58/3

No. 17 of 1972

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

ON APPEAL

FROM THE HIGH COURT OF APPEAL IN SINGAPORE

BETWEEN :

BANK NEGARA INDONESIA — Appellants (Plaintiff)

- and -

PHILIP HOALIM — Respondent (Defendant)

RECORD OF PROCEEDINGS

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