

Note: This case was referred to a CEA Disciplinary Committee (DC) after the operationalisation of the Estate Agents (Amendment) Act 2020 on 30 July 2021. With the Act amendments, the maximum financial penalty for disciplinary breaches has been raised and a DC can impose a higher financial penalty on errant offenders.

S/N 7/2024 – Failing to Take Adequate Steps to Verify If Goods and Services Tax Was Payable on Client’s Purchase of an Industrial Property

Note: This case is related to S/N 6/2024 and involved the same sale transaction; the Respondent in S/N 6/2024 (i.e. Salesperson X) had represented the Sellers of the Property.

Facts of Case

The Respondent is the Key Executive Officer of his estate agent.

Salesperson X was engaged by the Sellers to sell their industrial property (the “**Property**”).

In or around late February 2022, Salesperson X enlisted the help of another salesperson to list the Property for sale on an online property portal. In the listing, there was no mention of any Goods and Services Tax (“**GST**”) payable.

In or around April 2022, the Buyer engaged the Respondent to help her purchase an industrial property for investment purposes; the Buyer intended to lease the property and collect rent from the lease. The Buyer informed the Respondent that her budget was around US\$ 1 million.

The Buyer and the Respondent separately shortlisted the Property. On or around 13 April 2022, the Respondent contacted Salesperson X and arranged for the Buyer to view the Property.

At the viewing on 13 April 2022, the Buyer told Salesperson X that she did not wish to pay GST on the purchase. Salesperson X represented to the Buyer and the Respondent that, amongst other things, the Property was sold with tenancy and the sale was not subject to GST.

Immediately after the viewing, the Buyer expressed interest in purchasing the Property at the price of S\$ 1.1 million. The Respondent immediately called Salesperson X to convey the Buyer’s offer. Salesperson X rejected the offer and, in justifying why the offer was too low, mentioned again that the sale of the Property was not subject to GST.

On 14 April 2022, the Respondent conveyed a second offer from the Buyer to purchase the Property at the price of S\$ 1.2 million. On or around 15 April 2022, the Respondent conducted a title search on the Property and bankruptcy searches on the Sellers. However, the Respondent did not conduct any checks or take adequate steps to verify whether the purchase of the Property was subject to GST.

On 18 April 2022, the Respondent forwarded the OTP and the tenancy agreement for the existing lease on the Property to the Buyer, via email, for her lawyers’ review. After further negotiations, the parties eventually agreed on the sale price of S\$ 1.24 million for the Property on or around 18 April 2022.

In the meantime, the Respondent and Salesperson X also discussed the terms of their co-brokerage and agreed that the Respondent would receive 0.5% of the purchase price as his commission for the transaction.

On or around 19 April 2022, the Sellers issued an Option to Purchase (“**OTP**”) to the Buyer, which the Buyer exercised on or around 22 April 2022.

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Salesperson X only found out that GST, at the rate of 3.5% of the sale price, was payable by the Buyer, after the Sellers' lawyers contacted Salesperson X. On or around 27 April 2022, Salesperson X informed the Respondent that the sale of the Property was in fact subject to GST. The Buyer tried to reach an agreement with the Sellers to bear all or half of the GST payable, but there was no eventual agreement reached.

The sale and purchase of the Property was completed on 10 July 2022; the Buyer had to pay GST amounting to S\$ 43,400, being a sum that she did not expect to pay or had factored when she purchased the Property.

The Respondent received commission of S\$ 6,200 for facilitating the Buyer's purchase of the Property. Neither the Respondent nor Salesperson X compensated the Buyer for the additional sum of S\$ 43,400 that she had to pay as GST for her purchase of the Property.

Charge

The Respondent faced the following charge:

Charge

Failing to conduct estate agency work with due diligence and care, by not taking adequate steps to verify whether the purchase of the Property was subject to GST before facilitating the Buyer's purchase of the Property, in contravention of paragraph 5(1) of the Code of Ethics and Professional Client Care.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to the Charge.

In sentencing, the Disciplinary Committee ("DC") noted that:

- (a) Whether GST was payable on the sale of the Property was a fundamental aspect of a salesperson's role in supporting a transaction, especially for industrial property transactions, and the Respondent had blatantly disregarded the professional standards expected of him;
- (b) In addition to the unexpected additional sum of S\$ 43,400 that the Buyer had to pay, the entire price negotiation for the Property was not based on accurate facts, which directly harmed what the public should be able to expect from being represented by a salesperson in a property transaction, where price is arguably the most significant factor; and
- (c) The Respondent had no antecedents, had pleaded guilty and was cooperative with investigations.

Accordingly, the DC imposed the following financial penalty and disciplinary order on the Respondent:

Charge: A financial penalty of \$7,000 and a suspension of 5 months.

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