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**BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT**

**BUILDING MAINTENANCE AND STRATA MANAGEMENT  
(STRATA TITLES BOARDS) REGULATIONS 2005**

STB No. 72 of 2024

In the matter of an application under section(s) **101** and **117** of the Building Maintenance and Strata Management Act in respect of the development known as **SHUN LI INDUSTRIAL PARK** (MCST Plan No. 2557)

Between

**Farcon Singapore Pte Ltd**

... Applicant(s)

And

**The Management Corporation Strata Title Plan No. 2557**

... Respondent(s)

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**GROUND OF DECISION**

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Between

**Farcon Singapore Pte Ltd**

... Applicant(s)

And

**The Management Corporation Strata Title Plan No. 2557**

... Respondent(s)

6 January 2025

**27 February 2025**

Coram:	Mr Alfonso Ang	(President)
	Mr Tan Kian Hoon	(Member)
	Ms Alli Ruthirapathi	(Member)

**BACKGROUND**

1. This is an application by the Applicant for the following orders:

2. (a) An order that the Respondent revise the operation and/or implementation of the Electronic Parking System (“EPS”) in the Shun Li Industrial Park (“the Development”) such that the EPS:
  - (i) Is limited to collecting parking charges in relation to the vehicles parking at common property parking lots in the Development (“Common Parking Lots”) only and that the vehicles accessing and parking at the Applicant’s private property parking lots (“Private Lots”) are not charged for doing so; and/or
  - (ii) Is to be consistent with the by-laws of the Respondent (“By-Laws”) including but not limited to allowing the terraced factory subsidiary proprietors, including the Applicant, to use their season EPS parking permits (“Season Permits”) issued under By-Law 3.4 to park at the Common Parking Lots without affecting their usage of their Parking Lots.
- (b) Further and/or in the alternative that the Respondent provides the Applicant with such additional number of complimentary Season Permits to ensure that the vehicles accessing and parking at the Applicant’s Private Lots are not charged for doing so;
- (c) An order that the Respondent put up signages to indicate common parking areas within the Development and that such areas are kept clear of encroachment;
- (d) An order that the Respondent complies with By-Law 3.5;
- (e) An order that the Respondent pays the Applicant S\$2,923.44;
- (f) That the Respondent pays to the Applicant the cost and expenses of this Application;
- (g) Interest on the above amounts such as rate and for such period as the Board considers just; and
- (h) Such further and other orders and/or relief that the Board deems fit and just.

**THE PARTIES**

3. The Applicant is a subsidiary proprietor of Shun Li Industrial Park (the “**Development**”).
4. The Applicant owns a terraced factory unit (#113) in the Development (the “**Property**”).
  - i. The Property’s total lot area is 826 sqm.
  - ii. The Applicant’s share in the common property of the Development comprises 571 out of a total of 100,000 shares.
5. The Respondent is the Management Corporation Strata Title Plan No. 2557 and is a body duly constituted on 6 June 2001.

**THE DEVELOPMENT AND USE OF VEHICLE PARKING LOTS**

6. The Development is made up of 119 terraced factory units and 237 flatted factory units. The approximate total share value of the respective subsidiary proprietors is as follows:

<b>Subsidiary Proprietors</b>	<b>Total Share Value (%)</b>
Terraced Factory	Approximately 60.44
Flatted Factory	Approximately 39.56

7. Pursuant to By-Law 3.4, each flatted factory is entitled to be issued with two free car park labels, and each terrace factory is entitled to be issued with three free car park labels; these car park labels are subject to renewal every calendar year. By-law 3.5 further provides that any owner/tenant that requires an additional car park label can pay S\$70.00 per annum (excluding GST) to the Respondent for each additional car park label.
8. At the Respondent’s 14<sup>th</sup> Annual General Meeting (“AGM”) on 19 July 2014, a special resolution was passed in relation to the proposed installation of a Radio Frequency Identification (“**RFID**”) Tag system at the basement carpark at Blk 61 of the Development (the “**Basement Carpark**”). Before the resolution was passed at the AGM, the Managing

Agent explained at the AGM that the installation was subject to, amongst others, the following conditions:

- i. each flatted factory subsidiary proprietor shall be allocated 2 RFID tags, and each terrace factory subsidiary proprietor shall be allocated 3 RFID tags;
  - ii. purchase of additional RFID tags will be charged at S\$70.00 (excluding GST) and subject to the Management Council's approval for one calendar year only;
  - iii. vehicles with RFID tags would be entitled to unlimited access into the Basement Carpark at all times;
  - iv. visitor parking be allowed in the Basement Carpark between 10.00am to 6.00pm only daily. No overnight parking is allowed at all times; and
  - v. the gantry barriers may be lifted between 10.00am and 6.00pm at the sole discretion of the Management Council.
9. Before the EPS (defined below) was introduced, there was no gantry installed in the Development to collect monies from vehicles parking in the Development.

### **THE ELECTRONIC PARKING SYSTEM AND ITS IMPLEMENTATION**

10. On 8 October 2016, an Extraordinary General Meeting was convened by the Respondent ("**8 Oct EGM**").
- i. At the 8 Oct EGM, a special resolution in favour of the installation of a full electronic parking system ("**EPS**") in the Development was passed unanimously.
  - ii. The special resolution did not expressly provide for any amendment of any By-Laws.
11. On 23 June 2018, a special resolution was passed at the Respondent's 18<sup>th</sup> AGM empowering the Management Council to appoint a carpark operator to manage the carpark within the estate for a period not exceeding 3 years (including option to renew) on such terms and conditions as the Management Council deemed fit at its sole discretion.

12. On 1 August 2018, the Respondent (through the Managing Agent) issued a circular to the subsidiary proprietors (“**1 Aug Circular**”). The 1 Aug Circular stated that each terraced factory subsidiary proprietor and flatted factory subsidiary proprietor was entitled to 3 and 2 “complimentary season parking (only applicable to cars or light goods vehicle not exceeding 3,500kg)” respectively (“**Season Permits**”).
13. On 1 October 2018, the Respondent implemented the EPS and appointed Top Parking as its operator. Barriers were installed at the entrance and exit points of the Development (“**EPS Barriers**”).
14. Following the implementation of the EPS and the installation of the EPS Barriers, any vehicle entering the Development is subject to and would have to pay the parking fees at the rates imposed by the appointed operator of the EPS (i.e. Top Parking), unless such vehicle is registered and issued a season EPS parking permit (i.e. a Season Permit).
15. The Applicant was granted 3 complimentary Season Permits after submitting the requisite documents to the Respondent for its approval in accordance with the 1 Aug Circular.
16. On 12 December 2019, the Applicant wrote to the Managing Agent to apply for “*2 season parking passes under By-Law 3.5, to commence on 1 January 2020*”.
17. The Managing Agent responded to state that “[u]pon the implementation of EPS in Shun Li, MCST do[es] not collect \$70 and issue car label[s] anymore as this would be a double charging to SPs for parking in Shun Li Ind Park”.
18. On 16 May 2024, the Applicant’s solicitors wrote to the Respondent. The Applicant’s solicitors demanded, among others, that the Applicant be “*permitted to purchase additional Season Permits at \$70.00 per annum*”. The Respondent did not respond.

### **THE APPLICANT’S CASE**

19. The Applicant’s primary case is that as a subsidiary proprietor, the Applicant is entitled to use the common property (including the Common Parking Lots), which are regulated by the

By-Laws. The Applicant contends that the Common Parking Lots are for the shared use and enjoyment of all the subsidiary proprietors, whereas the Private Lots are exclusively for the use of the respective proprietors.

20. The Applicant refers to Part Three of the By-laws governing the Common Parking Lots and submits that:
  - (a) By-Law 3.4 entitles each flatted factory unit to two free car park labels and each terraced factory unit (such as the Applicant's unit) to three free car park labels for parking in the Common Parking Lots.
  - (b) By-Law 3.5 permits subsidiary proprietors to purchase additional car park labels at \$70.00 per annum (excluding GST) each.
21. The Applicant further submits that before the implementation of the Electronic Parking System (EPS) in the Development, the Applicant could park at least three vehicles in the Private Lots and three vehicles in the Common Parking Lots without incurring any parking charges. This changed when the Respondent implemented the EPS as barriers were installed at the entrance and exit points of the Development, and the Applicant was issued only three EPS Season Permits.
22. The Applicant contends that it is put in a situation where it has to choose to park either at its Private Lots or the Common Parking Lots but not both simultaneously. If the Applicant has parked three vehicles at its Private Lots, it would be barred from parking any vehicle at the Common Parking Lots without incurring charges. Likewise, if the Applicant parked three vehicles at the Common Parking Lots, any vehicle parking in the Private Lots would incur fees.
23. The Applicant claims that the EPS, as implemented, infringes upon its rights and/or entitlements under the By-Laws. It asserts that the technological advancements (i.e. transitioning from car park labels to RFID tags to Season Permits via In-Vehicle Units ("IU") registration under the EPS) does not erode its entitlements under the By-Laws, especially since the By-Laws are valid and enforceable as they have neither been amended or repealed.

24. The Applicant contends that by issuing only three Season Parking Permits to the Applicant, the Respondent is depriving the Applicant of its right to access and park in its Private Lots without incurring additional charges when it parked in the Common Parking Lots or if it parked three vehicles in the Common Parking Lots, it is deprived of parking at its Private Lots without incurring additional charges.
25. The Applicant claims that the EPS should be limited to collecting parking charges only for vehicles parking in the Common Parking Lots and exclude vehicles accessing and parking at the Applicant's Private Lots from incurring any charges. It further asserts that the Respondent should comply with the By-Laws, specifically by issuing the Applicant three Season Permits under By-Law 3.4 for parking at the Common Parking Lots, without affecting the Applicant's access and use of its Private Lots.
26. The Applicant has in the Affidavit of Evidence in Chief of Daniel Chua and in its closing submission sought the sum of \$3,577.44 as reimbursement from the Respondent as representing the charges incurred by the Applicant for purchasing additional Season Permits from 7 February 2020 to 31 March 2025. It contends that these charges would not have been incurred but for the MCST implementation of the EPS in a way inconsistent with the By-Laws and its failure to ensure that the EPS is limited to collecting charges for vehicles parking at the Common Parking Lot only.

### **THE RESPONDENT'S CASE**

27. The Respondent's case is that none of the By-Laws (including By-Law 3.4 and 3.5) concerns or regulates the EPS, or the issuing of Season Parking Permit. It contends that the EPS could, therefore, never be in breach of those By-Laws. It contends that the By-Laws only regulate the use and issue of the car park labels, and the car park label system had been rendered obsolete following the implementation of the EPS.
28. The Respondent contends that any terraced factory unit subsidiary proprietor could use the three Season Parking Permits to park at the Private Lots, while allowing them the flexibility



to use the Season Parking Permits in the Common Parking Lots if they chose to do so. It further contends that this was the same methodology employed under By-Law 3.4 with respect to car park labels. In issuing three complimentary car park labels to subsidiary proprietors who owned terraced factory units under By-Law 3.4, no distinction was made between overnight parking at the Common Parking Lots and the Private Lots.

29. The Respondent claims that it was empowered under the special resolution dated 8 October 2016 to decide on the details of the implementation of the EPS, and in exercise of that power, the Respondent had allocated Season Parking Permits with reference to the allocations for car park labels prescribed in By-Law 3.4 (three for terraced factory units and two for flatted factory units).
30. The Respondent further contends that the Applicant's application to STB appears to be grounded on an alleged property right to free parking and that the application ought to be dismissed as under section 95 Building Maintenance and Strata Management Act ("BMSMA"), the Board does not have jurisdiction to determine and vindicate the Applicant's alleged title and associated rights with respect to its Private Lots.

## **JURISDICTION**

31. The Board will first deal with the issue raised by the Respondent that it does not have jurisdiction to deal with the matter.
32. The Respondent submitted that the Board has no jurisdiction to hear this matter as the Applicant's claim to "private property rights" involved "title to land". Section 95 of the BMSMA states that the Board does not have jurisdiction in any case in which title to land is in question. The Applicant's response is that the Board has jurisdiction to resolve disputes concerning the exercise of powers and duties relating to common property under Section 101 of the BMSMA.
33. The Board is asked to decide on the Applicant's rights to the common property car park, and this can be done without conflating the Applicant's rights to the Common Parking Lots and

the Private Lots. The Respondent is obfuscating the issue by framing it as a question of proprietary rights and claims that the Board is asked to deliberate on the proprietary rights (including vehicular access) with respect to the strata lot owned by the Applicant. The Board is of the view that the Applicant's title to his strata unit and the Private Lots are not in issue. The dispute before the Board is not about the proprietary rights of the Applicant of its strata unit. It does not concern title or ownership but rather the use of the common parking lot. This dispute falls within Sections 101(1) (c) and Section 117 (2) of the BMSMA and the Board therefore has jurisdiction to hear the application.

### **MAIN DISPUTE**

34. Having reviewed the Agreed Facts, the evidence of the witnesses and counsels' submission, we are of the opinion that the dispute is not as complicated as was made out by the Respondent. This case is concerned with the allocation of car park lots in the common property car park and had nothing to do with the Applicant's proprietary ownership of its property.
35. The Applicant's Property comprises (minimally) 3 parking lots within its own strata lot. It is pertinent to note that the development has 119 terrace factory units and 237 flatted factory units and in terms of contribution to the maintenance of the common property, the terrace factory units' total share value is approximately 60.44% and the flatted factory units' share value is approximately 39.56%.
36. From the facts, the Development's car parking system had transitioned over the years from car park labels to the current electronic parking system. However, no changes have been made to the By-Laws that concern and govern car parking.

### **THE RIGHTS OF THE APPLICANT**

37. Section 32 (3) of the BMSMA affords the MCST, pursuant to a special resolution, the power to make by-laws, add or amend the by-Laws on parking, provided that they are not

inconsistent with the statutorily prescribed By-Laws (Prescribed By-Laws). Part Three of the By-Laws of the MCST 2257 (Form 8 Annex 5) deals with car parking.

38. By-Law 6.7 makes it abundantly clear that the by-laws are to regulate the activities and use of the common property. By referring to “overnight parking” with valid car park label, it is clear that the reference is to car parking at the Common Parking Lots and not the Private Lots. By this, the allocation of car park labels in By-Law 3.4 which reads “Each flatted factory unit will be issued two free car park labels, and each terrace factory will be issued with three car park labels” must be for parking within the Common Parking Lots.
39. The allocation of three car park lots to the terraced factory units in the Common Parking Lots can be traced to various documents submitted:
- (i) Minutes of the 14<sup>th</sup> AGM held on 11.8.2014, where Special Resolution 11.1 (AEIC of Ng Kok Cheng, Tab 3) was passed for the proposed installation of RFID Tag System. Here again, at 11.1.2(a), the allocation of 2 RFID tags for flatted factory units and 3 RFID tags for terrace factory units are spelt out. The heading of special resolution 11.1 itself is clear that it refers to the common property car parking at Blk 61 Basement Car Park.
  - (ii) In the Minutes of the EGM held on 8 Oct 2016 (AEIC of Ng Kok Cheng, Tab 5), it is stated that Special Resolution 1.1 for the Proposed Installation of a Full Electronic Parking System (EPS) was passed. At 1.1.5, the Managing Agent was recorded as having mentioned that the proposed free total parking lots were 1188 with all units, after which the resolution was unanimously passed. Without any further explanation provided, a breakdown of 1188 free car park lots translates to six free parking lots for each terrace factory unit (including the three lots in their Private Lots).
  - (iii) The letter to the subsidiary proprietors dated 1 Aug 2018 regarding the appointment of the car park operator) (AEIC of Ng Kok Cheng, Tab 8, page 112) also indicates that Top Parking has been appointed as the operator to manage “the car park at Shun Li Industrial Park”. This refers to the Common Parking Lots and not the Private Lots within the terrace factory units.

40. A letter dated 16 November 2018 was circulated to all subsidiary proprietors (AEIC of Chua Poh Eng Daniel, Tab 3) and signed by Mr. Ng as Chairman (the Respondent's witness). It sets out the legal advice they obtained from their counsel and details at (iv) that the terrace factory Subsidiary Proprietors' three strata parking lots are not common property parking lots and that the council members and MCST should not take into account any parking spaces within their strata units.
41. Despite the legal advice obtained from the Respondent's counsel and circulated to the SPs, the Board finds that the Respondent is conflating the Applicant's Private Lots with the Common Parking Lots, and by issuing only three complimentary season parking permits, it seeks to allow access and parking in the Applicant's own Private Lots, which is the Applicant's right and outside the ambit of the MCST and the MC. By allowing only three Season Permits, which can be used in either the Applicant's Private Lots or the Common Parking Lots, the Respondent is depriving the Applicant of the earlier allotted use of the Common Parking Lots despite the terraced factory units bearing about 60% of the maintenance fees (proportionate to their share value). That the Respondent is conflating the Private Lots and the Common Parking Lots is evident from Mr Ng's response during the hearing (Transcript 174:24 to 177:7).
42. Additionally, there is a discrepancy in the number of the free car park lots mentioned by the MA in the Minutes of the EGM dated 8 Oct 2016, where it is stated as 1188, and the number of car park lots requested in the tender documents, which is stated as 831 at Clause 5(c) (AEIC of Jane Tan, page 41). In our opinion, this can be reconciled if the car park tender only relates to the Common Parking Lots and does not take into account the Private Lots which, not being common property, should not be subject to the parking system operated by the MCST in any case. Yet another interpretation of the discrepancy is that the tender documents do not represent or conform to what was presented at the EGM to the SPs.
43. It is clear from the BMSMA and the Second Schedule of the Building Maintenance (Strata Management) Regulations 2005 that the MCST's jurisdiction on the control over hours of operation and use of facilities is confined to the common property. The MCST has no power

to formulate by-Laws to control or restrict the use of the carpark lots within the strata lots which are not on common property. Accordingly, the designated vehicles of the terraced factory owners or tenants must be allowed unrestricted access to the Private Lots within their strata lots.

44. As the carpark lots in the Basement Carpark or other common property areas within the estate are common property, all SPs (be they owners of terraced or flatted factories) and their tenants should be allowed to park at these Common Parking Lots. The MCST must be even-handed when formulating by-laws as the terraced factory units' SPs also contribute to the Management Fund and Sinking Fund used for the maintenance and upkeep of such Common Parking Lots. The rights and obligations of SPs are proportionate to the share values they hold in the MCST. As such, the terraced factory units' owners or tenants should not be denied such parking rights on Common Parking Lots.

### **BOARD'S DECISION**

45. In respect of prayers (a) & (b), the Board orders that the Applicant is entitled to use their season EPS parking permits issued under By-Law 3.4 to park at the Common Parking Lots without affecting their allocated car parking in their Private Lots.
46. In respect of prayer (c) of the application it is the view of the Board that it will not micromanage the running of the estate. We expect that the elected members of the MCST will make decisions in the best interest of the Development.
47. In respect of prayer (d), the Board is of the view that unless By-Law 3.5 is amended or revoked, the MCST must comply with it. Again, we leave it to the MCST to unravel the complications caused by the two co-existing system of annual parking fee under the By-Law and the monthly season parking fee under the EPS system.
48. As the Applicant's main prayer is granted, it must consequentially follow that the additional parking charges against the Applicant must be refunded. The revised claim by the Applicant for \$3,577.44 represents the charges incurred by the Applicant for purchasing additional

Season Permits from 7 February 2020 to 31 March 2025. These charges would not have been incurred but for the MCST implementation of the EPS in a way inconsistent with the By-Laws and its failure to ensure that the EPS is limited to collecting charges for vehicles parking at the Common Parking Lot only.

49. The Board will hear parties on costs.

Dated this 27th day of February 2025

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**MR ALFONSO ANG**  
President

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**MR TAN KIAN HOON**  
Member

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**MS ALLI RUTHIRAPATHI**  
Member

Koh Jia Jeng & Hannah Chua (M/s Dentons Rodyk & Davidson LLP) for the Applicant  
Chew Xiang & Darren Lim (M/s Rajah & Tann Singapore LLP) for the Respondent  
Bill Phua Ee Jie as young amicus curiae