

34/84

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL No.1 of 1982

O N A P P E A L
FROM THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

B E T W E E N:

CHNG BOON HUAT

Appellant

- and -

COMPTROLLER OF INCOME TAX SINGAPORE

Respondent

RECORD OF PROCEEDINGS

DOUGLAS GOLDBERG & CO.,
1 Holly Hill,
Hampstead,
London NW3 6UB

Solicitors for the Appellants

JAQUES & LEWIS
2 South Square,
Gray's Inn,
London WC1R 5HR

Solicitors for the Respondent

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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FROM THE COURT OF APPEAL OF THE REPUBLIC OF
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RECORD OF PROCEEDINGS

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No.1 of 1982

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L

FROM THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

B E T W E E N :

CHNG BOON HUAT

APPELLANT

- AND -

10 COMPROLLER OF INCOME
TAX SINGAPORE

RESPONDENT

RECORD O F P R O C E E D I N G S

No. 1

NOTICES OF ASSESSMENT dated 27th July 1972

In the Income Tax Board of Review of Singapore

In the Income
Tax Board of
Review
Singapore

No.1
Notices of
Assessment
dated 27th
July 1972

20

INCOME TAX
NOTICE OF ADDITIONAL ASSESSMENT

Please quote this number in all communications

Mr. Ong Boon Huat,
24, Fort Road,
Singapore, 15.

Office of Comptroller of Income Tax
P.O. Box 231
Fourth Floor, Fullerton Building, Singapore 1

Assessment No. **OP.22155/117**

Date **27.7.72**

/urc

AMOUNT OF ADDITIONAL ASSESSMENT.		\$
1. Trade, Business, Profession or Vocation		
2. Employment and Pension		
Salary		
Bonus, etc.		
Quarters		
3. Profits arising from Property		
4. Dividends, Interest, Royalties, etc.		
5.		

In pursuance of the Income Tax Ordinance, Cap. 115, I have made an additional assessment on you as detailed opposite in respect of your income ~~for the year ending 31st December, 1962~~

Application is hereby made for the payment of the additional income tax, as shown opposite for the year ending 31st December, 1962 due WITHIN ONE MONTH AFTER THE DATE OF SERVICE OF THIS NOTICE.

NOTWITHSTANDING ANY OBJECTION THE FULL AMOUNT OF THE ADDITIONAL TAX PAYABLE SHOULD BE PAID.

If payment is not made on or before the due date, a penalty of 3% of the tax unpaid will be added.

If you dispute this additional assessment you must give me notice of objection in writing stating PRECISELY the grounds of your objection WITHIN THIRTY DAYS from the date of service of this notice of additional assessment.

Comptroller of Income Tax

METHOD OF PAYMENT

CASH — Payable at 4th Floor, Fullerton Building, Singapore 1, between the hours of 10 a.m. and 3 p.m.

CHEQUES, MONEY ORDERS AND POSTAL ORDERS — These should be crossed and made payable to the "Comptroller of Income Tax", and if not presented personally, should be posted to P.O. Box 231, Singapore. Cheques drawn on banks outside Singapore or West Malaysia cannot be accepted.

THIS NOTICE MUST ACCOMPANY ALL PAYMENTS AND WILL BE RETURNED WITH AN OFFICIAL RECEIPT

NOTES

The Additional Tax Payable shown opposite is the amount payable after setting off any further tax credit due to you from dividends/interest. THE SUM SHOWN AS TAX PAYABLE DOES NOT TAKE INTO ACCOUNT ANY PAYMENT MADE IN RESPECT OF THIS ASSESSMENT EITHER DIRECTLY OR BY A DIRECTION TO DEDUCT FROM YOUR REMUNERATION

TOTAL			
Less: Gifts to approved institutions			
ADDITIONAL ASSESSABLE INCOME			
PERSONAL RELIEFS	Personal		
	Earned Income		
	Wife		
	Child		
	Life Assn., W & O/Prov. Fund		
ADDITIONAL CHARGEABLE INCOME			177174
TAX PAYABLE	Tax on \$ 97486 at%		3298.74
	Tax on \$ at%		
	Tax on \$ at%		
	Tax on Bal \$ 79658 at 55 %		43823.40
	TOTAL \$ 177174		82127.14
TAX SET-OFF	Section 40 Relief		
	Tax deducted from dividends		
	*D.T.R./C'wealth Tax Relief		
	Other Reliefs		
	*D.T.R. = Double Taxation Relief		
ADDITIONAL TAX PAYABLE			82127.14

*Delete where necessary

/GPC

ADJUSTMENT SHEET

I.R. 519

FILE REF GP.22155 NAME Mr. Chng Boon Huat

In the Income
Tax Board of
Review
Singapore

The following adjustments have been made to
the income as shown by you in your Return for the
Year of Assessment 1966

No.1
Notices of
Assessment
dated 27th
July 1972
(Contd.)

10

Additional

Trade: Property dealer & developer

Sale of Lot No.56840, 56841 & 56842
Mk.XXV in 1965 193050

Less: Cost of land purchased in
1949 & 1951 15876

Additional Chargeable Income 177174

REPUBLIC OF SINGAPORE
INCOME TAX

NOTICE OF ASSESSMENT

DUPLICATE

YEAR OF ASSESSMENT 1968

Please quote this number in all communications.

Assmt. No. **GP.22155/72D**
Date **27.7.72**
/GFC

Kr. Chng Doon Huat,
24, Fort Road,
Singapore, 15.

OFFICE OF
COMPTROLLER OF
INCOME TAX,
P.O. BOX 231,
FOURTH FLOOR,
FULLERTON BUILDING,
SINGAPORE 1.
REPUBLIC OF
SINGAPORE

AMOUNT OF ASSESSMENT:

1. Trade, Business, Profession or Vocation

Trade **8360591**
Partnership **8 971**

361562

2. Employment and Pension

Salary
Bonus, etc.
Quarters

-

3. Profits arising from Property

-

4. Dividends, Interest, Royalties, etc.

-

5.

-

TOTAL ... **361562**

Less: Gifts to approved institutions ... -

ASSESSABLE INCOME ... **361562**

Personal Reliefs	Personal ...	2000
	†Earned Income ...	1000
	Wife ...	1000
	Child ...	1750
	Life Assee., W. and O./Prov. Fund ...	-
		5750

CHARGEABLE INCOME ... **355812**

Tax Payable	Tax on Ist \$ 100000	38450.00
	Tax on Bal. \$ 255812 @ 55 %	140696.60
	Total \$ 355812	TAX 179146.60

Tax Set-off	Section 40 Relief ...	
	Tax deducted from Dividends ...	
	*DTR/C'wealth Tax Relief ...	
	Other Reliefs ...	

TAX PAYABLE ... **179146.60**

In pursuance of the Income Tax Act (Cap. 141, 1970 Ed.), I have made an assessment on you as detailed opposite in respect of your income

Application is hereby made for the payment of the under-mentioned income tax for the year ending 31st December, 19... due WITHIN ONE MONTH AFTER THE DATE OF SERVICE OF THIS NOTICE. NOTWITHSTANDING ANY OBJECTION THE FULL AMOUNT OF THE TAX PAYABLE SHOULD BE PAID.

Any tax for 19... which may already have been paid either direct or by deduction from remuneration should be deducted from the amount shown as payable.

If payment is not made on or before the due date, a penalty of 5% of the tax unpaid will be added.

If you dispute this assessment, you must give me notice of objection in writing, stating PRECISELY the grounds of your objection, WITHIN THIRTY DAYS from the date of service of this notice of assessment.

Comptroller of Income Tax.

NOTES:

1. The Tax Payable shown opposite is the amount payable after setting-off any tax credit due to you from dividends/interest. THE SUM SHOWN AS TAX PAYABLE DOES NOT TAKE INTO ACCOUNT ANY PAYMENT MADE IN RESPECT OF THIS ASSESSMENT EITHER DIRECTLY OR BY A DIRECTION TO DEDUCT FROM YOUR REMUNERATION.

2. If you are AN EMPLOYEE OR A PENSIONER RESIDENT IN SINGAPORE, you may either—

- (a) Pay the tax due; or
- (b) Give notice to the Comptroller that you wish to pay your tax by monthly or other periodic instalments by deducting from your remuneration or pension. The extent of the period over which deductions are to be made will be determined by the Comptroller.

Under Section 91 of the Income Tax Act, the Comptroller may at any time issue a Direction for the deduction of tax by instalments to your employer or paying authority. An advice will, at the same time, be sent to you.

METHOD OF PAYMENT:

CASH — Payable at 4th Floor, Fullerton Building, Singapore 1, between the hours of 9 a.m. and 3.30 p.m. on weekdays and 9 a.m. and 12 noon on Saturdays.
CHEQUES, MONEY ORDERS AND POSTAL ORDERS — These should be crossed and made payable to the "Comptroller of Income Tax", and if not presented personally, should be posted to P.O. Box 231, Singapore. Cheques drawn on banks outside Singapore or West Malaysia are not acceptable.

THIS NOTICE WHICH MUST ACCOMPANY ALL THE PAYMENTS WILL BE RETURNED WITH AN OFFICIAL RECEIPT.

Name and Address of Current Employer

*D.T.R. — Double Taxation Relief.
†From Year of Assessment 1961

/GPC

ADJUSTMENT SHEET

I.R.519

In the Income
Tax Board of
Review
Singapore

FILE REF. G.22155 NAME Mr. Chng Boon Huat

The following adjustments have been made to
the income as shown by you in your Return for the
Year of Assessment 1968

No.1
Notices of
Assessment
dated 27th
July 1972
(Contd.)

10

Original

Trade: Property developer & dealer

Sale of Lot No.103 118 528
& 568-1 to 56810 Mk XXV
in 1967

400,000

Less: Cost of land purchased
in 1949 & 1951

39,409

360,591

Partnership: Swee Leo Hup Koe

971

20

Assessable Income

361,562

Less: Personal Reliefs:

Self 2000

EIR 1000

Wife 1000

Children 1750

5,750

Chargeable Income

355,812

No.2

Petition of Appeal against Assessment dated
17th August 1975

30

Mr. Chng Boon Huat (Appellant)

(Tax Reference: GP22155/AE)

No.2
Petition of
Appeal
against
Assessment
dated 7th
August 1975

PETITION OF APPEAL

To:

The Clerk of the Income Tax Board of Review,

Mr. Chng Boon Huat of No. 30F, Meyer Road, Singapore
15 (hereinafter referred to as "the Appellant") was
assessed by the Comptroller of Income Tax on two

40

In the Income Tax Board of Review Singapore

additional assessments for 1966 and 1968 both dated 27th July, 1972. As per the notices of assessment, the tax payable is \$82,127.14 for year of assessment 1966 and for year of assessment 1968 the tax payable is \$179,146.60.

No.2
Petition of Appeal against Assessment dated 7th August 1975 (Contd.)

The basis of the Comptroller's assessment is as follows:-

- (a) For year of assessment 1966, he has proceeded to take the sale consideration of Lot Nos. 568-40, 568-41 and 568-42 Mukim XXV and after deducting cost of the said land when purchased by the Appellant, he has assigned a profit of \$177,174.00; and
- (b) For year of assessment 1968 he has proceeded to assess sale of land described as Lot Nos. 103-118, 528 and 568-1 to 568-10 Mukim XXV and after deducting the original purchase, he has arrived at a profit of \$360,591.00 and has included with that the partnership income of the Appellant to arrive at the chargeable income.

10

20

Before the grounds of the appeal are given, it is important that some background of the Appellant be noted.

- (a) During the last world war, the Appellant, like many other typical Chinese businessmen, was involved in various casual tradings and made use of all opportunities that came along. In 1949, the Appellant became a partner in a company, Chop Swee Lee Hup Kee, dealing in diesel oil. He had a capital participation of \$20,000/- and his share of the profit had been declared to the Tax Department. From 1950 to 1973 the Total profit attributed to him was more than \$34,000/-.
- (b) Also in 1949 the Appellant purchased a piece of vacant land with an area of 113,168 sq. ft. situated at the junction of Tanjong Katong and Dunman Road. The purchase consideration was \$113,168.00 (i.e. \$1.00 per sq. ft.) Subsequently, in 1951 the Appellant was required to purchase a piece of crown reserve land with an area of 33,236 sq. ft. adjacent to the above piece in order to comply with the drainage

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regulations. Thus, with this additional purchase, the total area of this land amounted to 146,404 sq. ft. The acquisition of this was for investment purposes i.e. the Appellant had an intention of erecting flats and houses thereon for letting.

In the Income Tax Board of Review Singapore

No.2
Petition of
Appeal against
Assessment
dated 7th
August 1975

10 (c) In addition to his investment in Chop Swee Lee Hup Kee and the construction of flats for letting, the Appellant in 1951 and 1952 invested a total amount of \$43,146/- in a company known as Universal Rattan Co. Ltd. then trading at 129, Sims Avenue, Singapore 14. Unfortunately, this company incurred heavy losses and was liquidated in August 1954.

(Contd.)

20 (d) With regard to part of the land at Tanjong Katong, the Appellant made in 1951 an application to the Chief Building Surveyor for permission to construct 30 Flats. In the same year his application was approved and the construction was completed in 1953. From July 1953 all the 30 Flats were rented out. The total amount of rent received from 1953 to 1972 (twenty years) amounted to \$767,325/-. As the Appellant had no knowledge of the building trade he engaged contractors and architects to carry out the construction according to the approved plan.

30 (e) In 1953 the Appellant received as gifts, two rubber estates from his brother, Mr. Chng Boon Chin. Brief details of these two estates are as follows:-

- (i) Si Rusa Estate, with an area of 387 acres approximately situated at Port Dickson and which was sold in May 1957 for \$223,000/-
- (ii) Beenham Estate, with an area of 400 acres approximately situated at Kuala Langat and which was sold in 1955 for \$200,218/-.

40 The net income from these two estates from 1953 to 1957 is as follows:-

<u>1953</u>	<u>1954</u>	<u>1955</u>	<u>1956</u>	<u>1957</u>
\$2,224	\$16,057	\$17,618	\$53,238	\$2,951

(f) Being satisfied with the rental received from the 30 flats and with one rubber estate (namely Si Rusa Estate) the Appellant decided to make further investment on another part of the land in Tanjong Katong. In 1956, he made an application to the Chief Building Surveyor to construct 11 houses and his application was

In the Income
Tax Board of
Review
Singapore

No.2
Petition of
Appeal
against
Assessment
dated 7th
August 1975
(Contd.)

approved in the same year. Construction commenced in 1957. The original intention of the Appellant to build these 11 houses was to rent them out, as he had done for the 30 flats. As with the construction of the 30 flats the Appellant engaged contractors and architects to complete the construction of these houses according to the approved plan.

- (g) Due to the then deteriorating political situation, the uncertain economic outlook and the difficulty in finding tenants the Appellant decided to sell these 11 houses as and when they were completed. These 11 houses were sold as follows:-

1958	6 houses
1959	2 houses
1960	1 house
1961	<u>2 houses</u>

11 houses

There were disputes between the Appellant's then accountant, Messrs. Kang & Warren and the Comptroller of Income Tax as to the correct basis of assessment on the profit or loss arising from the sale of 11 houses. After lengthy correspondence, it was reluctantly agreed that the Appellant was, in this particular case, engaged in the business of construction and sale of houses. In the letter dated 25th November, 1961 the Comptroller of Income Tax computed the profit from the business at \$35,790/- (which was subsequently adjusted to a loss of \$6,983/- due to certain omission of cost in the first place). In the third paragraph of the said letter the Comptroller of Income Tax assessed the Appellant on actual basis for the year of assessment 1958 to 1961 i.e. to say on the commencement and cessation basis since the first six houses were sold in 1958 and the last two were sold in 1961 (please refer to Appendix A for a copy of this letter).

- (h) The Appellant had never held any directorship nor partnership in any land developing company and from 1950 to 1965 his main incomes were:-
- (i) Rent from the 30 flats (approximately \$40,000/- per annum).

(ii) His share of the profit from Chop Swee Lee Hup Kee's dealings in diesel oil.

In the Income Tax Board of Review Singapore

(iii) Income from the two rubber estates.

(iv) Later on from 1960 to 1964, salary from Perak Iron Mining Co. Sdn. Bhd. where he was employed as Sales Manager.

No.2
Petition of Appeal against Assessment dated 7th August 1975 (Contd.)

10 (i) Apart from the acquisition of the piece of land as mentioned above in (b) he also acquired No.24, Fort Road in 1950 which he used as his residence.

(j) In the 5 years from 1961 to 1965, the Appellant's bank overdraft and loans from friends and associates increased each year:

<u>1961</u>	<u>1962</u>	<u>1963</u>	<u>1964</u>	<u>1965</u>
₹418,899	₹439,488	₹523,125	₹570,252	₹472,931

20

Because of the worsening financial position and the difficulty in raising finance for further construction of houses and flats for letting, the Appellant had to sell some of the unutilised portion of the land to reduce his bank overdraft and indebtedness.

30

(k) The Comptroller of Income Tax in his letter dated 27th July, 1972 (for full context of the said letter, please refer to Appendix B) to the Appellant, stated that he had examined the Appellant's tax files together with other information available and came to the conclusion that the Appellant had been carrying on the trade of property developer and dealer and accordingly, all profits derived from such activities were subject to tax. In the same letter the Comptroller of Income Tax enclosed Notices of Assessment for 1966 and 1968 in respect of profit made by the Appellant from the sale of land at Tanjong Katong in 1965 and 1967. The additional tax payable are

40

The Appellant is dissatisfied with the Comptroller of Income Tax's assessment on the following grounds:

(a) The activities that the Appellant had taken in relation to the above land showed clearly that he purchased the land for "investment in the property and derived income from the investment by way of rent", and hardly constitute the operation of trade of a property developer and dealer.

In the Income Tax Board of Review Singapore

No.2
Petition of Appeal against Assessment dated 7th August 1975 (Contd.)

- (b) The Appellant acquired the land and did not sell any portion of it (for reasons stated earlier) until 1965 i.e. 16 years after the acquisition. Thus, the acquisition clearly was not for the purpose of quick sale for profit.
- (c) At no time did the unutilised lots of land in Tanjong Katong form part of the Appellant's trading stock since the land was acquired for investment purposes and not for quick sale. Assuming that the Appellant was carrying on the business of construction and sale of houses relating to the 11 houses referred above, this business was of an isolated nature, which was evidenced by the Comptroller of Income Tax basis of assessment of the transactions on a commencement and cessation basis. 10
- (d) During the years from 1949 to 1965 the Appellant held no directorship nor partnership in any property developer and dealing company and was gainfully engaged in the business of landlord (from 1953 onwards), partnership in the diesel oil (1953 onwards), rubber estate and Sales Manager of Perak Iron Mining Co. Sdn. Bhd. 20

From the above grounds the profit realised by the Appellant in 1965 and 1967 from the sale of unutilised portion of land are of a capital nature and thus should not be subject to income tax. 30

Dated this 7th day of August 1975.

Sd: Patrick M.G. Kan & Co.
Tax Agent for the Appellant
Patrick M.G. Kan & Co.

The address for service of the Appellant is
c/o Messrs. Patrick M.G. Kan & Co., 22nd Floor,
Tunas Building, 118A, Anson Road, Singapore 2.

No.42/59 in GC/22155

Inland Revenue Department 40
Income Tax Division
4th Floor, Fullerton
Building, P.O. Box 231,
Singapore

25th November 1961

Messrs. Kang, Warren & Khoo,
P.O. Box 124,
Kuala Lumpur.

In the Income
Tax Board of
Review
Singapore

Dear Sirs,

Ch'ng Boon Huat

No.2
Petition of
Appeal
against
Assessment
dated 7th
August 1975
(Contd.)

I thank you for your letters of 11th and 19th
October 1961.

2. Since your client is unable to submit Trading
and Profit and Loss Account of his construction
and sale of houses at Swan Road his income
from this source will be calculated as follows:-

Total Receipts on sale of 11 houses ..	₹273,500
Less: Cost of construction of houses as per your letter of 17th May 1961 ..	₹231,380
Commission for the houses	1,200
Assessments 1959/61	<u>5,130</u>
	237,710
Profit ..	<u>₹ 35,790</u>

3. The above income will be assessed on the
actual basis for assessment years 1958 to 1961
as follows:-

Year of Assessment 1958

Sale price of eight houses sold in 1958	₹212,000
Less: Proportionate cost i.e. $\frac{₹237,710 \times 8}{11}$	<u>172,880</u>
Profit	<u>₹ 39,120</u>

Year of Assessment 1960

Sale price of 4B Swanage Road	₹ 22,000
Less: Proportionate cost i.e. $\frac{₹237,710}{11}$	<u>21,610</u>
Profit ..	<u>₹390</u>

Year of Assessment 1961

Sale price of 4D & 4E Swanage Road	₹ 39,500
Less: Proportionate cost	<u>43,220</u>
Loss ..	<u>₹3,720</u>

In the Income Tax Board of Review Singapore 4. Your client's assessments for the years 1958 to 1960 will be finalised in accordance with the computation shown for each year as follows:-

No.2 Petition of Appeal against Assessment dated 7th August 1975 (Contd.)	<u>Year of Assessment 1958</u>		
	Business as above	\$39,120	
	Partnership - Swee Lee Hup Kee	1,624	
	Rent and Net Annual Value	NIL	
		<u>\$40,744</u>	10
	Less Personal Reliefs	7,750	
	Chargeable Income	<u>\$32,994</u>	

Tax thereon is \$5,243.80

Year of Assessment 1959

Business	NIL	
Partnership	\$ 4,565	
Rents and Net Annual Value	NIL	
	<u>\$ 4,565</u>	
Less Personal Reliefs	7,750	
	<u>NIL</u>	20

Year of Assessment 1960

Business as above	\$390
Partnership	3,667
Employment: May/Dec. 1960	11,200
Rents and Net Annual Value	NIL
	<u>\$15,257</u>
Less Personal Reliefs	7,750
Chargeable Income	<u>\$7,507</u>

Tax thereon is \$671.05

5. May I have your client's agreement to paragraphs 3 and 4 above at an early date. 30

Yours faithfully,

for Comptroller of Income Tax,
Singapore.

INCOME TAX DIVISION.
4th Floor, Fullerton
Building,
P.O. Box 231, Singapore, 1.
REPUBLIC OF SINGAPORE.

In the Income
Tax Board of
Review
Singapore

No.GP/22155/Inv

27.7.72

No.2
Petition of
Appeal
against
Assessment
dated 7th
August 1975
(Contd.)

10

Mr. Chng Boon Huat,
24, Fort Road,
Singapore, 15.

Dear Sir,

I have examined your file in this department together with other information available and come to the conclusion that you have been carrying on the trade of a property developer and dealer. Therefore all profits derived by you from such activities are subject to tax.

20

2. I enclose Notice of Additional Assessment for the year of assessment 1966 and Notice of Assessment for year of assessment 1968 in respect of your profits from this trade, the bases of which are appended below:-

(i) Year of Assessment 1966

30

Sale of Lot. No.568 ⁴⁰ , 568 ⁴¹ and 568 ⁴² , Mk.XXV in 1965	₹193,050.00
Less: Cost of land purchased in 1949 and 1951 (See Note (1) attached).	<u>15,876.00</u>
	<u>₹177,174.00</u>

Additional Chargeable Income = ₹177,174/-

Additional tax thereon:-

Tax on 1st	₹2,486 @ 9%	₹ 223.74
Tax on next	95,000	38,075.00
Tax on bal.	79,688 @ 55%	<u>43,828.40</u>

Additional Tax Payable ₹82,127.14

(ii) Year of Assessment 1968

40

Sale of Lot. Nos. ¹¹⁸ 103, 528 and 568- ¹ to 568- ¹⁰ , Mk.XXV in 1967	₹400,000.00
Less: Cost of land purchased in 1949 and 1951 (See Note (2) attached).	<u>₹ 39,409.00</u>
Profit c/f.	<u>360,591.00</u>

In the Income Tax Board of Review Singapore	b/f	§360,591.00
Add: Partnership: Swee Lee		
Hup Kee (a.b.)		971.00
Rent		<u>NIL</u>

No.2
Petition of Appeal against Assessment dated 7th August 1975 (Contd.)

Assessable Income	361,562.00	
Less Personal Relief.		
Self	§2000	
Earned Income	1000	10
Wife	1000	
Child	1750	
L.A., P.F.	NIL	
		<u>5,750.00</u>
Chargeable Income	§355,812.00	

Tax thereon:-

Tax on 1st.	§100,000	§ 38,450.00
Tax on bal.	255,812 @	
	55%	<u>140,696.60</u>
Tax Payable		<u>§179,146.60</u>

3. With reference to your Accountant's letter dated 14.12.61, regarding the cost of the construction of 11 terrace houses at Swanage Road, I note that the whole of the cost of Crown Reserve (§17,612/- for 33,236 sq.ft.) was charged as cost of land. According to the plans available, only part of the Crown Reserve bought in 1951 was utilized in the construction of the 11 houses on Lot Nos. 568¹⁷ to 568²⁴ of Mk. Will you please let me have the following particulars: 30

- a) The actual area of Crown Reserve utilized for the construction of the 11 terrace houses;
- b) Reason(s) why the cost of the whole of Crown Reserve was charged as cost of land.

Furthermore, I note that in the same letter, a claim of §11,434 for the cost of metalling road was made in addition to an earlier claim of cost of metalling Swanage and Crescent Roads amounting §11,011.16 made on 17.5.61. Will you please let me know the name of the road to which this claim of §11,434/- referred. 40

Yours faithfully,
Sd:
f. Comptroller of Income Tax,
Singapore.

No.3

Notes of Evidence of the Income Tax Board
of Review dated 17th May 1976 to 20th May
1976

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Tax Board of
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INCOME TAX BOARD OF REVIEW

Income Tax Appeal No.10 of 1975

10

Mr. Chng Boon Huat v Comptroller of Income Tax

NOTES OF EVIDENCE

No.3
Notes of
Evidence of
the Income
Tax Board of
Review dated
17th May 1976
to 20th May
1976

17 May

Coram:

Mr T S Sinnathuray - Chairman
Mr Henry Tan Hoay Gie - Member
Mr Chu Chui Lum - Member

Mr Lim Chor Pee for Appellant.

20

Mr Mahmood bin Mohd Fadjar for Comptroller.

Mr Lim Chor Pee:

Issue relates to sale of two pieces of vacant
land.

Years of Assessment are 1966 and 1968.

The vacant lands formed part of the original
whole piece of land.

Agreed sketch plan - marked Exhibit P.1(a) to
(c).

General Improvement Plan - marked Exhibit P.2.

30

Appellant bought the whole piece shown on Ex.
P.1(a) in 1949 at \$1 per sq. foot.

When appellant bought the land Lot 92-2 had been
divided into lots.

In 1951 appellant bought the Crown Reserve.

In 1952 he applied for sub-division as shown in
Ex. P.1(b).

In 1951 appellant applied to build flats in area
coloured blue on Ex.P.1(c).

Summary of Facts - marked Ex. P.3.

40

Refer to plots marked E on Ex. P.1(c).

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Still unsold.

Goes through the Summary of Facts.

Issue whether appellant is trading in land
when he sold these two properties.

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Agreed Bundle No.1 - marked Ex. A.B.1.

Agreed Bundle No.2 - marked Ex. A.B.2.

10

Agreed Bundle No.3 - marked Ex. A.B.3.

Agreed Bundle No.4 - marked Ex. A.B.4.

Ex. A.B.2 are rent account.

Ex. A.B.3 and A.B.4 are the various
planning approvals.

Board:

Adjourned for 15 minutes.

Mr Lim Chor Pee:

20

Summary of Investments, etc. - marked Ex. P.4.

A.W.1 Chng Boon Huat (affirmed speaking in
Hokkien):

Living at No.30F Meyer Road. I am a
landlord.

Formerly, since Japanese Occupation, I have
been in the business of import and export. I
was also a partner of Swee Lee Hup Kee,
dealing as agents for diesel oil. I was in
charge of sale in Perak Iron Mining Co. between
1960 to 1965. I also inherited two rubber
estates from my brother in Malaysia. This was
about in 1953; I sold them in 1957.

I am now 60 years of age. In 1949 I was 27
years of age.

Before 1949, it may have been that I bought
or paid a deposit for a piece of land which I
found later unsuitable for building a residence.
There was no other purchase before 1949.

In 1949, I bought this land shown in Ex.P.1
(a). It was vacant land. In 1950, I bought
No.24 Fort Road for my own residence. I still
own it. Besides these two properties, I have
not bought any other since then. I bought the

40

land in Ex.P.1(a) at \$1 per sq. foot. I paid cash. In the Income Tax Board of Review Singapore

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Q: What was behind your mind in buying the land?

10 A: It was a personal investment. I wanted to build houses to collect rents as a landlord.

20 At that time, I knew nothing about the property business. In 1949 I had a table space in an office at No.73A Telok Ayer Street for my import and export business. I did not have any employee. I used to travel a lot between S'pore and Malaya. I did not have a business name or a limited company. Since 1949 till now, I have not formed any limited company.

Having bought the land, with the guidance of friends, I consulted Ee Hoong Chwee, the architects. I asked him to submit plans for building 30 flats along Tanjong Katong Road. What happened was I gave him the site plan and he advised that I build 30 flats first at that site. I agreed.

30 In 1951, in my heart, I had the intention of developing the rest of the land. I think I did ask my architects to submit plans for the rest of the land. In 1951, I also intended to build. (Witness points to Ex.P.1(b) - Swanage Road terrace houses).

The plans for flats were approved after one year.

When I bought the land, there was the Crown Reserve for road. I submitted new lay-out plan and in the end, I bought the Crown Reserve to provide the new road. This was I think in 1951 or 1952.

The flats were completed in 1953.

40 Q: Who provided the finance for this project?

A: At first, my younger brother supported me. Later it was mortgaged to Hongkong & Shanghai Bank - the entire land. The building of the flats were financed by the overdraft from the bank.

I rented the flats out. In 1953, I rented the flats at an average of \$100 p.m. and when the assessments went up, I increased the rental accordingly. In 1972 the rental was

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still the same \$120 or \$125 p.m. They were
monthly tenancies. There has been no
change in annual value of the block of
flats after I had increased the rent to
\$120/\$125 p.m. In 1968 application was
made to sub-divide the flats.

Q: What was the reason?
A: Because the rentals I collected was not 10
enough to pay the interest so I applied
to have them sub-divided, so that I could
sell them separately.

The application was approved in 1969.
(Witness is referred to par.5(e) in page 3
of Ex.A.B.1).

Q: Do you agree?
A: I agree.
Q: Why was this peculiar arrangement made with 20
Aik Lam?

A: Firstly, nobody wants to buy 30 flats as a
block. I did not know what to do. I had a
friend who said he will introduce me to a
friend who knew how to do everything. I
was introduced to Wee Kia Lock of Aik Lam.
He advised me to do as stated in para.5(e).

Q: Why have the sale agreement?
A: That was what Aik Lam said should be done. 30
I don't know. I was told that the offer
would be given first to existing tenants
and if they did not want it they will be
evicted. Aik Lam was to obtain the strata
titles for the flats. This was granted
in 1972.

Sgd. T S Sinnathuray.

Adjourned for hearing at 2.30 p.m.

Mr Lim Chor Pee:

Photostat of 1930 plan - marked Ex. P.5.

A.W.1 Chng Boon Huat (on former affirmation): 40
(Witness is referred to Ex.P.1(c)).

I still own those marked E. Some one came

10 to see me, I can't remember the year. I don't know whether he was from Shell or a broker. He suggested that he represent me to make an approach for a petrol station. He said that if it was obtained, he will buy the land from me. I told him that my purpose was not sell the piece of land; and that if he obtained permission to have a petrol station, then I would operate it. He told me that he had made an application. There was no further news about it.

I remember an application in 1964 for 4 shops and 4 flats in respect of E. At times, it was approved, at times it was cancelled; at times it was not approved. I am referring to the numerous applications that had been made between 1964 and 1974.

20 I was making these yearly applications for development of the vacant lots, as I was waiting for opportunity, when I made money, I would develop.

I remember plans for 'C' as shown in Ex.P.1(c) were approved in 1956. Final approval came in 1957 and construction commenced. It was completed in 1958. I developed these for sale. I sold them. They were all sold by 1961.

I took 3 years to sell the balance of two houses because of Ong Eng Guan. The whole project was a loss.

30 I sold them myself. I can't remember whether brokers came.

/Board:

Q: You said that in 1949, you bought the land as an investment. When did you decide to develop part of the land to sell?

A: The change came when the plans were passed and the tenders came for the houses in 'C'.

Q: And before that what was the intention?

A: Before that it was to invest.7

40 Q: Why did you change your mind?

A: Because the political climate was changing day by day.

Q: What period of time are you referring to?

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In the Income A: 1958.

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I had no office. I had no staff. Intended buyers either came to see me or telephoned me at home.

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I put the advertisement in Ex.A.B.1. The telephone number is my home telephone number. (Witness is shown Ex.P.1(b) and referred to 5689-10).

10

There was an application for two bungalows in 1957. It was approved in 1958. When the application was made, I thought that I could live there in the future. I have two wives. No development took place because my wives said: "We already had a house to live in. Why is there a necessity to build?" Both wives were staying together in Fort Road then.

I remember an application to build 24 flats in 568 1 to 10 in 1963. It was refused. Also again it was refused in 1963. The purpose of the development was to rent the flats, like in 'D' in Ex.P.1(c).

20

I remember in 1966, I applied for 10 terrace houses in the same plot. I know it was approved. The architects were Tan Sing Eng.

/Board:

Q: Why did you want to develop 10 terrace houses?

30

A: It is easier to rent terrace houses and rents were higher than rents for flats.

I expected in 1966 a rent of about \$400.

At that time, I had estimated that the cost of construction of each terrace house would be about \$28,000, excluding land.

/Board:

I was going to borrow between \$100,000 and \$120,000 from a bank. At that time the interest was 9%.

40

Q: What happened after that?

A: After that I sold this piece of land.

Q: Who approached you to buy?

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Singapore

A: A director of Tan Seng Phee Ltd, Tan Quee Sian approached me. My architect is either director or managing director of this company.

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10 Re Lots 528 and 103-118, there was submission in 1964 for 16 flats which was either withdrawn or not approved. In 1966, there was an approval for 5 terrace houses. Tenders were called. The intention was the same - to build and rent. This is a photostat of a tender report - marked Ex.P.6. No award was made because I decided to sell this plot also to Tan Seng Phee Ltd. The whole of 'B' was sold for \$400,000.

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Q: Why did you decide to sell it?

20 A: Before the approval was given, a bank and a friend of mine in Kuala Lumpur agreed to support me. Then there was the Indonesia confrontation. The bank became frightened. The support from the friend in Kuala Lumpur was not enough. My overdraft from the bank was already large. Due to the confrontation, the Bank not only did not support me but also called back my overdraft. I could not help it. I had to sell it.

/Board:

30 The bank was going to give 50% to 60%. My friend in Kuala Lumpur was going to give up to \$100,000. My friend was going to give the money without interest. He is a good friend of mine. I have lent him in the past - \$50,000. He is a very rich man - Tan Sri Low Yat. The money was to be repaid when I was able to do so.

The sale price was satisfactory to me.

40 I remember that re 'A' the first submission was for two semi-detached on Lot 568-41. This was approved. In 1957 I applied and in 1958 got approval for a bungalow on Lot 568-40. Then in 1968, two semi-detached were approved for Lot 568-40. No development took place. The intention was to build these houses to rent them out. The application was more or less the same time as the 11 terrace houses as shown in 'C'.

I was concentrating on the 11 terrace houses at that time. Later because of Ong Eng Guan, I did not dare build the two semi-detached and bungalow house.

Later I asked for 12 flats and later still for 9 flats which were refused in respect of Lot

In the Income 568-41. In 1965 Cheong Koon Seng approached
Tax Board of me. I sold it to Dr. Lai at \$10 per sq.
Review foot, i.e. \$193,050. He made a sub-sale to
Singapore B.P.

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/Board:

I was going to build flats to rent them
out. I was going to borrow the money, to
develop, from the bank. I estimated the
cost of construction of the flats at about
\$100,000. I was going to borrow 50%/60%. I
was going to get partly from friends and
from my own funds. I expected to rent a flat
at \$200 to \$250 p.m.

10

Q: Did you at any time work out the net
return on your investment?

A: More often than not, I did not work it
out.

When I developed the 30 flats, I worked
out approximately the net return on investment

20

sgd: T S Sinnathuray.

Adjourned for hearing on 18.5.76 at 10 a.m.

18 MAY, 1976.

Coram as before.

A.W.1 Chng Boon Huat (on former affirmation):

Between 1958 and 1965, I did submit
various plans to the Planning Dept from time
to time. During this period, I did consider
the possibility of developing the vacant
land for sale. During this period, I did take
steps to develop. I did two things - one, if
I were to construct houses, I would have to
borrow from the bank; secondly, if I wanted
to invest, I would also have to borrow from
the bank. If I were to construct houses for
sale, I would lose money. It is safer to make
an investment. (Witness is questioned
further). I could not proceed with the
development. I did not proceed further
because I was afraid as I had the experience
of losing money on those 11 houses.

30

40

Q: Any othe reason?

A: No other reason. I was afraid of losing
money.

Board:

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Q: If what you say is correct, then why did you over the period of time of 1958 to 1965 make all those various applications which have been referred to at this hearing?

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10 A: I submitted plans, I thought, if I could sell one piece of land, then with that money, I could construct houses, (Witness corrects). I did not mean that I waited till the plan was approved to sell the piece of land to construct houses. I thought if I sold a piece of land, I could construct houses.

I did have the intention to develop to sell, but I did not proceed with it.

Q: Did you think of an alternative method then?

20 A: Yes. If I had an opportunity, I would build houses as an investment.

From 1968 the reason why my overdraft went up was because I invested in shares. I started speculating in shares from about 1968. That is why my overdraft went up. I still have a lot of shares - over 100,000 shares in 4 companies. In today's valuation they are worth over \$500,000. My overdraft today is about \$1,100,000. The land, flats and the house I am living in are all mortgaged to the bank.

30 I stayed at Nos 24 Fort Road till about 1972. Then I moved to a house in Mountbatten Terrace which I rented out whilst No.24 Fort Road was being reconstructed into two bungalows. One was completed in 1974. The other whilst under construction was acquired for road widening, i.e. the one in front. The other is now No. 30F Meyer Road as that faces Meyer Road, There is no more No.24 Fort Road.

Cross-Examination:

40 Besides the import/export business, partner of Swee Lee Hap Kee and manager of Perak Iron Mining Co., I had no other business.

In 1949, I came to know of this land through a broker. Naturally, I saw it before I bought it. I knew the lay-out plan - Ex.P.5 - before I bought the land. I did not buy this land for personal use. I bought it for investment. I paid the purchase price from money I had earned and saved through the years.

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/Board:

Q: When did you start earning a living?

A: At the age of about 21 or 24. It was import and export business between S'pore and Kuala Lumpur. During the Japanese Occupation, I had two sailing boats./

10

Up to 1949, I was in the import/export business for about 5 years. It was a thriving business.

Q: What was your monthly turnover?

A: It was uncertain - about \$40,000 to \$50,000; \$70,000 to \$80,000; \$15,000; sometimes \$20,000. This is volume.

In 1949, I had ready cash of between \$100,000 and \$200,000. And I used this money to buy the land.

20

In 1950, I bought No.24 Fort Road. I paid \$54,000. It was my own money. My younger brother also sent money. (When witness is reminded that he borrowed one month after purchase of land \$50,000 from a Bank and asked to explain how he bought Fort Road, he says that most of the money, about \$30,000, came from his brother.)

30

Sgd. T S Sinnathuray.

Adjourned for 15 minutes.

A.W.1 Chng Boon Huat (on former affirmation):
Cross-examination:

I mortgaged No.24 Fort Road. I mortgaged it about a year or two later. It could be \$30,000 initially. It was increased to \$50,000. It was for turnover for business.

I did think about the financing of the project, re development for investment. It was my brother who asked me to build houses. Also, at that time, I was owner of horses and winning money on horses. I expected to finance the project from winnings on horses and from my brother.

40

Board:

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I started having horses in 1948/1949.

Q: If that is right, then why mortgage land and later No.24 Fort Rd?

A: After mortgage, I won money.

10 Q: When did you start winning money?

A: I won the most at the end of 1951 and in the year 1952.

Q: I am speaking of 1949, where did you expect to get the funds for development?

A: From my younger brother.

In 1951, I acquired the Crown Reserve for about \$17,000. The money came from my brother.

20 I agree that in 1949, 1950 and 1957, a lot of my money came from my brother. He was in Kuala Lumpur.

Q: Put to you that without the assistance of your brother, you could not purchase any of these properties.

A: (Witness said "Yah"). (Witness corrects: I had the money to buy the land but later I needed his assistance to construct houses.)

30 The cost of construction of the 30 flats was about \$400,000 something. This was in 1953.

Q: Put to you it is \$443,830?

A: I agree.

Q: Where did you get this money?

40 A: Before construction began I discussed with my younger brother. From time to time thereafter my younger brother sent me money, almost all the money for these flats were sent by him. He remitted money till the time the building reached the 2nd floor. Then I went to the Bank and got a mortgage. And that is how I completed the building.

According to my calculation, if I could rent it out for \$100 to \$120 p.m., then I would in a year get \$40,000 something. After deducting property tax, according to my calculation, it would not be a bad investment. The borrowing came later, when my

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younger brother had financial problem. I borrowed from the Bank \$300,000.

I agree that without the mortgage that my returns after payment of property tax and income tax would be 5% and this would take 10 to 12 years to pay the construction costs.

When I started building, I did not intend to borrow from the Bank. Later, when I had to it was not a profitable project.

I agree that from 1953 to 1975, the investment from the 30 flats produced a 'nil' return for tax purposes.

I stopped the import/export business in 1952 or 1953.

sgd: T S Sinnathuray

Adjourned for hearing at 2.30 p.m.

Chng Boon Huat (on former affirmation):

Cross-examination:

I sub-divided the flats to sell. The reason was that the rents collected were not enough to pay the interest on the overdraft. Interest was mounting. I realized this before I had put in my application for sub-division. Besides the rent, I did receive other consideration from the tenants - some of the tenants. In the beginning, some of them paid tea-money. I can't remember how much. I cannot remember how many paid tea-money. I received altogether about \$20,000 to \$30,000.

Q: Put it to you because of these payments that you found it difficult to evict the tenants and also difficult to raise the rent?

A: No.

I was introduced to Wee Kia Lock. It was his idea that I enter into the agreement in 1970.

Re Plot 'E', in 1967, I applied for 3 terrace houses which was approved. I hoped to construct them. I could either rent them out or give them to my children. I expected to get the money partly from the Bank and partly from friends. The cost would be

about \$40,000 for the 3 terrace houses. I had hoped to rent them at about \$400 p.m. I did not apply to the Bank for an overdraft.

In the Income Tax Board of Review Singapore

I don't think that in 1958 when the terrace houses in Plot 'D' were completed that I put a notice board there that the houses were for sale. I can't remember whether there was such a notice or not.

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10

sgd: T S Sinnathuray.

Adjourned for 10 minutes.

A.W.l Chng Boon Huat (on former affirmation).

Q: Put it to you that in 1958, there was a large notice board at the junction of Dunman Road and Swanage Road avertising the sale of these terrace houses?

20 A: If you say there was one, there was one.

In 1957, I had approval to build 3 bungalows. I did say that two were for my wives. The third, I could rent it out. Also in 1957, I was going to develop the 11 terrace houses in Plot 'C'.

Q: Where did you expect to put the money to develop all these properties?

A: From the sale of the rubber estate.

30 I did sell the rubber estates. I sold Rusa in 1957 for \$223,000. Earlier in 1955, Beecham Estate was sold for \$200,218. I cannot remember what my overdraft was then. Re mortgage of land and No.24, I cannot remember whether they had been redeemed or not in 1955/1957.

/Board:

40 In 1957, as far as I can recall, I had two accounts with Chung Khiaw Bank with overdraft facilities of \$330,000 on one account and \$50,000 in the other account; and these were overdrawn to that extent. That year I sold Si Rusa and used the proceeds to develop the 11 terrace houses in Plot 'C'. I continued to pay interest on those two overdrafts.

Q: Can you tell me why you did not develop the 3 bungalows for which you had approval?

A: The circumstances were not good. I wanted to build first the 11 terrace houses and wait for the result.

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- Q: Could finance be a matter that affected you?
- A: Yes. It also could. The tender for the 11 terrace houses was \$270,000.7

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In 1963, I made an application to develop Plot 'B' by building 24 flats. It was my idea and I approached my architect. If it was approved, I would build and rent them out. In 1964, there was an application for 22 flats and for 16 flats in the other portion of Plot B and in Plot A for 12 flats in 468-41; and in Plot E for 4 shops and 4 flats, making a total of 56 flats and 4 shops. 10

Q: What was your intention to develop the 56 flats and 4 shops in 1964?

A: To develop them and rent them out. (Witness further says:) If my financial circumstances were not good, with the planning approval, it would be easier to sell the land; and also I was afraid that Govt. may acquire the land. 20

With planning approval, the land is more attractive.

sgd: T S Sinnathuray.

Adjourned for hearing on 19.5.76 at
10 a.m.

19 MAY 76

Coram as before

A.W.1 Chng Boon Huat (on former affirmation): 30

In 1966, I applied for 15 terrace houses in Plot 'B'. At that time also, I applied for 3 terrace houses in Plot 'E'.

Q: What was your intention then to make these applications?

A: To construct them as an investment.

Q: In 1966 what was your financial position?

A: Not bad, not good.

Q: Put that you were not very solvent in 1966?

A: I don't have the calculations to say that I was not solvent. 40

Q: You were owing the Bank \$471,000?

A: Yes.

Q: You were paying interest of \$36,000?

A: Yes.

10 Q: Did you have any other investments other than the 30 flats in 1966?

A: I had only the residence.

Q: Where did you expect to get the money to build the terrace houses?

A: After getting approval, to construct the houses, I could negotiate with the Bank.

Q: Approval was given and did you negotiate with the Bank?

20 A: Yes.

Q: What was the outcome of your negotiations?

A: Tenders were invited for 5 terrace houses. Then tenders were opened. Then Tan Seng Phee Ltd approached me.

Verbally the Bank agreed to lend me \$30,000 to \$40,000 for the 5 terrace houses. Dato Lee Chee San told me this.

Q: What about the 10 terrace houses?

30 A: By then Tan Seng Phee had approached to buy Plot 'B'. I did not approach the Bank.

Q: What about the 3 terrace houses in Plot 'E' in 1962?

A: I did not approach the Bank.

I was not going to develop Plot 'E' yet then. I was going to develop the 3 lots in Plot 'E' together.

The cheapest tender for the 5 terrace houses was over \$50,000.

Q: Where did you expect to get the remainder from?

40 A: I could get from friends.

Then I was going to rent them out at \$400 p.m.

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Q: How much was your income going to be from that investment?

A: I was going to make about 20% from the investment.

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Q: Was it to be 20% of the capital outlay?

A: Yes.

Q: What did you put your land at in arriving at 20%? 10

A: At \$1.

Q: What was the area of land for the 5 terrace houses?

A: About 10,000 sq. feet.

I sold the land because the price was good. Secondly, to develop the land, it would take time and I would be kept busy. I sold it to get a quicker return of my investment and I could reduce my overdraft. 20

/Board:

Q: And when you sold it, did you actually do that?

A: The purchaser did not pay in one lump sum.

Q: Did you pay that to reduce your overdraft?

A: I did.

Q: How much?

A: I can't remember. 30

The reason why my overdraft in 1968 is more than 1967 is because I invested in shares.

I can't remember what my limit of overdraft facility was in 1967. I can't remember how much I was asked to put in.

Q: Put it to you that in 1967, the Bank did not call back on your overdraft?

A: I can't remember.

Besides Tan Quee Sian, I did not negotiate with any one else re sale of land. Tan did not 40

make any approach before 1967. Before that Mr Tan's father who is a friend of mine had on one occasion asked me whether I wanted to sell the land. Then I did not have the intention to sell. Before that many brokers had approached me.

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Review
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10 The manner of payment of purchase price was that there was a first instalment. I can't remember the amount. Other payments were to be made after the completion of the houses but from time to time I took monies from Tan and the whole amount was paid in 2 years because during that period I was investing in shares. The purchase price was \$400,000.

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I did give Tan Quee Sian \$40,000 as a gift for the sale of this land to Tan Seng Phee Ltd. He returned this to me when I had trouble with the Inland Revenue Dept.

I sold Plot 'A' to Dr Lai at \$10 per sq. ft.

20 From 1949 to 1967, I used 4 different architects. I had them one at a time.

sgd: T S Sinnathuray.

Adjourned for 20 minutes.

A.W.1 Chng Boon Huat (on former affirmation):

Re-examination:

30 Re increase in overdraft in 1968, I gave security of share certificates which I purchased from overdraft. The Bank also accepted a re-valuation of the land in 1970. This is a valuation report - marked Exh. P.7.

In 1950, 1951 and 1952, I owned race-horses. I owned about 10 horses. More were of my own. Some were in partnership. I also betted on horses.

sgd: T S Sinnathuray.

Case for Appellant.

R.W.1 Wee Kia Lock (affirmed speaking in English):

Living at No.19D Jalan Hock Chye. I am a company director.

40 In 1970, I was managing director of Aik Lam Realty Pte Ltd. We were in realty business and also managing agents for properties. I know A.W.1 personally for a few years before 1970 - from

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about 1965 or 1966. It is not correct that I first came to know him in 1970.

In 1970 there were two agreements. There was a contract for sale and purchase dated 8.4.70. This agreement was rescinded and there was another agreement substituted dated 23.11.71. We became the agents.

Re first agreement, I was approached by A.W.1 in early 1969. He wanted to sell the flats. The flats were then tenanted. So, to get a better price, it was better to get vacant possession. We were not owners. In order to make our company as landlord, it was proposed that there should be a sale to our company to achieve that object. I proposed this arrangement and to protect A.W.1 there was to be a deed of trust back in his favour. I can't remember whether this was done. 10
20

Cross-examination:

We were friends since about 1965/66. In 1965/1966, I was dealing in properties. I don't think A.W.1 knew that.

/Board:

Q: What did he know you as?

A: I used to go to a firm to have lunch there; and there I came to know him.

Q: What did he know you as?

A: One of the visitors to the place where I lunched. 30

I am a director of a number of companies. My main function is that of project consultant of all sorts.

Nobody introduced A.W.1 to me personally in respect of this property. When he came to me, he knew I could help him.

The first agreement is not a genuine sale.

A.W.1 intended to apply for the strata titles himself. We did not agree to do it for him. 40

Re-examination: No questions.

Board:

The first time, I had business dealings with A.W.1 was when he came re sale of flats.

Q: Did he tell you why he wanted to sell these flats?

A: No, he didn't I didn't ask.7

10

sgd: T S Sinnathuray

(R.W.1 released).

Adjourned for hearing at 2.30 p.m.

R.W.2 Tan Quee Sian (affirmed speaking in Hokkien):

Living at No.47 Bournemouth Road. I am a businessman.

In 1967 I was a director of Tan Seng Phee Pte Ltd.

20

(Witness is shown Ex.P.1(c)). In 1967 my company bought the plots marked 'B'. We bought it from A.W.1.

30

I had been a friend of A.W.1 for a long time. Often I have heard him say that he had land for sale. He did say he wanted to sell Plot 'B'. In 1967, it was A.W.1 who approached me. Before that I have never mentioned of wanting to buy Plot 'B'. I introduced the manager of my company to negotiate the purchase - Tan Sin Eng. Tan Sin Eng is my brother and he is an architect. Then I did not know that my brother was the architect for A.W.1. My brother never mentioned to me about this Plot 'B'. I was not involved in the negotiations re the purchase. My brother did the negotiations.

My company builds houses. We have built many houses. So when I knew that A.W.1 wanted to sell I made the introduction. We were looking for land to build houses.

40

When I was approached, I did not know that Plot 'B' was suitable for development. I left it to my brother who knew about these matters. My brother told me before the purchase that the land was suitable for development. My company paid \$400,000. I was not responsible for fixing the purchase price. I knew that the purchase price was to be paid by instalments. When A.W.1 was short of money, he will come to me and I will give him by cheque.

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After the sale, A.W.1 had some commission to give me. This was introduced by me so he gave me a commission. I am not a broker. He gave me a commission. I accepted it. It was \$40,000 by cheque. Then later, he was in financial difficulties. So I gave him back the money. It was about a year later. He told me he was in financial difficulty. I had read in newspapers many years ago that he was in difficult with the Inland Revenue Dept. It was about this time that I gave back the \$40,000. 10

A.W.1 has not approached me as regards any other piece of land.

Cross-examination:

I got the \$40,000 when the payment of the \$40,000 was almost completed. I think, I got the \$40,000 in 1969. I have not declared it in any year's tax return. 20

In 1973/1974, my tax affairs had been investigated.

This company of mine is a private limited company of the family. I am the Chairman. I hold 3,600 shares. I don't know what the total shareholding is. There are 7 shareholders. Earlier my father also was a shareholder. He has passed away. I think the company was formed in 1959. Each share is \$100.

It was I who approached A.W.1 in 1967 and asked him whether he wanted to sell Plot 'B'. 30

Re-examination:

In April 1973, I wrote this letter to Inland Revenue Dept - marked Exh.R.1.

sgd: T S Sinnathuray

R.W.3 Tan Sin Eng (affirmed speaking in English)

Living at No.717 Dunman Road. I am an engineer by profession and also a company director.

In 1967 I was a director of T.S.P. (Pte) Ltd. 40

I know the appellant. I came to know him through my brother R.W.2. It was about 1965 or 1966. I came to know him socially. Later in April 1966, I came to know him

professionally. I submitted plans for development of Plot 'B' shown in Ex.P.L(c). I accept that the approval was given on 24.9.66. Building approval was granted on 6.7.67.

In the Income Tax Board of Review Singapore

10 I know that T.S.P. (Pte) Ltd bought this land and the conveyance was executed by Nov 1967. I was and am still a director of T.S.P. (Pte) Ltd. Whilst I did the plans for A.W.1, I also led my brother to know about this piece of land. I told him. I made a feasibility study and told him that we could develop this land. In fact, I did all the technical and professional service for my company. I told my brother what sort of price we should offer.

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20 Then, as I recall, I started having a casual talk with A.W.1 about our interest in the land. It then developed more; and, as I recall, the later stages were handled by my brother. My brother negotiated and finally concluded the transaction. I suggested to my brother that the offer be between \$350,000 to \$400,000. I know that we bought it at \$400,000.

I don't know what A.W.1 was going to do by developing the land.

As far as I and my company was concerned, we were going to develop this land by building the 10 terrace houses for which approval had been given for sale to the public.

30 We paid the purchase price by instalments. I don't know the details.

Cross-examination:

A.W.1 never asked me to make a feasibility study for him. Any prudent developer will make a feasibility study before developing.

Re-examination: No questions.

Sgd: T S Sinnathuray

Adjourned for hearing on 20.5.76 at 10 a.m.

20 MAY 76

Coram as before.

R.W.4 Ee Hoong Chwee (affirmed speaking in English):

40 Living at No.29 Hertford Road. I was a company director.

I was an architect from 1931 to 1967. I know

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A.W.1. I came to know him about 1949.
His relation introduced him to me as a
client. He showed me a site plan of his
land - possibly Exh.P.1 or P.5. He asked
for advice on the type of houses he could
erect. I advised him that he could build
terrace houses. In 1951 I advised him to
buy the Crown Reserve. Later, application
was made and approval given to sub-divide
as shown in Ex.P.1(b). A.W.1 wanted to
put up more houses. I can't recollect why
A.W.1 wanted to put up all these houses.

10

Xx-examination: No questions.

Re-examination: No questions.

Sgd: T S Sinnathuray

Case for the Respondent.

Mr Mahmood Fadjar:

20

Issue is whether A.W.1 is carrying on a
trade/business in dealing in land when he
sold the two properties in 1965 and
1968.

Section 10(1)(a)

Question of fact - Objective test.

Activities and circumstances.

On the evidence, trade/business existed
from the very beginning when he bought
the land.

30

A.W.1's financial position.

Intention must be consistent with
financial position.

Turner v Last 42 T.C. p.517.

A.W.1 was perpetually in debt.

Never in a position financially to develop this land for investment purposes.

Cooke v Haddock 39 T.C. 64.

10 Why make all these applications?

I.R.C. v Livingstone 11 T.C. p.538.

One purchase and several sales.

Martin v Lowry 11 T.C. p.297.

DEF v Comptroller of In. Tax (1961) MLJ p.55.

Mr Lim Chor Pee:

20 Was the appellant carrying on a business of trading in land when he sold the two pieces of vacant land in 1965 and 1968?

Appellant was a land owner and he sold the land at an opportune moment without making himself a trader in land.

Hudsons Bay v Stevens 5 T.C. 424.

E. v. Comptroller of In. Revenue (1970)
MLJ p.117.

Board:

Adjourned for decision at 2.30 p.m.

Board:

30 Appeal dismissed with costs.

sgd: T S Sinnathuray

In the Income
Tax Board of
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Notes of
Evidence of
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1976 (Contd)

In the
Income Tax
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EXAMINED BY ME

TRUE COPY

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Clerk to the Income Tax
Board of Review

Chairman
Income Tax Board
of Review
Singapore
2/6/76

10

GROUNDS OF DECISION OF
 THE BOARD OF REVIEW
 dated 20th May 1976

INCOME TAX BOARD OF REVIEW

Income Tax Appeal No.10 of 1975

ORAL GROUNDS OF DECISION

10 The appellant when he gave evidence
 described himself as a landlord. Years before,
 he had been a businessman, and for some time
 a sales manager for a mining company in
 Western Malaysia. He was assessed by the
 Comptroller of Income Tax on two additional
 assessments for 1966 and 1968 both dates 27th
 July, 1972. The tax payable is \$82,127.14 for
 the year of assessment 1966 and for the year
 of assessment 1968 the tax payable is \$179,146.60.
 20 These facts are in the Petition of Appeal. In
 it also are stated the basis of the Comptroller's
 assessments.

For the year of assessment 1966, the
 Comptroller has proceeded to take the sale
 consideration of Lot 568-40, 568-41 and 568-42.
 Mukim XXV and after deducting the cost of the
 said land when purchased by the appellant, he
 has assigned a profit of \$177,174. For the year
 of assessment 1968 the Comptroller has proceeded
 to assess the sale of Lot 103-118, 528, 568-1 to
 30 568-10 Mukim XXV and after deducting the original
 purchase price, the Comptroller has arrived at
 a profit of \$360,591. It is in respect of the
 two notices of assessment that I have mentioned
 that the appellant has appealed to this Board.

Both counsel for the appellant and for the
 Comptroller are agreed that the issue is whether
 the appellant was carrying on a trade or business
 in dealing with land when he sold the two properties.
 Essentially, it is a question of fact for decision.
 40 As has been said by Mr. Mahmood Fadjar for the
 Comptroller, the test is an objective test. It
 must be arrived at after having considered the
 activities of the appellant and the circumstances
 relating to the two transactions.

Before I go into the facts I want to point out

No.4
Grounds of
Decision of
the Board
of Review
dated 20th
May 1976

under section 80(3) of the Income Tax Act (Chapter 141), "The onus of proving that the assessment is excessive shall be on the appellant." What, then, are the facts?

(continued)

The commencement of the facts is that in 1949 the appellant who was then carrying on a business in import and export bought a large piece of land comprising of an area of about 3.3 acres in Katong which is described in Exhibit P.1(a) for a sum of \$113,168. The appellant's evidence is that at that time he was very successful in his import and export business which consisted, as he said, of dealing in the black market of commodities like cigarettes, rice and sugar; and, the area of business was between Singapore and Kuala Lumpur. By 1949, he had been in the business for about 5 years and, he said, he had savings to the tune of \$100,000 which he used to purchase this large piece of land. He said his intention was to keep the land as an investment.

10

20

About a month or so after he had purchased the land, the appellant mortgaged it for a sum of \$50,000. He said that the object of that exercise was that he needed money as turnover for his business. Incidentally, about a year later the appellant also purchased another piece of property, No.24 Fort Road, for his personal residence. He said that most of the purchase price was paid for by his brother, about \$30,000 of the \$50,000. About a year later, he mortgaged that property too, first for \$30,000 and later for \$50,000, once again, for his business.

30

Coming back to the land which he bought in Katong, soon after the purchase, the appellant consulted Mr Ee Hoong Chwee, who was then an architect in private practice, for the purpose of developing the land. Mr. Eee, who was called for the Comptroller, said that on the advice that he had given the appellant, the appellant bought the Crown Reserve for Road which ran across part of the land. He then submitted a revised plan for sub-division which was duly approved and that is shown in Exhibit P.1(b). Clearly, the appellant at that stage, had the intention to develop his land in the best possible way.

40

In 1952, approval was given and the appellant began to construct 30 flats on a piece of the land, the portion of which is coloured

blue in Exhibit P.1(c). The construction was completed in 1953. The appellant then rented out the flats to the public. It is his evidence that as regards some of the flats, he obtained lump sum payments. He rented them out for about \$100 to \$120 per month.

No.4
Grounds of
Decision of
the Board
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May 1976

10 For the purpose of our decision we do not have to go into detail as regards the rentals of the flats. It is sufficient to say that there is evidence that throughout the time the appellant rented out these flats, for income tax purposes, they have produced nil income. The flats were sold sometime in 1972.

(continued)

20 The next thing the appellant did was in relation to the portion of the land marked 'C' in Exhibit P.1(c). In 1957, he submitted to the Planning Department, through his architects, plans for approval for 11 terrace houses. Having obtained approval, construction commenced and the terrace houses were completed in 1958. It emerged in evidence, and we find as a fact, that at the time the houses were in the course of construction, the appellant put up a large notice board somewhere near the junction of Dunman Road and Swanage Road advertising that these terrace houses were for sale. In fact, when the appeal concluded
30 this morning, it was no longer in dispute that so far as the development of the 11 terrace houses was concerned, the appellant had been engaged in the business of developing land.

40 The only other matter of interest, as regards this development, is this. It is the appellant's evidence that in 1957/1958 because he thought that the economic position in Singapore was good that he developed that portion of the land in the way I have said. But at the time of selling, Mr. Ong Eng Guan had made it difficult for the middle income class for whom the appellant was building the houses that he could not sell them as profitably as he had hoped. In fact, when the Comptroller assessed him to tax in respect of the development, it turned out that there was no profit for tax purposes.

50 The next event that occurred as regards the land is in 1963. The appellant made applications to the Planning Department for approval to put up 24 flats in the area of the

No.4
Grounds of
Decision of
the Board
of Review
dated 20th
May 1976

(continued)

land marked 'B' in Exhibit P.1(c). That was refused in 1964. He then made an application for a total of 56 flats and 4 shops in the area 'A' and 'B', shown in Exhibit P.1(c). I should mention here that in the course of the appellant giving evidence, I asked him and he said that he thought 1963/1964 was a good period of time for development in Singapore. That was when Singapore went into Malaysia and hopes were high that economically Singapore was going to prosper. He was asked what his intention was to develop the 56 flats and 4 shops in 1964. His answer was to develop and to rent them out. He went on to say that it was in his mind then that if his financial circumstances were not good, with the planning approval he had obtained, it would be easier to sell the land. He also added that he was afraid that the Government may acquire his land. 10
20

It is of interest now to refer to the appellant's financial position as it was in 1963/1964. There is Exhibit P.4 which shows in a summary form the income and expenditure of the appellant for the years 1949 to 1972. In 1963 his annual overdraft interest was \$31,000 and in 1974, \$38,000. His actual bank overdrafts for the same two years were \$523,000 and \$570,000 respectively. His only income appears to be the rentals from the 32 flats which produced \$40,000 for each of these two years on which he had to pay property tax of \$19,000 annually. Thus, when he made his application for the development of the 56 flats and 4 shops, the appellant knew that his financial position was not good. In fact, as Mr. Mahmood Fadjiar for the Comptroller said, Exhibit P.4 shows, he had been perpetually in debt. 30

During the adjournment, we did a quick calculation of what it would cost to undertake a development of the kind the appellant intended, that is to say, 56 flats and 4 shops. The cost of construction and development would be phenomenal in relation to the appellant's financial position. We also did a quick calculation of the returns on that investment. Whilst the appellant said, for instance, on 5 terrace houses, he expected a return of about 20 per cent, we do not think, in the practical world, it is a proper approach. The proper approach, as far as the appellant is concerned, as a businessman, 40
50

must be the actual profit to be had in hand on the investment, i.e. hard cash. In his case, there will be, firstly, the large overdraft that he will have had to get for which he will have had to pay interest; and, if he cannot pay the interest, there is interest upon interest. That will be a substantial sum of money. Then the appellant will have to pay property tax on the rents received at 36 per cent. And then again there is income tax to pay. When all these expenditures have been met, only then can the appellant say: this is what I have got for the amount of money that I have spent. Looking at it that way, to develop 60 units in 1964, having regard to the appellant's financial position, the return would be so little that no prudent businessman in his position would ever undertake. But, Mr. Lim Chor Pee, Counsel for the appellant, said the fact is he did not do it. Nevertheless, it remains that his intention was that he was going to develop the 60 units to rent - that is the whole basis of the appellant's case.

No.4
Grounds of
Decision of
the Board
of Review
dated 20th
May 1976

(continued)

There is also an explanation as to why the appellant did not proceed with the development. It was about that time that Singapore was experiencing "confrontation", and commercially speaking the business community was wary. It would be consistent with the line of thinking that prevailed then that the appellant, as can be seen from the Summary of Facts, withdrew some of the applications he had made to the Planning Department at that time.

By 1966 the economic and political situation in Singapore had changed. In that year, the appellant applied for planning permission for 15 terrace houses to be developed in the area marked 'B' and for another 3 terrace houses in the area marked 'E' in Exhibit P.1 (c), making a total of 18 terrace houses. It is his evidence that after having obtained the approval for the development of these terrace houses, he had actually called for a tender for the construction of 5 terrace houses for which he received the lowest tender of \$50,000. He was asked by Counsel for the Comptroller what his intention was when he made these applications for the 18 terrace houses. His answer was to construct them as an investment - to rent out the terrace houses

(continued)

to the public.

What was his financial position at that time? His overdraft interest was \$36,000 in 1966 and \$33,000 in 1967; in 1966 his actual overdraft was \$471,000 and in 1967 \$415,000. As regards income there had been no change in his position, except for the sale of the two pieces of land which is the subject of this appeal. Here again, if one looks at the matter in the way I have done earlier, it would be said that financially he was in no position to develop these 18 terrace houses to rent.

10

We have tested the evidence on the appellant's contention that the development of the land was as an investment, to construct houses and to rent them out. There is one more consideration. He was asked whether he had carried out any feasibility studies. He said "agak agak" in Malay, meaning "roughly". He did not ask or request his architects to make any feasibility study on various aspects relating to the renting of properties. In this connection, I refer to the case of E. Finance Co. v Comptroller of Income Tax (1970) 2 K.L.J. page xxviii, a decision of this Board in 1968. There too a ground of appeal had been that it was the intention of the appellant, the finance company, to develop the land which they owned by building a housing estate to rent to the public. There is no necessity to go through the evidence as set out in the judgment but the Board did say this :

20

30

".....What we find difficult to accept is that a decision was made by the very responsible management of the appellant to develop the land by building houses for renting without any serious study being made of the costs of development and the costs of construction, and, without any survey or investigation of rental values of bungalow houses, or the prevailing market rentals of such houses in the neighbourhood."

40

What the Board said then applies with more force in this case. There at least was some evidence. Here there is none. So then, the issue of fact for decision is this. Can the appellant be believed when he said that his intention from 1963 to 1966 was that he was going to develop

50

the land by constructing flats or terrace houses, in the way he has described, to rent them, and therefore the whole exercise of development was an investment? In the way we have approached this case, our finding of fact is in the negative. As to the issue whether the sale of the two properties was in the course of the appellant carrying out a trade or business in dealing with land, the answer is in the affirmative. We, therefore, hold that the Comptroller was right in raising the additional assessments for 1966 and 1968. Accordingly, the appeal is dismissed.

10

No.4
Grounds of
Decision of
the Board
of Review
dated 20th
May 1976

(continued)

Dated the 20th day of May, 1976.

Sd: T.S.Sinnaathuray
T.S.SINNA THURAY
Chairman

I agree.

20

Sd: T.H.Gie
TAN HOAY GIE
Member

I agree.

Sd: C.C.Lum
CHU CHUI LUM
Member

No.5
Order of the
Income Tax
Board of
Review
dated 15th
July 1976

No. 5
ORDER OF THE INCOME
TAX BOARD OF REVIEW
dated 15th July 1976

IN THE INCOME TAX BOARD OF REVIEW

Income Tax Appeal)
No.10 of 1975)

BETWEEN

Chng Boon Huat Appellant

AND 10

Comptroller of
Income Tax Respondent

Coram:

- Mr. T.S.Sinnathuray - Chairman
- Mr. Tan Hoay Gie - Member
- Mr. Chu Chui Lum - Member

20th May, 1976

THIS APPEAL coming on for hearing before
the Board on 17th, 18th, 19th and 20th May, 1976
in the presence of Counsel for the abovenamed Appellant and for the abovenamed Respondent,
and upon hearing the evidence adduced and upon
hearing counsel as aforesaid, IT WAS ORDERED
that this Appeal be dismissed AND THIS BOARD
DOTH FURTHER ORDER that the Appellant do pay the
Respondent the costs of this Appeal as taxed. 20

Dated the 15th day of July, 1976.

Sd: T.S.Sinnathuray
T.S. SINNATHURAY
Chairman
Income Tax Board of
Review, Singapore.

30

No. 6

NOTICE OF APPEAL
dated 29th May 1976

In the High
Court of the
Republic of
Singapore
(Appellate
Jurisdiction)

IN THE HIGH COURT OF THE REPUBLIC OF
SINGAPORE (APPELLATE JURISDICTION)

No.6
Notice of
Appeal
dated 29th
May 1976

NOTICE TO APPEAL TO HIGH COURT

DISTRICT AND MAGISTRATES' COURTS
SINGAPORE

Civil Appeal No.27 of 1976

10

Between

Chng Boon Huat

Appellant

And

Comptroller of Income Tax Respondent

IN THE MATTER OF INCOME TAX BOARD OF REVIEW
APPEAL NO. 10/75

NOTICE OF APPEAL

20

Take notice that Chng Boon Huat being
dissatisfied with the decision of the Income
Tax Board of Review given on the 20th day of
May, 1976 appeals to the High Court against
the whole of the said decision.

Dated the 29th day of May, 1976.

Sd:

.....

Solicitors for the Appellant

To: The Clerk,
Income Tax Board of Review
The Comptroller of Income Tax

30

The address of service of the Appellant is
c/o Messrs. Chor Pee & Hin Hiong of 9th Floor,
UIC Building, 5, Shenton Way, Singapore 1.

In the High
Court of the
Republic of
Singapore

No. 7

PETITION OF APPEAL
dated 20th July 1976

No.7
Petition
of Appeal
dated 20th
July 1976

IN THE HIGH COURT OF THE REPUBLIC OF
SINGAPORE

District Court Appeal)
No.27 of 1976)

Income Tax Appeal)
No.10 of 1975)

Between

10

Chng Boon Huat Appellant

And

Comptroller of
Income Tax Respondent

In the matter of Income Tax Board of Review
Appeal No.10 of 1975

Appeal against additional
assessments No.GP/22155 years
of assessment 1966 and 1968

PETITION OF APPEAL

20

To the Honourable Judges of the Supreme Court:

The Petition of the abovenamed Appellant,
Chng Boon Huat showeth :

1. The appeal arises from the Notices of Additional Assessment for years of assessment 1966 and 1968 issued to the abovenamed Appellant by the Comptroller of Income Tax the abovenamed Respondent.
2. By an Order dated the 15th day of July 1976 made by the Income Tax Board of Review the appeal of the Appellant to the Board against the refusal of the Comptroller to amend the said notices of assessments, were dismissed with costs. 30
3. Your Petitioner is dissatisfied with the decision of the said Board of Review on the ground that the Board of Review erred in law

by applying the wrong tests in evaluating the evidence of the Appellant and in particular, by applying its theories of business economics to the evidence without considering the whole evidence in its entirety as to whether or not upon all the circumstances of the case the sales constitute trading activities or merely a change of investment.

In the High Court of the Republic of Singapore

No.7
Petition of Appeal dated 20th July 1976

10

4. Your Petitioner prays that the decision of the Board of Review may be reversed.

(continued)

Dated this 20th day of July 1976

Sd:

Solicitors for the Appellant

To the Comptroller of Income Tax
SINGAPORE

No. 8

NOTES OF EVIDENCE
dated 13th October 1977
and 25th November 1977

No.8
Notes of Evidence dated 13th October 1977 and 25th November 1977

20

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

District Court Appeal No.27 of 1976
Income Tax Appeal No.10 of 1975

Between

Chng Boon Huat

Appellant

And

Comptroller of
Income Tax

Respondent

30

In the Matter of Income Tax Board of Review
Appeal No. 10 of 1975

(Appeal against additional assessments
No.GP/22155 years of assessment 1966 and 1968)

In the High
Court of the
Republic of
Singapore

No.8
Notes of
Evidence
dated 13th
October 1977
and 25th
November 1977

(continued)

Thursday, 13th October, 1977

Coram: Kulasekaram, J.

Mr. Lim Chor Pee for Appellant
Mr. Nand Singh Gandhi with Miss R.Tan for
Respondent.

NOTES OF ARGUMENT

Mr. Lim:

Refers to Sec.81(1)(3) & (4) of the Income
Tax Act. Distinction between findings of
primary facts and the proper inference
to be drawn from primary facts. 10

The drawing of inference from primary facts
is a question of law and the High Court
is in as good a position as the original
court.

1956 A.C.14 Edwards vs Bairstow.
1947 1 AER 126 at 130, Denning, J.
could reasonably drawn from them.

(1955) 1 AER 326
Benmax vs Austin Motor Co.Ltd. 20
Head Note.
(1967) 1 MLJ at 245, 248.

I say the Board had misdirected itself in
the evaluation of the evidence and the
reasons for its conclusions are unsatis-
factory and wrong.

B - Note.

Plot A sold in 1965 - Assessed in 1966 year
of assessment.

Plot B sold in 1967 - Assessed in 1968 year 30
of assessment.

These were sold as vacant land in its original
form after being held for 16 and 18 years.

Note C.

Was he in selling these 2 plots dealing in
land?

Note D

Law - Refers to Sec.10(1)(a) "....."

Appellant was charged under this section.
Refers to 1961 MLJ 55. 40
Headnote at 58.

Here in our case it was the product of 2
unconnected transactions - realisation of
capital. It is not an organised series

of buying and selling.
There must be the 2 elements -
repetitive acts of buying and selling.
There must be many buyings before selling....
Here he only bought once....
And there must be a common purpose to result
in a profit making scheme.
Distinction must be made between a company
and a person - an individual.
10 In the case of a company the transaction
just be looked in relation to the company's
overall business.

What was the taxpayer's intention at the
time he bought it.

I say the Board has completely overlooked
this point.

(1974) 1 AER 1137 Taylor v Good

When he bought the land what was his
intention?

20 The Board did not direct its mind to this fact.

Facts. Note E.

N.E.18

AB 18 letter 14/12/56.

AB 16.

History of Plot C.

Here he carried on business of developer.

AB 21.

AB 22

AB 23 - 3/9/58 Para.3

30 AB 26 Advertisement in S.T. Telephone No.
taxpayer's house.

AB 29

Adjd. to 2.15 p.m.

2.15 p.m.

Mr. Lim continues.

N.E.22

AB 30

AB 31

AB 32

AB 33

40 AB 34

Summary of facts E

Plot A sold in April 65 as vacant land.

N.E.25

No enrichment of this plot at all.

Sold to B.P. Sold after 16 years.

He was an investor realising his land.

Even if developer he had ceased to carry on
business.

No enrichment of the land.

In the High
Court of the
Republic of
Singapore

No.8
Notes of
Evidence
dated 13th
October 1977
and 25th
November 1977

(continued)

In the High Court of the Republic of Singapore

Note F

Note G

Board's findings.

Note H.

Ct: Adjd. to a date to be fixed by the Reg.

Inld. T.K.

No.8
Notes of Evidence dated 13th October 1977 and 25th November 1977

(continued)

No.9
Judgment of Mr. Justice Kulasekaram dated 25th June 1981

No. 9

JUDGMENT OF MR. JUSTICE KULASEKARAM dated 28th June 1981

10

IN THE HIGH COURT IN SINGAPORE

District Court Appeal)
No.27 of 1976)

Between

Chng Boon Huat

Appellant

And

Comptroller of Income Tax

Respondent

Coram: T. Kulasekaram J.

J U D G M E N T

20

This is an appeal from the decision of the Income Tax Board of Review affirming two additional assessments dated 27th July 1972 made by the Comptroller of Income Tax for the years of assessment 1966 and 1968 in respect of the appellant's profits from the trade of a property developer and dealer.

The following facts were never in dispute. In 1949 the appellant, a businessman, purchased a large piece of vacant land known as Lot Nos. 96-2, 103-106, 103-118, 103-119, 103-123 and 528 MK XXV in Katong with a total area of 113,168 sq.ft. at the price of \$1.00 per square foot. In 1951 he purchased a piece of Crown

30

reserve land with an area of 33,236 sq.ft. adjacent to the land he had purchased in 1949.

In the High Court of the Republic of Singapore

10 In 1951 the appellant obtained permission to erect 30 flats on part of the lands he had purchased and completed construction of these flats in 1953 which he subsequently rented out until he sold all of them in 1972. During the period when these flats were let out the rents he obtained produced no taxable income.

No.9
Judgment of
Mr. Justice
Kulasekaram
dated 25th
June 1981

(continued)

20 In 1957 the appellant obtained building permission to erect 11 terrace houses on another portion of the land. He completed construction of the terrace houses in 1958. While these terrace houses were in the course of construction he advertised (as found by the Board) that they were for sale. Subsequently he sold these terrace houses but derived no taxable profit from these sales.

In 1963 the appellant applied for planning approval for 24 flats on yet another portion of the land. When approval was not granted he made an application to build 56 flats and 4 shops but subsequently he did not proceed with this particular development.

30 In 1965 the appellant sold a portion of the land for \$193,000. The portion sold was known, as a result of subdivision, as Lots 568-40, 568-41 and 568-42. In 1967 the appellant sold another portion of the land for \$400,000/-. The portion sold was Lots 528, 103-118, 568-1 to 568-10. It was in respect of these two sales in 1965 and 1967 that the two additional assessments were raised by the Comptroller. The Board after hearing the evidence of witnesses called on behalf of the appellant found as a fact that the appellant was carrying on the trade or business of
40 dealing in land.

50 It is now contended that the appellant's activities in relation to the land he purchased in 1949 showed that he had purchased it for investment and to derive income by way of rent. It is also contended that the fact that he did not sell any portion of the land until 1965 showed that its purchase in 1949 was not for the purpose of re-sale for profit. It is also contended that the erection of the 11 terrace houses in 1957 and subsequent sale of these houses was an isolated transaction and having

In the High
Court of the
Republic of
Singapore

No.9

Judgment of
Mr. Justice
Kulasekaram
dated 25th
June 1981

(continued)

regard to all these factors, which the Board failed to consider, the finding of the Board that the appellant was carrying on the trade or business of dealing in land was wrong and against the weight of the evidence.

In my judgment, after a careful consideration of the evidence and the grounds of decision of the Board, there was ample evidence before the Board to justify its decision that the Comptroller was correct in raising the additional assessments for the years of assessment 1966 and 1968. The appeal is dismissed with costs.

10

Dated this 25th day of June 1981.

Certified true copy.

T. KULASEKARAM

J U D G E

Sd: Illegible

Private Secretary to Judge
Court No.7
Supreme Court, Singapore.

20

No. 10

NOTICE OF APPEAL
dated 13th July 1981

In the Court
of Appeal of
the Republic
of Singapore

IN THE COURT OF APPEAL OF THE REPUBLIC
OF SINGAPORE

Civil Appeal No.59 of 1981

No.10
Notice of
Appeal
dated 13th
July 1981

Between

CHNG BOON HUAT Appellant

And

10 COMPTRROLLER OF
INCOME TAX Respondent

In the Matter of the District Court Appeal
No.27 of 1976

Between

CHNG BOON HUAT Appellant

And

COMPTRROLLER OF
INCOME TAX Respondent

20 In the Matter of Income Tax Board of Review
Appeal No.10 of 1975.

NOTICE OF APPEAL

TAKE NOTICE that Chng Boon Huat being
dissatisfied with the decision of the Honourable
Mr. Justice T. Kulasekaram given at the High
Court, Singapore, on the 25th day of June 1981
appeals to the Court of Appeal against the whole
of the said decision.

Dated the 13th day of July 1981

Sd:

30

Solicitors for the Appellant

To: The Registrar,
Supreme Court,
Singapore.

The abovenamed Respondent,
Comptroller of Income Tax, Singapore.

In the Court
of Appeal of
the Republic
of Singapore

No. 11

PETITION OF APPEAL
dated 11th August 1981

No.11
Petition of
Appeal
dated 11th
August 1981

IN THE COURT OF APPEAL OF THE REPUBLIC
OF SINGAPORE

Civil Appeal No.59 of 1981

Between

CHNG BOON HUAT Appellant

And

COMPTROLLER OF
INCOME TAX Respondent

10

In the Matter of the District Court Appeal
No.27 of 1976

Between

CHNG BOON HUAT Appellant

And

COMPTROLLER OF
INCOME TAX Respondent

In the Matter of Income Tax Board of Review
Appeal No.10 of 1975

PETITION OF APPEAL

20

TO THE HONOURABLE THE JUDGES OF THE COURT
OF APPEAL.

The Petition of the abovenamed Appellant
showeth as follows :-

1. The appeal arises from an appeal to the
High Court against the Order of the Income Tax
Board of Review dated the 15th day of July
1976 dismissing the appeal of your Petitioner
the abovenamed Appellant against the refusal
of the Comptroller of Income Tax to amend the
Notices of Additional Assessment for years of
assessment 1966 and 1968 issued to your
Petitioner.

30

2. By a Judgment dated the 25th day of June
1981 your Petitioner's appeal was dismissed
with costs.

3. Your Petitioner is dissatisfied with the said Judgment on the following grounds:- In the Court of Appeal of the Republic of Singapore

(1) The learned Judge erred in fact in that:

a) He failed to consider that land as a purchase is a subject matter eminently suitable for investment and that your Petitioner did not buy or sell land in the nature of his trade. No.11 Petition of Appeal dated 11th August 1981

(continued)

10

b) He failed to recognise that the evidence showed that the lands were held for some 16 years and 18 years and that each was sold following a single act of sale.

20

c) He failed to consider and find what was the true or dominant intention or motive of your Petitioner in the purchase of the land when he did not disregard the undue emphasis and weight placed on your Petitioner's financial position and on the lack of feasibility studies in deciding the question of intention. Such inquiry was more in the nature of an investigation into your Petitioner's business acumen rather than on his true state of mind.

(2) The learned Judge erred in law in :-

30

a) holding that "there was ample evidence before the Board to justify its decision that the Comptroller was correct in raising the additional assessments" as he had failed to consider that the Board that applied the wrong tests in evaluating the evidence of your Petitioner, in particular, in the application of theories of business economics to the evidence without considering the evidence in its entirety as to whether or not upon all the circumstances of the case the sales constituted trading activities or merely a change in investment.

40

b) finding that the sale of the two undeveloped pieces of land constituted a sale in the course of a trade.

c) wrongfully imputing an intention to

In the Court
of Appeal of
the Republic
of Singapore

trade at the time of the purchase of
land in 1949 when such intention was
not supported by the evidence.

No.11
Petition of
Appeal
dated 11th
August 1981

4. Your Petitioner prays that such judgment
may be reversed or such order may be made as
the case may require.

Dated the 11th day of August 1981.

(continued)

Solicitors for the Appellant

No.12
Judgment of
the Court of
Appeal
dated 22nd
October 1981

No. 12

JUDGMENT OF THE COURT
OF APPEAL dated 22nd
October 1981

10

IN THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

CIVIL APPEAL NO.59 OF 1981

Between

CHNG BOON HUAT Appellant

And

COMPTROLLER OF INCOME
TAX Respondent 20

In the Matter of the District Court Appeal
No.27 of 1976

Between

CHNG BOON HUAT Appellant

And

COMPTROLLER OF INCOME
TAX Respondent

In the Matter of Income Tax Board of Review
Appeal No.10 of 1975

Coram: Wee Chong Jin, C.J. 30
Lai, J.
Chua, J.

J U D G M E N T

In the Court
of Appeal of
the Republic
of Singapore

No.12
Judgment of
the Court of
Appeal
dated 22nd
October 1981

10 The Comptroller of Income Tax by his
 additional assessments dated 27th July
 1972 assessed the appellant liable to tax
 in the sums of \$82,127.14 and \$179,146.60
 for the years of assessment 1966 and 1968.
 The assessments were in respect of the
 appellant's income earned from his trade
 as a property developer and dealer and
 exigible under section 10(1)(a) of the
 Income Tax Act, Cap.114. The Income Tax
 Board of Review affirmed the two additional
 assessments. The appellant brought an
 appeal against the Board's decision to the
 High Court under section 81 of the Act. The
 learned Judge in dismissing the appeal with
 costs expressed the view, after a careful
 consideration of the evidence and the
 grounds of decision of the Board, that
20 there was ample evidence before the Board
 to justify its decision that the Comptroller
 was correct in raising the two additional
 assessments.

 Against this decision, this appeal
 is brought before us.

30 The issue before the Board was whether
 the Appellant's gains or profits of \$177,174
 and \$360,591 earned in Singapore in 1965
 and 1967 as a result of the sales of two
 portions of a larger piece of land which
 the appellant had bought in 1949 were gains
 or profits from the trade of a property
 developer and dealer within the meaning of
 section 10(1)(a) of the Act. On this
 question, the Board in its oral judgment
 concluded: "As to the issue whether the sale
 of the two properties was in the course of
 the appellant carrying out a trade or business
 in dealing with land, the answer is in the
40 affirmative".

 The proper test to apply in this appeal
 is to ask ourselves whether the Board had
 misdirected itself in law, or had proceeded
 without sufficient evidence in law to justify
 its conclusion. This approach was endorsed
 by the Privy Council in International
 Investment Ltd v Comptroller-General of Inland
 Revenue /1979/ 1 MLJ 4. It is also a summary
 of what Lord Radcliffe said in Edwards v
50 Bairstow (1955) 36 T.C. at p. 229:

In the Court
of Appeal of
the Republic
of Singapore

No.12
Judgment of
the Court of
Appeal
dated 22nd
October 1981

(continued)

"I think that the true position of the Court in all these cases can be shortly stated. If a party to a hearing before Commissioners expresses dissatisfaction with their determination as being erroneous in point of law, it is for them to state a Case and in the body of it to set out the facts that they have found as well as their determination. I do not think that differences drawn from other facts are incapable of being themselves findings of fact, although there is value in the distinction between primary facts and inferences drawn from them. When the Case comes before the Court, it is its duty to examine the determination having regard to its knowledge of the relevant law. If the Case contains anything ex facie which is bad law and which bears upon the determination, it is, obviously erroneous in point of law. But, without any such misconception appearing ex facie, it may be that the facts found are such that no person acting judicially and properly instructed as to the relevant law could have come to the determination under appeal. In those circumstances, too, the Court must intervene. It has no option but to assume that there has been some misconception of the law and that this has been responsible for the determination. So there, too, there has been error in point of law. I do not think that it much matters whether this state of affairs is described as one in which there is no evidence to support the determination or as one in which the evidence is inconsistent with and contradictory of the determination or as one in which the true and only reasonable conclusion contradicts the determination. Rightly understood, each phrase propounds the same test. For my part, I prefer the last of the three, since I think that it is rather misleading to speak of there being no evidence to support a conclusion when in cases such as these many of the facts are likely to be neutral in themselves and only to take their colour from the combination of circumstances in which they are found to occur."

It is essential to examine the evidence

adduced before the Board. In 1949, the appellant, a businessman, purchased six pieces of land which totalled 131,168 sq.ft. at the price of \$1.00 per square foot. Lot 96-2 Mukim XXV was by far the largest lot which abutted the south-western corner of the Tanjong Katong Road/Dunman Road junction. A Crown Reserve for road was laying between this lot and the other 5 lots known as Lot Nos. 103-106, 103-123, 103-199, 103-118 and 528 all of Mukim XXV which were situated to the west or south-west of the first lot. Immediately after the purchase the appellant consulted an architect in 1949. He showed him a site plan and sought advice on the type of houses he could build. He was advised that he could build terrace houses. He was also advised to buy the Crown Reserve from the Government, no doubt with the intention of amalgamating it with all the six lots and maximising the development potential of the property. In March 1951 the appellant applied to purchase the Crown Reserve of 33,236 sq.ft. and its purchase was finalised before the year ended.

10

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50

In 1951 the appellant obtained permission to erect 30 flats on one block of ten 3-storey flats on that part of Lot 96-2 which was fronting Tanjong Katong Road. Construction of the flats was completed in 1953. The flats were rented out until the appellant sold them in 1972. No taxable income was produced throughout the 19 years when the flats were let out. During the second half of 1952, the appellant sought to amalgamate four out of the original six lots and sub-divide the amalgamated lot. In October 1952, the appellant obtained planning permission to amalgamate and sub-divide the new lots for development into, inter alia, (i) 17 lots for 2-storey flats, (ii) 6 lots for bungalows, and (iii) 10 lots for the 3-storey flats which were then under construction.

Between 1953 to 1957, the appellant submitted various applications for planning permission to develop the remaining portions of his properties other than Lots 528 and 103-118 which were situated at the western-most end of the entire piece along Dunman Road. In 1956, the appellant permitted the Shell Company of Singapore Ltd. to apply for planning permission to erect a filling station at the corner of the road junction. If this had been successful, the appellant would have sold the land to the petroleum company.

In the Court of Appeal of the Republic of Singapore

No.12
Judgment of the Court of Appeal dated 22nd October 1981

(continued)

In the Court
of Appeal of
the Republic
of Singapore

No.12
Judgment of
the Court of
Appeal
dated 22nd
October 1981

(continued)

In 1957 the appellant obtained permission to erect 11 terrace houses on that strip of land on lot 96-2 Mukim XXV almost immediately behind the block of 30 flats. While the terrace houses were under construction, the appellant had advertised that they were for sale. He sold these terrace houses between 1958 and 1961. He did not derive any assessable income from these sales.

In 1963 the appellant submitted plans to build 24 flats on that portion of his property which abutted Dunman Road. His application was turned down. He re-submitted another application to build 56 flats and 4 shops on that portion of his land and on the portion to the south of the 30 flats along Tanjong Katong Road. He did not proceed with this development. 10

In 1965 the appellant sold a portion of his property for \$193,000. The portion sold, after sub-division, was known as lots 568-40, 568-41 and 568-42 which were undeveloped and lying to the south of the 30 flats along Tanjong Katong Road. The appellant was assessed by the Comptroller to have made a profit of \$177,174. In 1967 the appellant sold another portion of his land for \$400,000/-, making a profit of \$360,591. The second portion sold was situated along Dunman Road and was comprised in the original lot Nos. 528 and 103-118 and the new lot Nos. 568-1 to 568-10 which were new lot numbers given after the sub-division. 20 30

It was contended on behalf of the appellant that the Board had erred in law in not finding whether the appellant's intention to trade had existed at the time the land was acquired. After referring to the appellant's visit to the architect following the purchase, the Board stated: "clearly, the appellant at that stage, had the intention to develop his land in the best possible way." The appellant says that this finding is neither here nor there. He says it is innocuous: that the Board had not found specifically as a fact that the appellant had the intention or motive to trade. While this may be a possible reading of the sentence read in isolation, we are of the view that looking at all the evidence and the grounds of decision of the Board as a whole, the Board had considered, as it was required and entitled to, all the circumstances in which the land was acquired. The Board referred to the fact that the appellant had acquired the land with barely enough 40 50

capital. The property was used almost immediately as security to raise a loan of \$50,000/- which was required to assist the appellant's cash flow in his import and export business. It was not acquired for the appellant's own personal use. Nor was it producing any income. The immediate consultation with the architect was to "develop his land in the best possible way".

In the Court of Appeal of the Republic of Singapore

No.12
Judgment of the Court of Appeal dated 22nd October 1981

10 The Board then considered the construction and retention of the block of 30 flats for some 19 years. But inspite of the extended period of renting out the flats, no assessable income was produced in any year of assessment.

(continued)

20 The sales of the 11 terrace houses between 1958 to 1961 were also considered by the Board. Against this background, the Board specifically dealt with the appellant's assertion that he had the intention in 1963 to 1966 to develop the two portions subsequently sold by building flats or terraced houses on them and to hold them as investments. The Board stated:

30 "So then, the issue of fact for decision is this. Can the appellant be believed when he said that his intention from 1963 to 1966 was that he was going to develop the land by constructing flats or terrace houses, in the way he has described, to rent them, and therefore the whole exercise of development was an investment? In the way we have approached this case, our finding of fact is in the negative."

40 In finding that the appellant was not holding the two pieces of land as investments in 1963 to 1966, the Board was in effect saying that the appellant was carrying on the trade of dealing with the land, and was seeking planning permissions to enhance the eventual realised prices of those parcels.

50 If the intention of the appellant was to hold the two parcels as investments at the time of their acquisition (which is not our finding), we are satisfied on all the evidence and are prepared to find that after the sales of the 11 terrace houses, the appellant had changed his intention and had regarded the two parcels as trading stocks to be sold as soon as the price is right. The appellant did not have the financial capability nor any plan to develop

In the Court
of Appeal of
the Republic
of Singapore

No.12
Judgment of
the Court of
Appeal
dated 22nd
October 1981

(continued)

the two parcels with flats and terrace
houses and hold them as investments.

In our opinion, on these facts it cannot
be said that the Board's finding was erroneous
in law or based on insufficient evidence and
therefore the Board's finding cannot be
upset on appeal. Accordingly, the appeal is
dismissed with costs.

Sd: Wee Chong Jin

CHIEF JUSTICE
SINGAPORE

10

Sd: Lai Kew Chai

LAI KEW CHAI
Judge

Sd: F.A. Chua

F.A. CHUA
Judge

22nd October, 1981

Certified true copy

Sd: Illegible

Private Secretary to Judge
Court No.5

Supreme Court Singapore

20

IN THE COURT OF APPEAL OF THE REPUBLIC
OF SINGAPORE

Civil Appeal No. 59 of 1981

In the Court
of Appeal of
the Republic
of Singapore

Between

CHNG BOON HUAT Appellant

And

COMPTROLLER OF
INCOME TAX Respondent

No.12
Judgment of
the Court of
Appeal
dated 22nd
October 1981

(continued)

10 In the Matter of the District Court Appeal
No.27 of 1976

Between

CHNG BOON HUAT Appellant

And

COMPTROLLER OF
INCOME TAX Respondent

In the Matter of Income Tax Board of Review
Appeal No.10 of 1975

J U D G M E N T

20 BEFORE THE HONOURABLE, THE CHIEF JUSTICE MR.
JUSTICE WEE CHONG JIN, THE HONOURABLE MR. JUSTICE
LAI KEW CHAI AND THE HONOURABLE MR. JUSTICE
F.A. CHUA

THE 22ND DAY OF OCTOBER, 1981 IN OPEN COURT

UPON the appeal of the abovenamed Appellant
made by way of Notice of Appeal dated the 13th
day of July 1981 coming on for hearing on the
15th day of September 1981 AND UPON HEARING
Counsel for the Appellant and State Counsel for
the Respondent, IT IS ADJUDGED THAT :

- 30
- 1) The Appeal be dismissed with costs.
 - 2) The sum of \$500 deposited by the
Appellant by way of security for the
Respondent's costs of the Appeal be
paid to the Respondent.

Given under the hand and Seal of the Supreme
Court, Singapore on the 1st day of December, 1981.

Sd: Illegible
ASSISTANT REGISTRAR

In the Court
of Appeal of
the Republic
of Singapore

No.13
Order granting
leave to
appeal to the
Judicial
Committee of
the Privy
Council
dated 16th
November 1981

No. 13

ORDER GRANTING LEAVE TO
APPEAL TO THE JUDICIAL
COMMITTEE OF THE PRIVY
COUNCIL dated 16th November
1981

IN THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

Civil Appeal No.59 of 1981

Between

10

CHNG BOON HUAT Appellant

And

COMPTROLLER OF
INCOME TAX Respondent

In the Matter of the District Court
Appeal No.27 of 1976

Between

CHNG BOON HUAT Appellant

And

COMPTROLLER OF
INCOME TAX Respondent

20

In the Matter of Income Tax Board of Review
Appeal No.10 of 1975

ORDER OF COURT

THE HONOURABLE THE CHIEF JUSTICE
THE HONOURABLE MR. JUSTICE LAI KEW CHAI
THE HONOURABLE MR. JUSTICE CHUA

IN OPEN COURT

UPON MOTION made unto this Court this
day by Lim Chor Pee of Counsel for the above-
named Appellant AND UPON READING the Motion
Paper, Notice of Motion and the Affidavit
of Lim Chor Pee filed on the 6th day of
November 1981 AND UPON HEARING Counsel for
the said Appellant and Counsel for the
Respondent IT IS ORDERED that :-

30

- 10
1. The Appellant be at liberty under Section 3(1)(a) of the Judicial Committee Act (Cap.8) to appeal to the Judicial Committee of Her Britannic Majesty's Privy Council against the whole of the Judgment of The Court of Appeal delivered at Singapore on the 22nd day of October 1981.
 2. The Appellant do furnish security for costs in the sum of \$5,000.00.
 3. The costs of this application be costs in the Appeal.

Dated the 16th day of November 1981

Sd: Illegible

ASSISTANT REGISTRAR

In the Court
of Appeal of
the Republic
of Singapore

No.13
Order granting
leave to
Appeal to the
Judicial
Committee of
the Privy
Council
dated 16th
November 1981

(continued)

APPELLANT'S EXHIBITS

P. 1(a)

SKETCH PLAN

88

P. 1(A)
Sketch plan

(P. 1 - A)

TANJONG KATONG ROAD

96²

CROWN RESERVE FOR ROAD

SWANAGE ROAD

103 106

103 123

103 119

103 118

528

DUNMAN ROAD

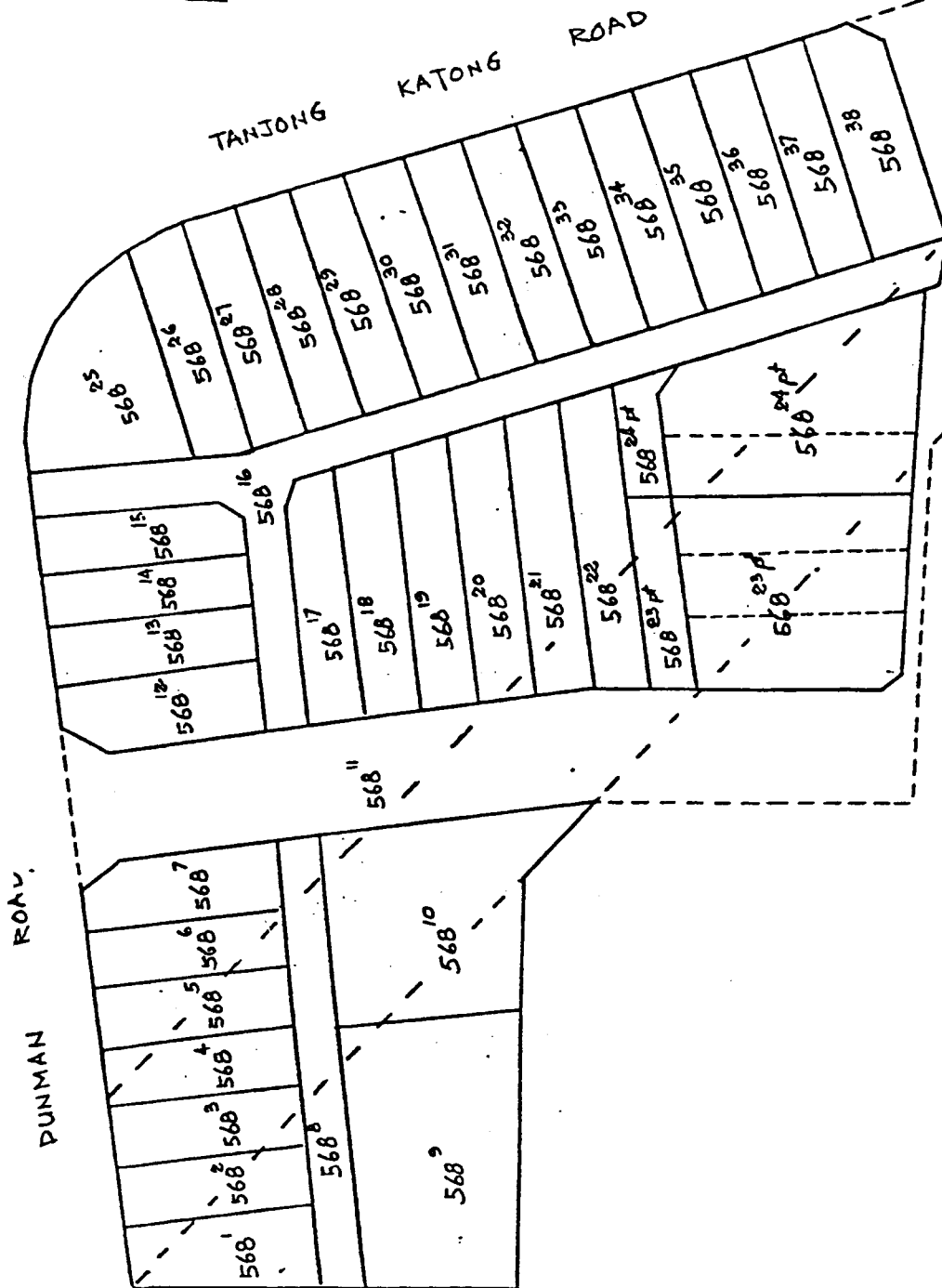
ORIGINAL LAYOUT IN 1949

EXHIBITS

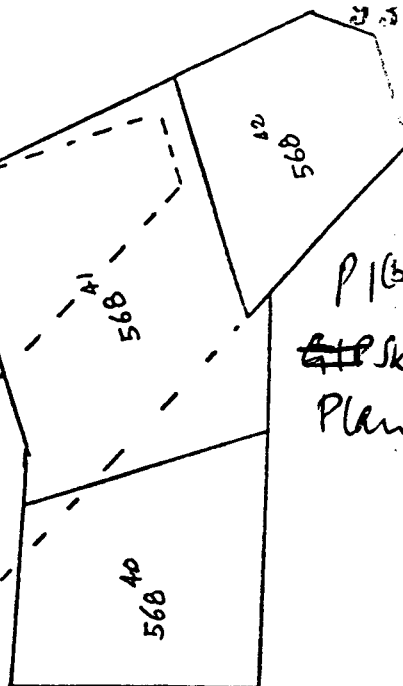
P. 1 (b)

Sketch Plan.

P1(b)



SWANAGE ROAD



P1(b) Sketch Plan.

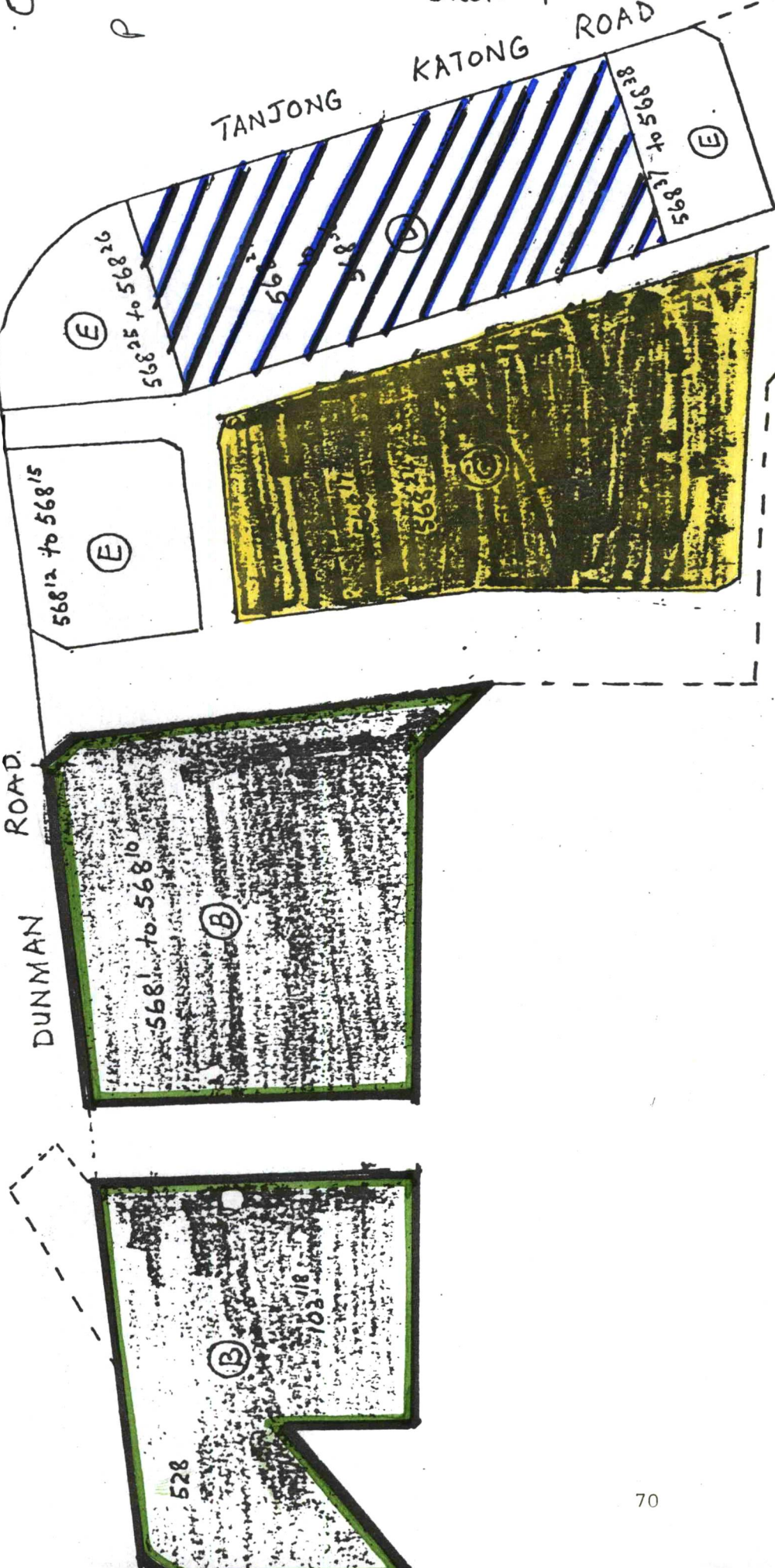
SUBDIVIDED IN 1952.

EXHIBITS

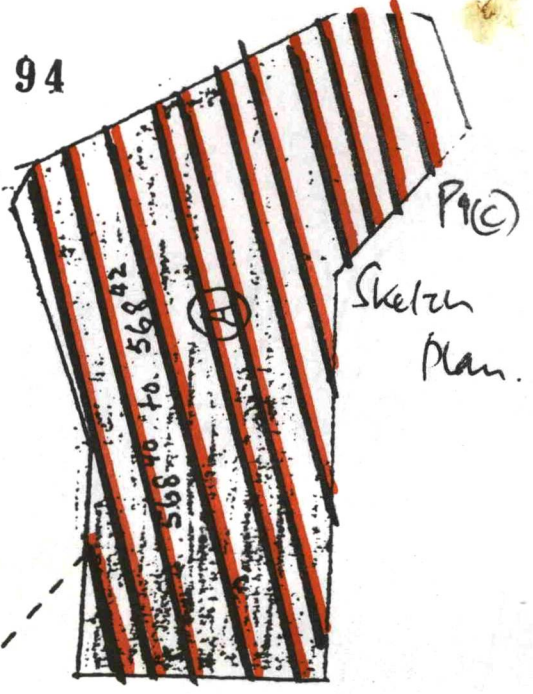
C
P1 (c)

P. 1(c)

Sketch Plan



94



DUNMAN ROAD

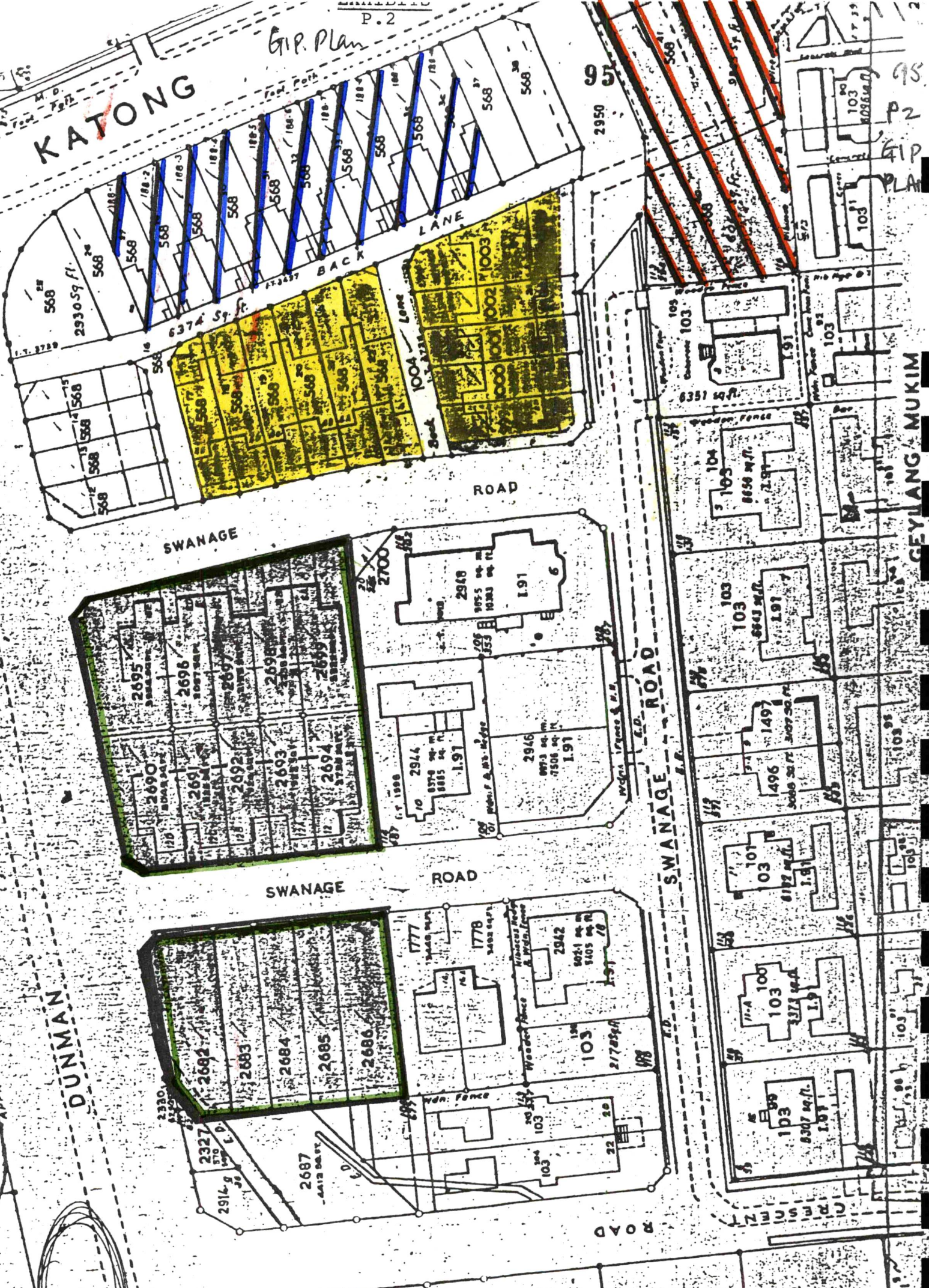
SWANAGE ROAD

- A Land sold in 1965
- B Land sold in 1967
- C 11 Houses at Swanage Road sold - (6 in 1958, 2 in 1959, 1 in 1969 & 2 in 196)
- D 30 Flats at Tanjong Katong (15 sold in 1972, 1 sold in 1973)
- E Unsold Land

KATONG

G.P. Plan

P. 2



SWANAGE ROAD

ROAD

SWANAGE ROAD

GEYLANG ROAD

98
P2
GIP
PLA

EXHIBITS

P3
Summary of
Facts

EXHIBITS

P.3

SUMMARY OF FACTS

- 1949 Purchase of Land
N.B. (i) Main portion of land divided into small lots
(ii) Odd shaped
(iii) Crown Reserve for road cut right through
- 1951: (a) Layout approval for - 10
(i) 17 terrace houses
(ii) 3 lots for future development
(b) Bought Crown Reserve.
(c) Approval granted for construction of 10 x 3 storey flats on "terrace houses" lots.
(Plot D)
- 1952: (a) Construction of 30 flats (Plot D) commenced.
(b) After 2 attempts, approval granted for amalgamation of "Crown Reserve" and new subdivision into a new layout, incorporating the 30 flats under construction. 20
- 1953: 30 flats completed and let out.
- 1968: Application made to subdivide 30 flats: granted in 1969.
- 1969: Application made to change zoning of ground floor flats to shops: refused. Second application for similar change: also refused. 30
- 1970: Signed agreement with Aik Lam Realty to clear tenants.
- 1971: Separate titles applied for
Granted in 1972
- 1972: Sale of 15 flats.
- 1973: Sale of 1 flat.
- Summary: Flats sold after 23 years.

EXHIBITS

P3
Summary of
Facts
(Contd.)

PLOT E (unsold)

- 1954: Shell made in principle inquiry for a filling station on Plot E.
- 1955: In-principle approval given.
- 1956: Shell's formal application in respect of the same lot was disapproved
- 1949- (period of 15 years) nothing
1964 happened
- 10 1964: Submission for 4 shops and 4 flats withdrawn 3 months later
- 1966: Submission for 3 terrace houses.
Withdrawn
- 1967: Submission for 3 terrace houses.
Withdrawn
20 Submission for 3 terrace houses:
Granted
- 1968: Extension of approval
Submission of building plans.
- 1969: Building permit granted.
- 1971: Submission for re-endorsement
Refused: approval had lapsed.
- 1971: Fresh submission for 3 terrace houses.
- 30 1972: Planning permission approved.
Submission for building.
- 1974: Fresh submission for 3 terrace houses.
Granted with conditions.
- 1975: Fresh submission and extension of time requested.
- SUMMARY: Continuous applications of same proposal which lapsed annually.
No construction took place.

EXHIBITS

P3
Summary
of Facts
(Contd.)

PLOT C (Swanage Road 11 houses)

1955: Submission of plans: no follow up.
2nd submission to build 5 terrace houses (together with 2 semi-detached) on Plot A.

1956: Renewal of approval for said 5 terrace houses; Submission to build the balance of 6 Terrace houses: Refused. 10
Submission of amended plans for these 6 terrace houses: Approved.

1957: Fresh submission to build said 11 terrace houses. Construction commenced.

1958: Construction completed.
6 sold in 1958
2 sold in 1959
2 sold in 1961 20
1 sold in 1960
—
11 Total
—

Property Development for this Plot admitted.

PLOT B: Sold in 1967

1949-1957 (Period of 8 years) Nothing happened.

1957: Submission for 2 bungalows on Lot 568-9 & 10 (together with 1 bunglaow on Plot A)

1958: Approved. No development. 30

Lot 568-1. to 10 (Dunman Road)

1963: Submission for 24 flats: refused.
1964: Submission for 24 flats: refused.
Submission for 22 flats: refused.

Lot 568-1 to 10 (Dunman Road) (Contd.)

EXHIBITS

1966: Submission for 6 terrace house and 4 semi-detached: withdrawn.
Further submission for 10 terrace houses: approved.
Submission of building plans.
Meanwhile Plot was sold to architect Tan Sing Eng's development company Tan Seng Phee Ltd.

P3
Summary of
Facts
(Contd.)

10

Lot 528 & 103-118

1964: Submission for 16 flats: withdrawn
1966: Submission for 5 terrace houses: withdrawn
Re-submitted for 5 terrace house: approved
Submitted building plans: approved in 1967
1967: Tenders called and opened but no award was made.
Sold to Tan Seng Phee Ltd. a month later.

20

Plot A: Sold in 1965

1949- (Period of 6 years) nothing happened.
1955:
1955: Submission (together with Plot C) for 2 semi-detached on Lot 568-41: approved.
1957: Submission for 1 bungalow on Lot 568-40
1958: Approved: No development.
1961: Submission for Lot 568-40 for 2 semi-detached: approved.
1964: Submission for 12 flats on Lot 568-41 - withdrawn
Further submission: withdrawn
Further submission for 9 flats: refused.
1965: Sold to B.P.
SUMMARY: Land held for 16 years.
Attempts made to obtain planning approval.

30

24 Fort Road

1950: purchased for our residence
1967: submission for 4 semi-detached houses: granted
1968: Application for re-certification.
Application for building plans.
1969: Application for re-certification.
Submission for 4 houses - refused.
1970: Submission for 2 bungalows - granted.
1972: Approval re-certified.
Building plans approved.

40

EXHIBITS P.4 - SUMMARY OF INVESTMENTS ETC.

SUMMARY OF ACTIVITIES IN PROPERTY INVESTMENTS AND INCOME FROM BUSINESS PARTNERSHIP, RUBBER ESTATES AND SALARY AS MANAGER OF PERAK IRON MINING CO. FOR THE PERIOD 1949 to 1972 (24 YEARS)

	1949	1950	1951	1952	1953	1954	1955	1956
<u>PROPERTY INVESTMENTS</u>								
1. Land	Acquisition of Land		Acquisition of Crown Reserve Land	Amalgamation and subdivision of Land				
2. Flats				Construction of 30 Flats	Construction completed in early 1953			
3. Houses								
INCOME								
Importer & Exporter	Profit	figures	not	available				
Rental from Flats	(unknown)	(unknown)	(unknown)	(unknown)	15,000 (unknown)	35,000 (17,000)	40,000 (17,000)	40,000 (17,000)
Property Tax	-	(6,000)	(6,000)	(10,000)	(16,000)	(24,000)	(22,000)	(27,000)
Overdraft								
Interest Partnership in Shop								
Swee Lee Hup Kee	1,000	6,000	7,000	3,000	(1,000)	-	(1,000)	5,000
Rubber Estate Income					Estate income - \$2,000	Estate income - \$16,000	Proceed of Estate - Beenham Estate - \$200,000	Estate Income - \$53,000
Salary from Perak Iron Mining Co.							Estate Income - \$18,000	
Dividend								
BANK OVERDRAFTS AND CREDITORS	not available	not available	not available	not available	not available	not available	not available	not available

EXHIBITS P.4
SUMMARY OF INVESTMENTS ETC.

	1957	1958	1959	1960	1961	1962	1963	1964
Construction of 11 terrace houses		Construction completed 6 houses sold	2 houses sold	1 house sold	2 houses sold			
	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000
	(17,000)	(17,000)	(17,000)	(20,000)	(20,000)	(19,000)	(19,000)	(19,000)
	(29,000)	(31,000)	(29,000)	(33,000)	(30,000)	(30,000)	(31,000)	(38,000)
	2,000	5,000	4,000	2,000	(unknown)	(unknown)	(unknown)	(unknown)
Proceed of Si-Rusa Estate-\$223,000				11,200	32,000	24,000	24,000	18,000
Estate income-\$3,000					419,000	439,000	523,000	570,000
not available		not available	351,000	403,000				
			<u>\$'000</u>					
			850					
			750					
			650					
			550					
			450					
			350					
			0					
			59	60	61	62	63	64

EXHIBITS P.4
SUMMARY OF INVESTMENTS ETC.

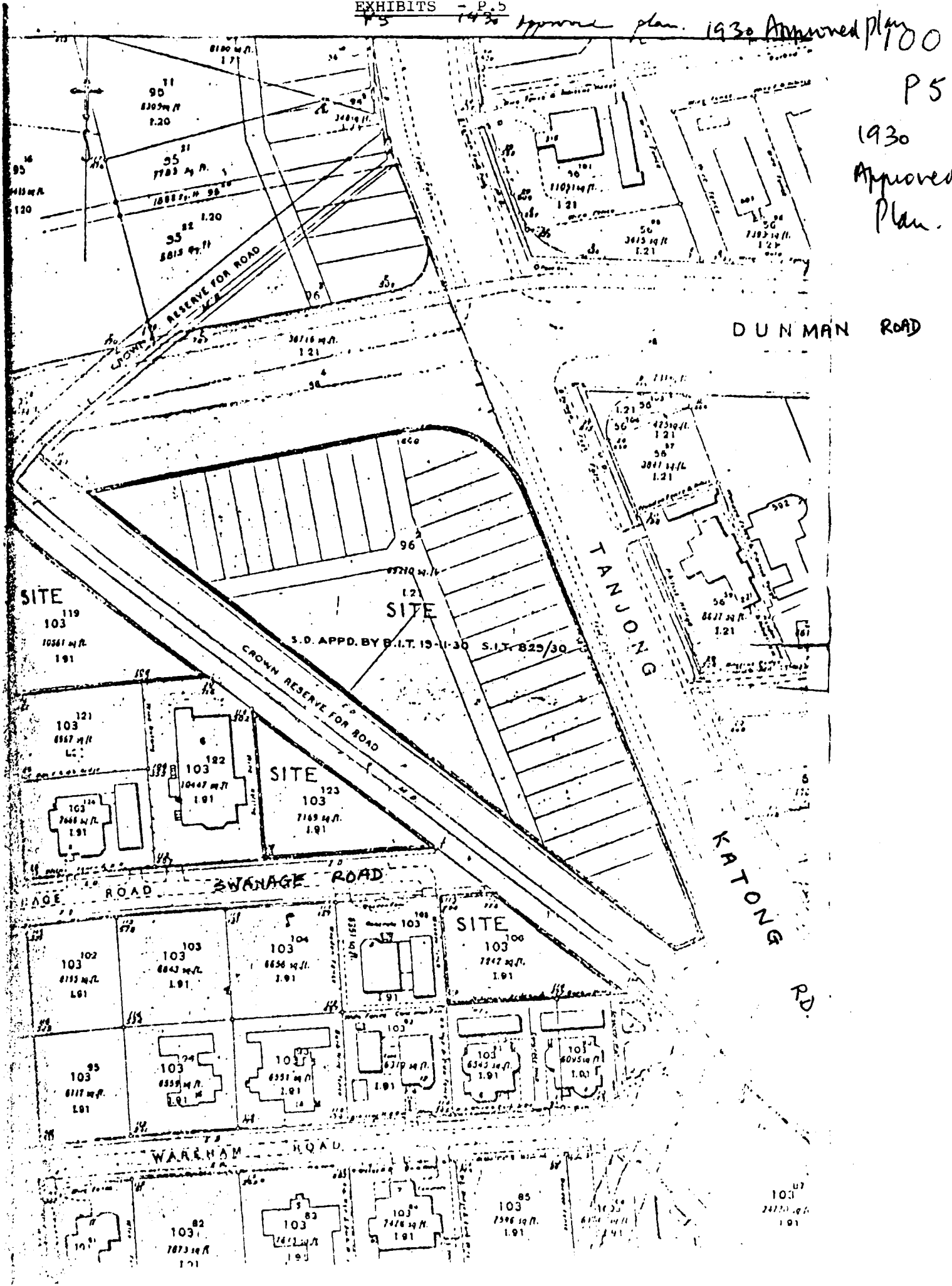
	1965	1966	1967	1968	1969	1970	1971	1972
Lot Nos. 568, 40 to 42 sold								
	44,000	44,000	44,000	44,000	44,000	44,000	44,000	44,000
	(19,000)	(19,000)	(18,000)	(18,000)	(18,000)	(18,000)	(18,000)	(14,167)
	(35,000)	(36,000)	(33,000)	(8,000)	(56,000)	(64,000)	(78,000)	(72,000)
	(unknown)	1,000	1,000	1,000	1,000	1,000	-	(unknown)
	9,000							33,575
	473,000	471,000	415,000	658,000	681,000	709,000	811,000	656,000

15 flats sold

Lots Nos. 103-118
528, 568-1 to 10
sold

1930 Approved Plan

P 5
1930
Approved
Plan.



EXHIBITS

P.6
Tender
Report

EXHIBITS
P.6

TENDER REPORT

LEE SIAN TECK
Chartered Architects

LEE SIAN TECK
CHUAH YET LIAN
Designer: HO BENG HONG
Secretary: KOH SUAN ENG

173-A CECIL STREET, SINGAPORE, 1. 10
Tel: 70036/72937/70313

LBH/SE. 5th July, 1967

Messrs.

Dear Sir,

Tender for the Erection and
Completion of One Block of
2-Storey terrace Houses (5 Units)
On Lot No.528 & 103 Mukim/T.S. XXV
At Swanage Road For Mr.Chng Boon Huat

We thank you for your Tender dated 20
2.5.67 but regret to inform you that your
Tender was not successful.

Your Tender deposit of \$300.00 is refunded
herewith.

Kindly acknowledge receipt.

1) Messrs.Lee Teck Beng	Yours faithfully,	
2) Messrs.Ng Leong Joo	Sd: Ho Beng Hong	
3) Messrs.Tan Ah Koon	(HO BENG HONG)	
4) Messrs.Chan Ho		
Construction		30
5) Messrs.South Asia		
6) Messrs. Hak Heng		
7) Messrs.Universal Contractors.		

Sd: Illegible
Sd: Illegible
Sd: Illegible
Sd: Illegible

HBH/SE

2nd May 1967

EXHIBITS

Mr. Chng Boon Huat,
73-A, Telok Ayer Street,
Singapore, 1.

P.6
Tender
Report

(continued)

Dear Sirs,

Proposed One Block of Two-Storey
Terrace Houses On Lot Nos. 528 &
103 at Swanage Road

10

Reference above please be informed that
the following Tenders have been received :-

	<u>Tender Price</u>	<u>Date of Completion</u>
1.) Messrs.South Asia	\$52,000.00	5 months
2.) Messrs.Ng Leong Joo	\$52,500.00	6 "
3.) Messrs.Tan Ah Koon	\$69,850.00	6 "
4.) Messrs.Hak Heng	\$78,700.00	5 "
5.) Messrs.Lee Teck Beng	\$79,800.00	7 "
6.) Messrs.Chan Ho	\$84,000.00	8 "
7.) Messrs.Universal Contractors	\$89,456.00	6 "

20

Tenders open in the presence of :-

- 1.) Mr. Chng Boon Huat
- 2.) Mr. Ho Beng Hong

Yours faithfully,

Sd: Ho Beng Hong
(HO BENG HONG)

MR. LEE Sd:
MR. HO Sd:
MR. CHUAH Sd:
MR. NG Sd:

30

EXHIBITS

LEE SIAN TECK

P.6
Tender
Report

LEE SIAN TECK
CHUAH YET LIAN
Designer: HO BENG HONG

(continued)

Secretary: KOH SUAN ENG

173-A CECIL STREET, SINGAPORE, 1.
Tel: 70036/72937/70313

CYL/SE.

13th April, 1967

- 1) Messrs. Lee Teck Beng 10
- 2) Messrs. Universal Contractors
- 3) Messrs. Tan Ah Koon
- 4) Messrs. Chan Ho Construction
- Messrs. Tay Eu Chee Construction
- Messrs. Ng Leong Joo
- Messrs. Hak Heng Construction

Dear Sir,

Tender for the Erection and Completion
of One Block of Two-Storey Terrace
Houses (5 Units) On Lot No. 528 & 20
103 Mukim XXV at Swanage Road
For Mr. Chng Boon Huat

The undersigned is prepared to receive Tender on behalf of the Owner Mr. Chng Boon Huat. for the above work in accordance with the Drawings and specification which are to be seen at the above office during normal office hours on week day from 14.4.1967.

Drawings and Specification together with Tender Form may be obtained on payment of a fee \$300.00. The fee will be refunded on submission of a bona fide tender and if Tender is not accepted. 30

All plans and specification must be returned to the architects office in good condition after submission of tenders under separate cover.

The tender is to be submitted to the above Office at 12.00 Noon on 2.5.1967.

The Owner does not bind himself to accept the lowest or any Tender. 40

MR.LEE Sd: Yours faithfully,
MR.HO Sd: Sd: C. Lian
MR.CHUAH Sd: (CHUAH YET LIAN)
MR.NG Sd:

c.c.Owner

EXHIBITS
P.7

VALUATION REPORT
dated 25th September
1970

EXHIBITS
P.7
Valuation
Report
dated 25th
September
1970

CHEONG KOON SENG & COMPANY (PRIVATE)
LIMITED
(Incorporated in Singapore in 1920)
LICENSED AUCTIONEERS

10 VALUERS, REAL ESTATE AGENTS, Registered Office
RECEIVERS, TRUSTEES, ETC. Nos. 8 & 10 CHULIA
STREET, SINGAPORE 1
58, Market St.

Telephone Nos.
General Office: 73509 & 79071
Director: 73500

21st September 1970

SUMMARY

20 (a) Flat known as Nos.188-1/A/B to) = \$720,000
188-10/A/B)

(b) Vacant land at Tanjong Katong Rd/) = \$133,000
Dunman Road)

Total value = \$853,000

CHEONG KOON SENG & CO. PTE.LTD.
Sd: C.S.Chua
CHUA CHYE SENG

Managing Director

EXHIBITS

CHEONG KOON SENG & COMPANY (PRIVATE) LIMITED
(Incorporated in Singapore in 1920)
LICENSED AUCTIONEERS

P.7
Valuation
Report
dated 25 th
September
1970

VALUERS, REAL ESTATE AGENTS,
RECEIVERS, TRUSTEES ETC.

Registered Office
Nos. 8 & 10 CHULIA
STREET, SINGAPORE 1
58, Market St.

(continued)

Telephone Nos.
General Office: 73509 &
79071
Director: 73500

10

26th September 1970

VALUATION REPORT

ON

188-1/A/B to 188-10/A/B, Tanjong Katong Road

We have inspected the abovenamed properties
on the 16th September 1970 and our reports are
as follows :-

LEGAL
DESCRIPTION

The properties referred to in this
valuation are known as 188-1/A/B to 188-10/A/B
Tanjong Katong Road on land known as lots
568-27 to Lot 568-36 of Mukim XXV respectively.
All the lots have freehold title being part of
Grant 91 and Grant in Fee Simple 617. The area
of the lots are as follows :-

20

Lot 568-27	=	1790 sq. ft.
Lot 568-28	=	1787 sq. ft.
Lot 568-29	=	1783 sq. ft.
Lot 568-30	=	1785 sq. ft.
Lot 568-31	=	1789 sq. ft.
Lot 568-32	=	1781 sq. ft.
Lot 568-33	=	1779 sq. ft.
Lot 568-34	=	1788 sq. ft.
Lot 568-35	=	1784 sq. ft.
Lot 568-36	=	1789 sq. ft.

30

Total land
area = 17855 sq. ft.

LAND:

(Please refer to site plan at Appendix A)

Lots 568-27 to 568-36 are ten sub-divided
lots capable of sale separately and individually.
Together these lots form a rectangular site
with a wide frontage of 210 feet to Tanjong
Katong Road by a depth of about 85 feet.

40

Land is about 1 foot above street level.

EXHIBITS

BUILDINGS: Nos. 188-1/A/B to 188-10/A/B on the land are a block of 3-storey flats containing altogether 30 flats. These flats are constructed of reinforced concrete foundations, frames, and floors with brickwalls and clay-tile roof. Access to the upper floors are by separate concrete staircases. There are also spiral concrete fire-escapes at the rear.

P.7
Valuation
Report
dated 25th
September
1970

(continued)

10 Accommodation of the ground floor flat consists of 2 bedrooms, 1 hall, 1 dining room, a kitchen, a utility room, a rear yard, a bathroom and a separate w.c. The total building area is about 1137 sq. ft.

Each flat on the first and second floor has 2 bedrooms, hall, dining room, a kitchen, w.c. and bathroom but without utility room. The floor area of each flat is about 900 sq. ft.

20 These flats have plain design and simple finishing. All the flats have only cement and sand paving as finishing.

Structurally the building is still sound but it requires some renovations and minor repairs immediately.

TENANCY: All the flats are occupied by tenants on a month to month basis. However it appears that some of the tenants have been here a long time. The rents payable at the moment being \$120 per month each is relatively low.

30 These flats being built in the 1950s do not come within the jurisdiction of the Rent-Control Ordinance Chapter 242 of 1953. Tenants therefore may be evicted or the rents may be increased.

It appears that some of the tenants are prepared to purchase the flats they occupied. The prices for a ground floor flat is stated to be \$32,000 and the upper floor flat is priced at \$26,000 each.

40 LOCALITY

AND DEMAND: This is an average middle-class local shopping and residential area about 5 miles from the city centre. All city services and amenities are available.

EXHIBITS

There is a good demand for residential properties here and prices have appreciated considerably in the last 18 months.

P.7
Valuation
Report
dated 25th
September
1970

EVIDENCE

OF VALUE: The following transactions of flats along Tanjong Katong Road provide an indication of the market value of the subject property.

(continued)

- (a) 241A, Tanjong Katong Road
Price = \$39,000

Date of Sale = 29.9.1969 10

Remarks = Newer flat
- (b) 245, Tanjong Katong Road
Price = \$37,000

Date of Sale = Feb. 1968

Remarks = Newer flat
- (c) 251, Tanjong Katong Road
Price = \$41,900

Date of Sale = December 1966

Remarks = New flat
- (d) 247A, Tanjong Katong Road 20
Price = \$29,000

Date of contract
of sale = Jan. 1966

Remarks = New flat but sale is
4 years old.

CALCULATION:

Each unit consisting of ground, first and second floor	= \$80,000	
Total 10 units	<u> x 10 </u>	
	\$800,000	30
<u>Less 10% for block</u>	= <u> 80,000 </u>	
	<u> \$720,000 </u>	

VALUATION:

We are of the opinion that the present day market value of lots 568-27 to 568-36 together with the flats thereon is \$720,000.

CHEONG KOON SENG & CO.PTE.LTD.

Sd: C.S. Chua

CHUA CHYE SENG Managing Director

CHEONG KOON SENG & COMPANY (PRIVATE) LIMITED
(Incorporated in Singapore in 1920)
LICENSED AUCTIONEERS

EXHIBITS

P.7
Valuation
Report
dated 25th
September
1970

VALUERS, REAL ESTATE Registered Office
AGENTS, RECEIVERS, Nos.8 & 10 CHULIA
TRUSTEES ETC. STREET, SINGAPORE 1.
58 Market St.

(continued)

Telephone Nos.
General Office: 73509 & 79071
Director: 73500

10

21st September 1970

VALUATION REPORT

ON

VACANT LAND ALONG DUNMAN ROAD/TANJONG KATONG ROAD

(Please refer to site plan at Appendix A)

DESCRIPTION: The vacant land comprises of altogether
8 lots as listed hereunder :-

			Area
20	Mukim XXV	Lot 568-12	= 1904
	"	" Lot 568-13	= 1439
	"	" Lot 568-14	= 1439
	"	" Lot 568-15	= 1412
	"	" Lot 568-25	= 2930
	"	" Lot 568-26	= 1727
	"	" Lot 568-37	= 1786
	"	" Lot 568-38	= 2244

Total land area = 14881 sq. ft.

TITLE: All these lots have freehold title being
parts of grants No.91,21 and G.F.S. 617.

30 ZONING: All the lots are zoned for residential
purposes under the master Plans.

FEATURE: Lots 568-12 to 568-15 from a rectangular
plot with a good frontage of 78 feet to Dunman
Road by a depth of 70 feet. Site is level to road.

Lots 568-25 and 568-26 from a corner site
at the junction of Tanjong Katong Road/Dunman Road.

Lots 568-37 and 568-38 form a level site at
the junction of Tanjong Katong Road/Swanage Road.

EXHIBITS

P.7
Valuation
Report
dated 25th
September
1970

(continued)

All these sites are capable of immediate development of terrace houses or flats as all the services like light, water and public sewerage are available. They are able to be transacted independently.

DEMAND: There is a very great demand for vacant land with proper road frontages and services here.

EVIDENCE OF VALUE: The following transactions of vacant lands in the vicinity provide an indication of the market value of the subject property :- 10

(a) Lot 1197 Mukim 25 Guillemard Road
Area = 15,800 sq. ft.
Price = \$276,913 = \$7.00 p.s.f.
Date = 4.9.1969
Remarks: Sale is one year old.

(b) Lot 2508 Mukim 25 Haig Road
Area = 8844 sq. ft.
Price = \$95,000 = \$10.79 p.s.f. 20
Date = 20.11.69

(c) Lot 1120 Mukim 25 Guillemard Road
Area = 13344 sq. ft.
Price = \$106752 = \$8.00 p.s.f.
Remarks : Land is a corner plot located at the junction of Lorong 22/Guillemard Road. Part of this land is affected by road widening.

(d) Lots 568-1, 103-118 Old Airport Road/
Crescent Rd. 30
Area = 43478 sq. ft.
Price = \$400,000 = \$9.20 p.s.f.
Date = 28.11.68
Remarks : Sale from Chng Boon Huat to Tan Beng Phee Ltd.

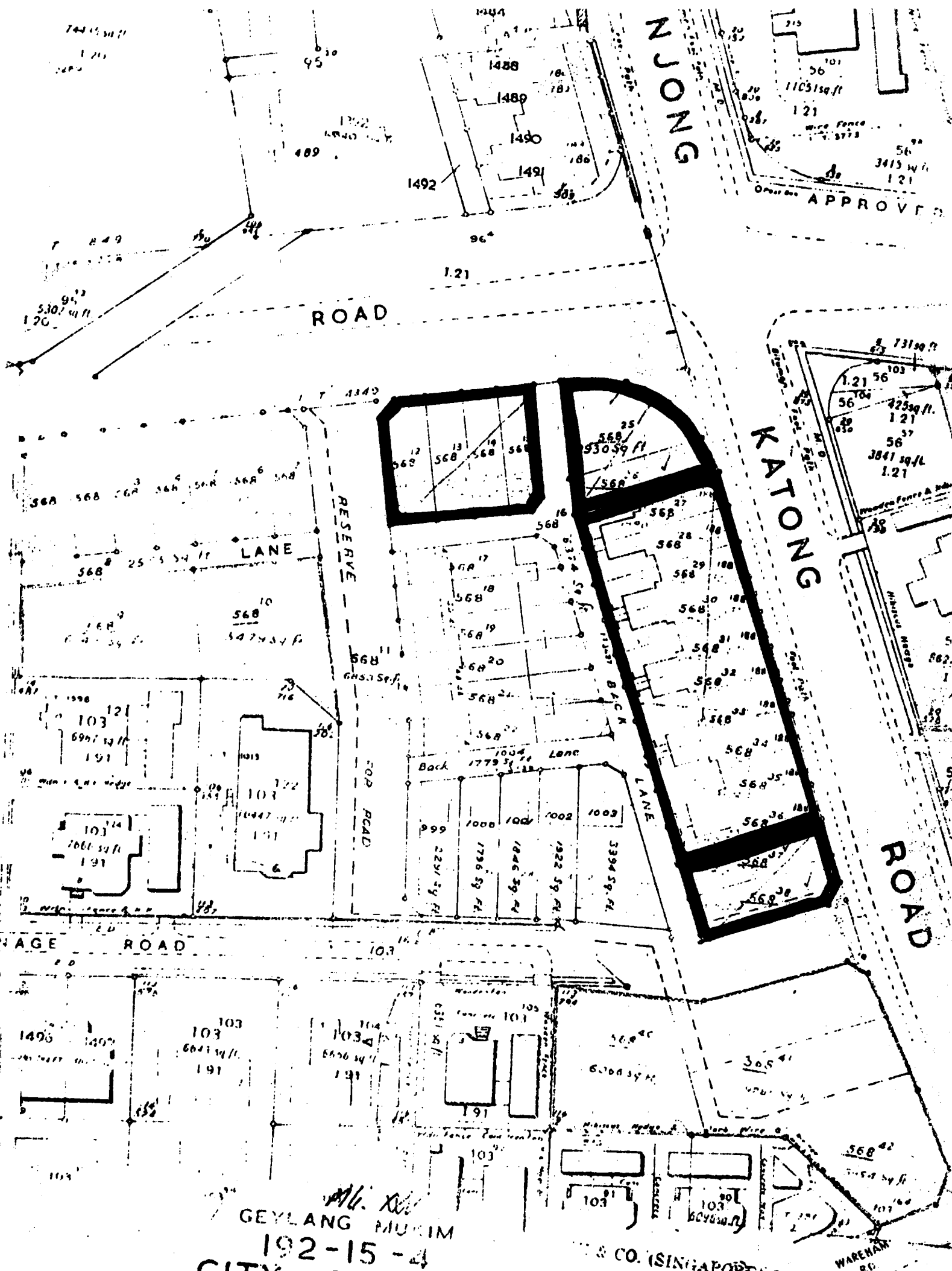
CALCULATION:

Total land area = 14881 sq. ft.
Rate per sq. ft. = \$9/-

Say \$133,929 40
\$133,000

VALUATION: We are of the opinion that the present-day market value of these 8 lots of vacant land is \$133,000.

CHEONG KOON SENG & CO. PTE. LTD.
Sd: C.S. Chua
Managing Director

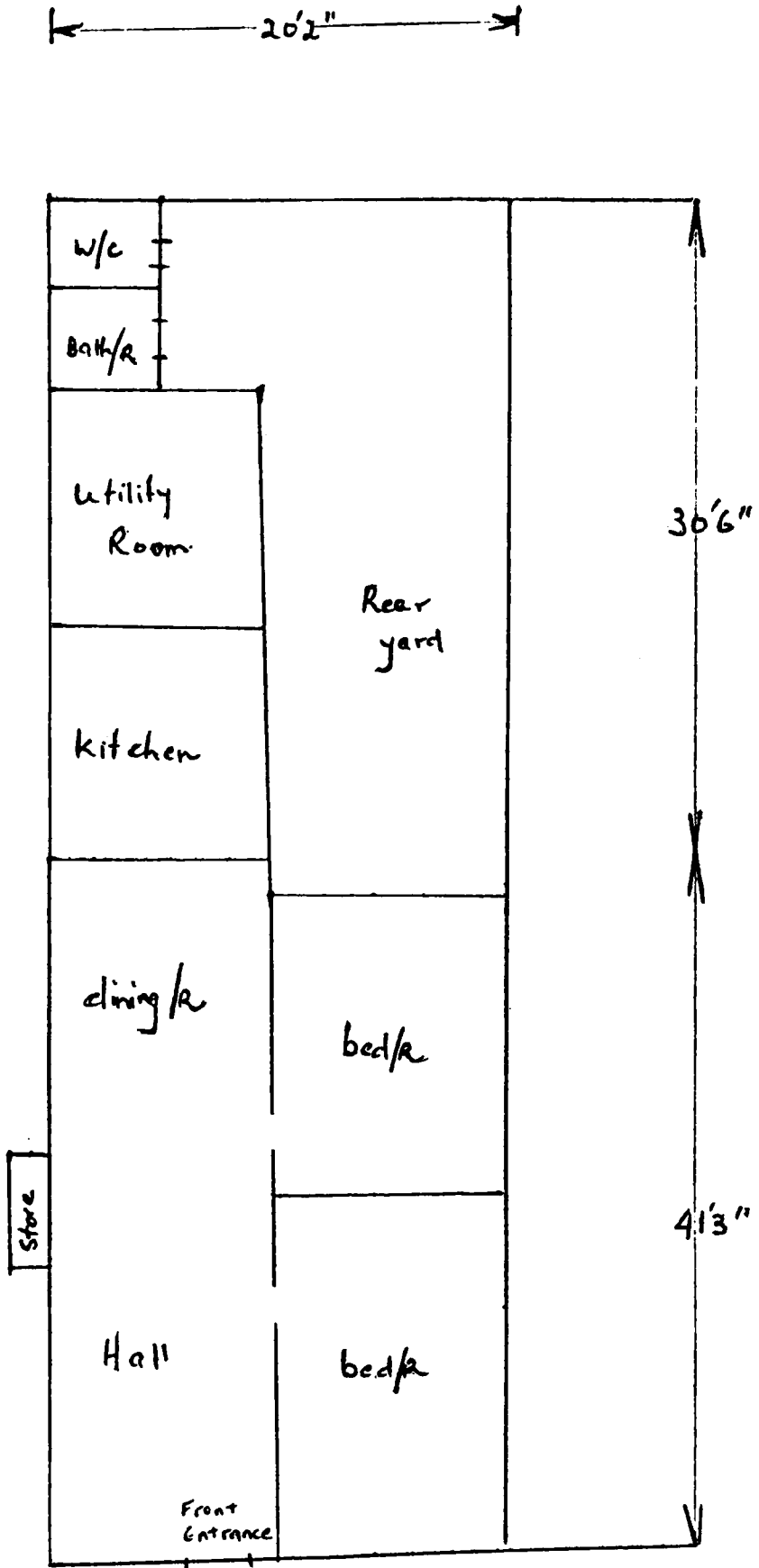


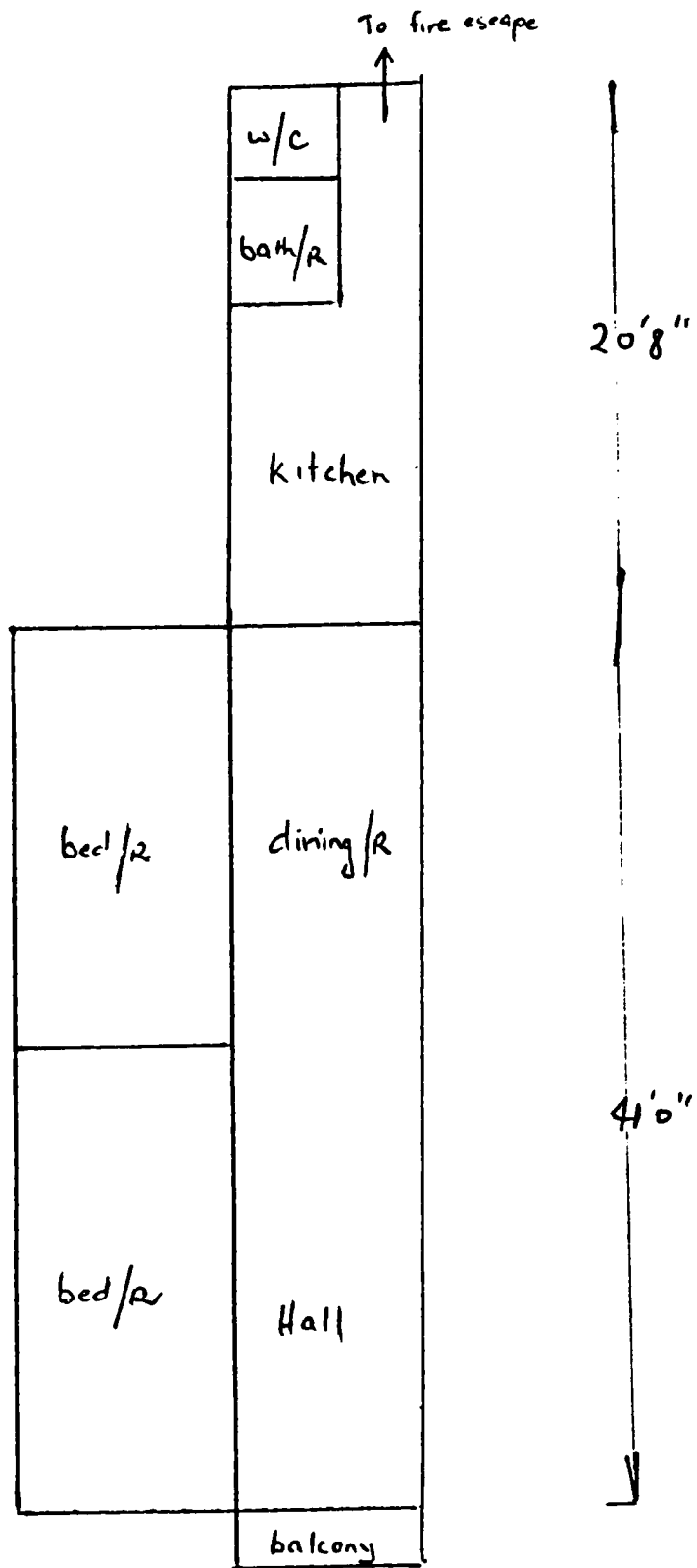
No. 192-15-4
 GEYLANG MURIM
 CITY DISTRICT

SCALE OF ONE CHAIN TO AN INCH 89

& CO. (SINGAPORE) LIMITED

R. S. N.





Sketch Floor Plan - Type at first
and second floor flat
Area : 900 sq.ft

EXHIBITS

R.1
Letter of
Comptroller
of Income
Tax
dated 11th
April 1973

EXHIBITS

R.1

LETTER OF COMPTROLLER
OF INCOME TAX dated
11th April 1973

Mr. Tan Quee Sian,
57, Bournemouth Road,
Singapore, 15.

11th April, 1973

The Comptroller of
Income Tax,
P.O.Box 231,
Singapore.

10

Dear Sir,

With reference to your letter GS/22155/INV dated 28th March 1973, I hereby confirm that an amount of S\$40,000/- was paid to me by Mr. Chng Boon Huat in July, 1967 for assisting him in selling a piece of land at Dunman Road to Messrs. Tan Seng Phee (Pte) Limited.

20

For your information, I did not include this amount in my income tax return as I was advised not to do so because I am not a property broker by profession.

Yours faithfully,

Sd: (In Chinese)

(Tan Quee Sian)

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL No.1 of 1982

O N A P P E A L
FROM THE COURT OF APPEAL OF THE REPUBLIC OF
SINGAPORE

B E T W E E N:

CHNG BOON HUAT

Appellant

- and -

COMPTROLLER OF INCOME TAX SINGAPORE

Respondent

RECORD OF PROCEEDINGS

DOUGLAS GOLDBERG & CO.,
1 Holly Hill,
Hampstead,
London NW3 6UB

Solicitors for the Appellants

JAQUES & LEWIS
2 South Square,
Gray's Inn,
London WC1R 5HR

Solicitors for the Respondent

NO.	DESCRIPTION OF DOCUMENT	DATE OF DOCUMENT	PAGE IN RECORD
3.	Defence	9-11-1972	5
4.	Evidence of Plaintiff	13-4-1973	6
5.	Evidence of Defendant	13-4-1973	7
	<u>NOTES OF TRIAL JUDGE</u>		
6.	Address by Counsel for Plaintiff	13-4-1973	8
7.	Relief Given by Trial Judge	13-4-1973	8
8.	Reasons for Judgment by Trial Judge	15-2-1974	9
9.	Order of Malone J.		10
	<u>IN THE COURT OF APPEAL OF THE SUPREME COURT OF JUDICATURE</u>		
10.	Notice of Appeal Motion	14-5-1973	11
11.	Notice of Amendment of Appeal Motion		12
12.	Judgment of Rees J.A. Sir Isaac Hyatali C.J. and Corbin, J.A. Agreeing	14-6-1976	14
13.	Order on Judgment	-6-1976	17
14.	Order Granting Conditional Leave to Appeal to Her Majesty in Council	14-7-1976	18

(iii)

SECTION II

NO.	DESCRIPTION OF DOCUMENT	DATE OF DOCUMENT	PAGE IN RECORD
RMI	Plaintiff's Title Deed No. 11685 of 1964	26-3-1964	20
RM2	Death Certificate of Mrs. Abidh	22-7-1974	24
RM3	Death Certificate of Mohan	20-9-1974	25
RM4	Defendant's Title Deed No. 11964 of 1964	4-7-1964	26
RM5	Defendant's Deed of Lease No. 11248 of 1960	30-7-1960	29
RM6	Mrs. Abidh's Title Deed No. 14582 of 1956	31-10-1956	33