

S/N 3/2019 – Failure to Conduct Work with Due Diligence, Despatch and Care by Failing to Submit Resale Flat Application in Time and Failure to Render Professional and Conscientious Service to Clients by Misleading Clients on the Handover Date of the Property

Facts of Case

The Respondent was at all material times a registered salesperson with the licensed estate agent, Estate Agent E.

The Respondent represented his clients (“**Buyers**”) in the sale of their Housing & Development Board (“**HDB**”) flat (“**Other Property**”) and in the purchase of an HDB flat (“**Property**”). The Buyers agreed to pay the Respondent a total commission of \$7,500 for both transactions.

In or around the first quarter of 2016, the Buyers came across the online listing of the Property posted by Ms A, a registered salesperson with the licensed estate agent, Estate Agent E, who represented the sellers of the Property (“**Sellers**”). The Respondent subsequently liaised with Ms A on the Buyers’ intended viewing and purchase of the Property.

At all material times thereafter, the Respondent did not disclose in writing the fact that he and Ms A were from the same estate agent, Estate Agent E, even though he was aware of the same.

After the Buyers’ first viewing of the Property, the parties agreed through their respective salespersons that the Property was to be sold for \$580,000. At the Buyers’ second viewing of the Property (which the Respondent was also present at), the parties agreed that the date for the 1st appointment with the HDB would be 27 June 2016, that the date for the completion of the sale and purchase of the Property would be 22 August 2016, that the Sellers could extend their stay in the Property for three months after 22 August 2016, and that the handover date would be on 20 November 2016 (collectively, the “**Relevant Dates**”).

The Sellers then executed the Option to Purchase dated 17 March 2016 (“**OTP**”), and the Buyers made payment of the option fee of \$1,000 to the Sellers. On 30 March 2016, the parties also executed an agreement to give effect to the agreed Relevant Dates. On 6 April 2016, the Buyers exercised the OTP and paid the exercise fee to the Sellers.

Procedurally, in order to book the 1st HDB appointment, both the Respondent and Ms A had to submit their respective clients’ portions of the resale flat application within 7 days of each other, failing which the application would lapse.

On 15 April 2016, Ms A submitted the Sellers’ portion of the resale flat application (“**Sellers’ 1st Submission**”). Ms A sent a Whatsapp message to the Respondent to inform him of the same, and the Respondent acknowledged the message on 16 April 2016. However, the Respondent failed to submit the Buyers’ portion of the resale

application by 22 April 2016 (i.e. 7 days from the Sellers' 1st Submission). The resale application then lapsed and there was a delay in the booking of the 1st HDB appointment.

On 28 April 2016, Ms A submitted the Sellers' portion of the resale flat application a second time ("**Sellers' 2nd Submission**"). Ms A sent a Whatsapp message to the Respondent to inform of the same and reminded him to schedule the 1st HDB appointment on 27 June 2016, and the Respondent acknowledged the message on the same day. On 1 May 2016, the Respondent informed Ms A that he had submitted the Buyers' portion of the resale application on 30 April 2016 and that there should not be any issues with scheduling the 1st HDB appointment on 27 June 2016.

However, when Ms A, the Sellers and the Respondent met at HDB Hub for the 1st HDB appointment on 27 June 2016, the Respondent informed them that he had in fact failed to secure the 1st HDB appointment date for that day. It was also revealed that the Respondent failed to submit the Buyers' portion of the resale application by 5 May 2016 (i.e. 7 days from the Sellers' 2nd Submission).

With the delay in the 1st HDB appointment, it was likely that the actual completion date would also be delayed beyond 22 August 2016. Ms A thus informed the Respondent that the Sellers would still wish to extend their stay at the Property for three months after the actual completion date, and the Respondent acknowledged that this would be possible even though he did not confirm this with the Buyers and he withheld the Sellers' position on this from the Buyers at all material times.

On or before 5 July 2016, HDB informed the Sellers that the completion date would be fixed on 13 October 2016. Ms A then sent a Whatsapp message to the Respondent to inform him that the Sellers intended to hand over the Property on 13 January 2017. On 5 July 2016, the Respondent acknowledged Ms A's message, but withheld this relevant fact from the Buyers at all material times.

On 16 September 2016, HDB informed the Sellers and the Buyers that the actual completion date had been re-fixed to 7 October 2016, and that their respective extension of stay applications had been approved. The sale and purchase of the Property was completed on 7 October 2016.

On 8 October 2016, the Buyers contacted the Respondent for an update on the handing over of the Property. The Respondent misled the Buyers by informing them that the Property would still be handed over to them on 20 November 2016, even though he knew that this was not the case. The Buyers then sourced for renovation contractors to start renovation works at the Property on 20 November 2016.

On 19 November 2016, the Buyers contacted the Respondent to enquire on the time that their renovation contractors could enter the Property on 20 November 2016. However, the Respondent provided them with the false information that the Sellers had to postpone the purported handover date of the Property on 20 November 2016 to a later date as they were not able to move out of their Property into their new premises due to a piping leakage in their new premises, when this was not true.

On 20 November 2016, the Buyers arrived at the Property with their renovation contractor and the Respondent, but there was no response when the Buyers knocked on the door. The Buyers then called the Singapore Police Force (“**Police**”) for assistance. When the Police arrived, the Sellers opened the door and it was then revealed to the Buyers that the Sellers were not intending to handover the Property on 20 November 2016 as it had been postponed to 13 January 2017.

On 24 November 2016, in a discussion with the Sellers, the Buyers, Ms A and the Respondent, the Respondent agreed in writing to refund the Buyers \$8,000 (comprising the commission of \$7,500 paid to the Respondent and storage costs of \$500) to help the Buyers defray their additional expenses for alternative accommodation and storage. However, the Respondent failed to pay the agreed sum to the Buyers and the Buyers had to engage lawyers to send a letter of demand on their behalf to the Respondent for the payment of the agreed sum.

The Buyers had to then make arrangements to extend their stay at the Other Property to 14 February 2017. However, they still had to move into the Property whilst the kitchen was still undergoing renovation works and faced inconvenience. The Buyers also incurred costs of \$2,800 as payment to the renovation contractors for expediting the renovation works.

Charges

The Respondent faced the following six charges:

Charge 1

Failing to conduct work with due diligence, despatch and care by failing to submit the resale flat application on behalf of his clients, the Buyers, within 7 days of the Sellers’ 1st Submission, causing the resale application to lapse and a delay in the booking of the parties’ 1st HDB appointment, in contravention of paragraph 5(1) of the Code of Ethics and Professional Client Care.

Charge 2 (Proceeded)

Failing to conduct work with due diligence, despatch and care by failing to submit the resale flat application on behalf of his clients, the Buyers, within 7 days of the Sellers’ 2nd Submission, causing the resale application to lapse and a delay in the booking of the parties’ 1st HDB appointment, in contravention of paragraph 5(1) of the Code of Ethics and Professional Client Care.

Charge 3

Failing to render professional and conscientious service to his clients, by withholding the relevant fact communicated by the Sellers’ salesperson, Ms A, that there would be a postponement of the handover date of the Property, in

contravention of paragraph 6(1) read with paragraph 6(2)(d) of the Code of Ethics and Professional Client Care.

Charge 4 (Proceeded)

Failing to render professional and conscientious service to his clients, by misleading his clients, the Buyers, that the handover date remained on 20 November 2016, when he was aware as early as 27 June 2016 that the Sellers intended to extend their stay to 3 months after the actual completion date, which on or around 5 July 2016 was initially fixed by the HDB for 13 October 2016, and was subsequently re-fixed by the HDB to 7 October 2016, in contravention of paragraph 6(1) read with paragraph 6(2)(b) of the Code of Ethics and Professional Client Care.

Charge 5

Failing to render professional and conscientious service to his clients, by providing false information to his clients, the Buyers, that the Sellers had to postpone the purported handover date on 20 November 2016 due to a piping leakage at their new property, when this was not true, in contravention of paragraph 6(1) read with paragraph 6(2)(b) of the Code of Ethics and Professional Client Care.

Charge 6

Failing to comply with the practice circulars and guidelines of the Council for Estate Agencies (“CEA”), by failing to disclose in writing to his clients, the Buyers, that the Sellers’ salesperson, Ms A, was from the same estate agent, in contravention of paragraph 1.3.4 of the Practice Guidelines on the Professional Service Manual issued by the CEA on 1 January 2014 read with paragraph 4(1) and paragraph 4(2)(a) of the Code of Ethics and Professional Client Care.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to Charges 2 and 4, with Charges 1, 3, 5 and 6 taken into consideration for sentencing. The Disciplinary Committee imposed the following financial penalties on the Respondent (who was not a registered salesperson at the time of sentencing):

Charge 2: A financial penalty of \$10,000.

Charge 4: A financial penalty of \$12,500.

Fixed costs of \$1,000 was also imposed on the Respondent.

In imposing the above sentence, the Disciplinary Committee considered it relevant that there was inconvenience and expenses caused to the Buyers, that the Respondent

Note: This case was referred to a CEA Disciplinary Committee (DC) before 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.

failed to compensate his clients the sum of \$8,000 despite his promise, and that Charge 4 did not involve dishonesty.