

S/N 9/2024 – Facilitating Leases in Breach of HDB’s Rules and Advising Client to Mislead HDB

Facts of Case

Sometime in November 2020, the owner (“**Owner**”) of a Housing and Development Board (“**HDB**”) flat (the “**Flat**”) engaged the Respondent to assist her in the purchase of the Flat, which was completed sometime in April 2021.

Shortly after collecting the keys to the Flat, the Owner told the Respondent that she wished to rent out both bedrooms in the Flat. The Respondent was aware that under HDB’s Terms and Conditions for Renting out of Bedroom(s) (the “**HDB T&Cs**”), the Owner must live in the Flat together with the tenant(s) and/or occupier(s) when renting out bedroom(s) in the Flat. The Owner told the Respondent that she did not intend to live in the Flat until the lease for her current residence ended sometime in 2024, but would like to rent out both bedrooms in the meantime and keep the utility room for her own use, and only to visit the Flat occasionally to clean up. Despite this knowledge, the Respondent did not advise the Owner that this arrangement would contravene the HDB T&Cs, and proceeded to market the bedrooms in the Flat for lease.

First Set of Leases

Sometime in April 2021, a set of prospective tenants (“**Tenants B**”) saw the Respondent’s listing and requested for a viewing, during which the Respondent informed Tenants B that the Owner would not be residing in the Flat. A one-year lease of the bigger bedroom in the Flat was eventually concluded between the Owner and Tenants B at the monthly rent of \$ 950 (“**Second Lease**”).

Shortly after Tenants B viewed the Flat, another set of prospective tenants (“**Tenants A**”) also requested for a viewing of the Flat through their salesperson in late April 2021, during which the Respondent informed Tenants A that the bigger bedroom was already reserved by Tenants B, the utility room would be for the Owner’s use, and the Owner or her relatives might occasionally stay in the utility room. A one-year lease of the smaller bedroom in the Flat was concluded between the Owner and Tenants A at the monthly rent of \$ 950 (“**First Lease**”).

For facilitating the First Lease and the Second Lease, the Owner paid a commission of \$ 508.25 (including Goods and Services Tax (“**GST**”)) for each lease. The Respondent received a total sum of \$ 855 as his share of the commission for facilitating both leases.

The Owner did not reside in the Flat during the First Lease and the Second Lease. Instead, she merely kept her belongings in the utility room, and occasionally visited the Flat to carry out some cleaning. The Owner also asked the Respondent to liaise with the tenants on matters relating to the tenancy on her behalf, such as the delivery of furniture and general housekeeping. The Respondent therefore knew at all material times that the Owner did not intend to live, and in fact did not live in the Flat during the First Lease and the Second Lease.

Renewal of Leases

Sometime in June 2022, the Respondent asked Tenants A and Tenants B if they were interested in renewing their leases, to which they agreed. Despite knowing that the Owner would still not be living in the Flat with the tenants during the renewed leases in accordance with the HDB T&Cs, the Respondent

proceeded to facilitate the renewal of the First Lease and the Second Lease for a further one-year term, i.e. from 1 May 2022 to 30 April 2023 for the First Lease, and from 1 June 2022 to 31 May 2023 for the Second Lease.

In late October 2022, officers from HDB conducted an inspection of the Flat and found that both bedrooms were rented out without the Owner residing in the Flat. When the Owner asked the Respondent to look into the situation, the Respondent replied that he would call and inform the relevant HDB officer that the Owner stayed in the “small room”, i.e. the utility room of the Flat, which was untrue. The Respondent advised the Owner sometime in November 2022 that she needed to inform HDB that she was staying in the utility room, which could mislead HDB to believe that the Owner had been living in the Flat during the First Lease and the Second Lease in accordance with the HDB T&Cs, when this was not the case. The Owner eventually decided not to take up the Respondent’s advice to lie to HDB.

As HDB had informed the Owner after its inspection that she was not allowed to rent out both bedrooms, the Owner told the Respondent that one set of tenants had to vacate the Flat. The Owner preferred for Tenants A to move out, which was conveyed to Tenants A in early December 2022. However, Tenants A were reluctant to vacate the Flat and tried to negotiate to stay by offering a higher rent, which was rejected by the Owner. Tenants A were informed in late January 2023 to vacate the Flat by end-March 2023, thereby prematurely ending the First Lease.

Sometime in early April 2023, HDB informed the Owner of its intention to compulsorily acquire the Flat. Following an appeal by the Owner, HDB eventually decided to impose a financial penalty of \$ 40,850 in lieu of compulsory acquisition.

For facilitating the renewal of the First Lease and Second Lease, the Owner paid a commission of \$ 508.25 (including GST) for each lease. The Respondent received a total sum of \$ 855 as his share of the commission for facilitating the renewal of both leases.

Charges

The Respondent faced the following 5 charges:

Charge 1

Undertaking estate agency work in respect of HDB flats while not complying with the applicable laws, regulations, rules and procedures that apply to transactions involving such flats, by facilitating the First Lease to Tenants A on behalf of the Owner, despite knowing that the Owner would not be living in the Flat with Tenants A during the lease period as required under the HDB T&Cs, in contravention of paragraph 4(1) read with paragraph 4(2)(e) of the Code of Ethics and Professional Client Care (the “**Code**”).

Charge 2

Undertaking estate agency work in respect of HDB flats while not complying with the applicable laws, regulations, rules and procedures that apply to transactions involving such flats, by facilitating the Second Lease to Tenants B on behalf of the Owner, despite knowing that the Owner would not be living in the Flat with Tenants B during the lease period as required under the HDB T&Cs, in contravention of paragraph 4(1) read with paragraph 4(2)(e) of the Code.

Charge 3 (Proceeded)

Undertaking estate agency work in respect of HDB flats while not complying with the applicable laws, regulations, rules and procedures that apply to transactions involving such flats, by facilitating the renewal of the First Lease to Tenants A on behalf of the Owner, despite knowing that the Owner would not be living in the Flat with Tenants A during the renewed lease period as required under the HDB T&Cs, in contravention of paragraph 4(1) read with paragraph 4(2)(e) of the Code.

Charge 4

Undertaking estate agency work in respect of HDB flats while not complying with the applicable laws, regulations, rules and procedures that apply to transactions involving such flats, by facilitating the renewal of the Second Lease to Tenants B on behalf of the Owner, despite knowing that the Owner would not be living in the Flat with Tenants B during the renewed lease period as required under the HDB T&Cs, in contravention of paragraph 4(1) read with paragraph 4(2)(e) of the Code.

Charge 5 (Proceeded)

Committing a deceitful and/or misleading act that may bring discredit or disrepute to the real estate agency industry, by advising the Owner to inform HDB that she had been staying in the utility room of the Flat during the First Lease and the Second Lease, when the Respondent knew this was not the case, in contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to 2 charges (i.e. Charges 3 and 5), with the remaining 3 charges (i.e. Charges 1, 2 and 4) taken into consideration for purposes of sentencing.

The DC imposed the following financial penalties and disciplinary orders on the Respondent:

Charge 3: A financial penalty of \$6,000 and a suspension of 5 months; and

Charge 5: A financial penalty of \$5,000 and a suspension of 5 months.

The suspension periods were ordered to run concurrently. The total sentence imposed was a financial penalty of \$11,000 and a suspension of 5 months.

Fixed costs of \$2,000 was also imposed on the Respondent.