

STRATA TITLES BY N KHUBLALL [Singapore: Butterworths, 1995. xxx + 574 pp (including index). Hardcover: S\$165.00]

BEFORE 1967, owners of flats in subdivided buildings were given a 99-year or 999-year lease of their flats, sometimes with a share in land and sometimes with the developer retaining the reversionary interest. In the lease, the flat owners would covenant to pay the developer for the maintenance of the land and common areas. As most developers had no further financial interest in the development (and at times could not even collect enough money), minimal standards of maintenance were observed. In 1967, the Land Titles (Strata) Act (now Cap 158) introduced a system of strata registration which applies to all types of strata developments. Strictly speaking, it is not another system of registration but is an extension of the Torrens system of registration of titles based on the Land Titles Act (Cap 157). The Land Titles (Strata) Act seeks to solve the legal and practical problems relating to the ownership and maintenance of flats and condominium units.

This book by Khublall covers the law and practical application of strata titles in Singapore. In view of the land scarcity and the increasing demand for residential accommodation in the private sector, the number of strata title units will increase in the foreseeable future. The present emphasis on strata-type developments justifies the need for a comprehensive book on the subject. It is with this object in mind that this book has been written. The author, who is both a barrister and a chartered surveyor, has used both these areas of expertise to produce this work.

The book consists of twenty chapters plus appendices. The first chapter provides a general introduction and background to the concept of strata titles in Singapore. Amongst others, this chapter deals with the aims and objectives of strata titles, land policy and gives an account of the subsequent developments in Singapore land law, notably its alignment with the Australian Torrens system, which will assist in the understanding of the system of registration of titles and strata titles.

Chapters 2 and 3 are concerned with development control and the strata title plan, amongst others. In chapter 3, the problems relating to development in phases, in the context of allocation of share values, are discussed. It may be noted that, in practice, there have been some difficulties encountered by developers in the allocation of share values for large complex mixed-user developments. It has been suggested that to resolve some of the difficulties, lot entitlement and lot liability be delinked.

Chapter 4 looks at the position prior to the management corporation taking over the administration from the developer. In this regard, it may be pertinent to note that the Land Titles (Strata) Act does not apply to the maintenance of a building prior to the registration of the strata title plan in respect of that building. At this stage, the Buildings and Common Property (Maintenance and Management) Act (Cap 30) is particularly relevant. The scope for malpractice is considerably reduced given the existing provisions regarding control over the developer.

The functions, powers and duties of management corporations are discussed in some detail in chapters 5 and 6. In the very recent case of *RSP Architects Planners & Engineers v Ocean Front Pte Ltd and another appeal* [1996] 1 SLR 113, the Singapore Court of Appeal has ruled that management corporations can sue developers for building defects. Though a management corporation does not have

a proprietary interest in the common property, it does have something akin to possession of the common property since the Land Titles (Strata) Act confers on it the rights, as well as obligations, in relation to the common property, breaches of which would attract sanction.

Chapters 7 to 17 are devoted to various issues relevant to the smooth and proper running of the strata scheme. Amongst others, the rules governing the management of a strata scheme and the relationship between the management corporation and its members on the one hand and third parties such as mortgagees, occupiers and insurers on the other are discussed. The rights and duties of subsidiary proprietors and share value computation are also discussed. In regard to the allocation of share values, in a residential development, the share value is generally based on floor area groupings of 100 square metres each. In a commercial development, the share values are based on the floor area. It is important to note that the Land Titles (Strata) Act is silent as to how share value is to be determined. Although the Commissioner of Buildings has drawn up guidelines to assist developers to compute share value allotments (see [1980] 1 MLJ lxxxvii-lxxxviii), these guidelines are far from satisfactory. They are inadequate to cater for the very complex strata schemes comprising mixed-use developments. Another matter which may be noted is that once the share values are fixed (after being approved by the Commissioner of Buildings in consultation with the Registrar of Titles), changes are not normally permitted. In this regard, it may be noted that in two Australian jurisdictions, namely, the Australian Capital Territory and the Northern Territory, the relevant legislation (that is, the Unit Titles Ordinance 1970, section 16(1) and (2) and the Unit Titles Ordinance 1975, section 16) respectively requires the proprietor of the lot to have regard to the capital values of parcels in allocating share units. Under the Victoria Strata Titles Act 1967, section 10(2)(a)(ii) provides for the amendment of the existing schedule of share units by the court upon application by the management corporation, any proprietor or an administrator. Adoption of such a system in Singapore would necessitate a reallocation, from time to time, of the share value of a lot which may create tension among the subsidiary proprietors.

Dispute resolution by the Commissioner of Buildings, the Strata Titles Board and the courts are dealt with in chapters 18 and 19. An appeal may be made against an order of the Board to the High Court only on a point of law. Most disputes brought before the Board, since it was set up in 1988, were disputes between subsidiary proprietors, usually concerning leaks from one unit affecting the apartment below it. The Board would normally order the apartment owners to share the costs of the repairs equally (see *The Sunday Times*, 28 January 1996). To date, the Board has not heard disputes between management corporations and developers. It must be pointed out that, apart from the dispute resolution mechanism provided for under the Land Titles (Strata) Act, if disputes with the developer, management corporation or a subsidiary proprietor cannot be settled, they can be taken to the Consumers' Association of Singapore, the Small Claims Tribunal and the conciliation panel of the Real Estate Developers Association of Singapore.

Sanctions for non-compliance with the provisions of the Land Titles (Strata) Act are discussed in chapter 20, the last chapter. In view of the heavy penalties set out under the various provisions, very rarely there will be non-compliance of a serious nature to warrant the imposition of the maximum fines and/or imprisonment. As the offences are of a technical nature and are not in the same category as the usual criminal offences, it is likely that only as a last resort the provisions relating to non-compliance will be invoked.

With a view to making the book self-contained and complete, appendices pertaining to the Land Titles (Strata) Act (Cap 158), the Land Titles (Strata)

Regulations (1980 and 1991) and the Land Titles (Strata Titles Boards) Regulations (1988) are incorporated at the end. Practically, all local decided cases have been noted and discussed in detail where appropriate. Unreported decisions of the Strata Titles Board have also been cited wherever relevant. Another useful feature of the book is the inclusion of decided cases from other jurisdictions, notably Australia, to illustrate the working of similar provisions found in the Land Titles (Strata) Act.

All in all, this book is a positive contribution to the growing literature on strata titles in Singapore and should serve as a useful reference on the subject.

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