

PRINCIPLES OF SINGAPORE LAND LAW BY TAN SOOK YEE [Singapore:
Butterworths, 1994. lvii + 535 pp. Hardcover: S\$175.10 including GST]

ANY person attempting to write a book on the principles of land law in Singapore will face two obstacles. First, there is a dearth of published materials on the various aspects of the land law in Singapore. Secondly, there are two systems of land registration in concurrent operation in Singapore which require separate treatment. Viewed in this light Tan Sook Yee must be congratulated for bringing out an instructive book on what is obviously a difficult subject for the law student.

The contents of the book by and large follows the traditional pattern of books on property law with certain chapters devoted to topics that are of particular interest to Singapore, namely, the Residential Property Act and the Land Titles Strata Act. An entire chapter had been devoted to caveats which is a topic that looms large in any discussion of the Torrens systems. The topic Law and Equity has been subsumed under a chapter on Trusts and another on Settled Estates. In

land scarce Singapore it is interesting to note a chapter had been included on Planning and Development Control of Land with a sub-heading on Compulsory Acquisition of land.

It is not possible in a review of this nature to comment in detail on every aspect of the book. It is therefore proposed in this short review to comment on a few topics of interest not only to the law student but also others interested in the development of land law in Singapore. This must essentially revolve around the cases referred to by the author in the book.

A case that has prompted some comment in the book is *British & Malayan Trustees Ltd v Abdul Jalil* [1991] 1 MLJ 465. Two observations may be made. First, the case was not concerned (as it has generally been assumed) with the question whether reinvestment of the proceeds of sale in the purchase of new land would bring such new land within the definition of settled estate or settled property. Secondly, the headnote in the law report does not correctly reflect what was decided by the court. The sole question before the court in that case was whether the trustees had the power to sell trust property notwithstanding a clause in the Settlement prohibiting such sale. The court held that it had no power to order the sale under section 4 of the Settled Estates Act read with section 59 of the Trustees Act. The author has made some interesting criticisms of the judgment at pages 83 and 84 of the book. The author's view that "the narrow construction" placed by the court on the provision's of section 4 of the Settled Estates Act "negate the very purpose of the existence" of the section was in fact the basis of some of the arguments advanced by the trustees and a few of the beneficiaries before the court. However, whatever may be the merits of the arguments the beneficiaries of the Settlement will on hindsight be forever grateful to the court for dismissing the application as the property had escalated in price beyond that which could have been imagined by the parties when the application was launched in 1990.

The author has also highlighted the two interesting cases on caveats, namely, *UOF Ltd v Mutu Jeras* [1989] 3 MLJ 20 and *Bank of China v The First National Bank of Boston* [1992] 2 SLR 441. Both these cases had generated considerable interest amongst legal practitioners. *Muthu Jeras* was the first case to go before the High Court where the court expressed doubts as to the status of an "Extension of Caveat". An "Extension of Caveat" was not developed by "practice" as contended by the learned author. As a caveat has only a life span of five (5) years (unless "terminated" earlier by notice) it was difficult to understand the administrative practice of resurrecting a caveat which had lapsed and therefore had no legal basis. Notwithstanding this the "Extension of Caveat" found favour with some financial institutions and legal practitioners. Following the judgment in *Muthu Jeras* Parliament had to intervene to validate such Extensions of Caveat lodged prior to 1.3.94 by section 173 of the Land Titles Act. Section 122 of the said Act has now given statutory recognition to such Extensions of Caveat lodged after 1.3.94. *The Bank of China Case* on the other hand was not discussed at length by the author (see page 217) presumably because it had been the subject matter of an article by the author – see [1992] SJLS 196 – It would have been useful if a short summary of the arguments together with the criticisms, if any, of the decision had been incorporated in the text so that the reader would not have to refer to the article for a proper understanding of that case. However, as the book had been written primarily for the law student one can understand the reason for consigning the arguments and comments (which the author had set out in detail in the article) to a footnote in the text.

One provision which could have been dealt with in some detail in the book is section 35(2) of the Conveyancing and Law of Property Act. That sub-section

is perhaps one of the most referred to provisions in the Act. Applications are regularly made to the courts for sanction to sell property under the sub-section. Although CC Tan had in an article in 1976 (see [1976] 1 MLJ c) highlighted the procedural aspects of such applications the authorities that surround conditional contracts entered into by legal personal representatives subject to the sanction of the court are less well known. Perhaps a discussion of these authorities including the case of *Herman Iskandar* (see page 110) could be considered for inclusion in the next edition of the book under a separate chapter.

In writing a book of this nature it is not possible to cover every topic or satisfy every reader. Suffice it to say that Tan Sook Yee's contribution is a welcome addition to the learning on the subject and fills a need long felt by students of property law since the Law Faculty was established in 1957.