

CASE UPDATE



TWIN SISTERS IN SIMEI GREEN CONDO INCIDENT HAVE THEIR CIVIL CLAIMS FOR BATTERY, HARASSMENT AND BREACH OF CONFIDENCE DISMISSED.

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Introduction

1. In an incident that went viral, twin sisters Tang Bei and Tang Lei were filmed in a scuffle with a Condominium Manager in the Management Office of Simei Green Condominium on 28 April 2015. After a 24-day criminal trial:
 - a. Tang Bei was convicted of voluntarily causing hurt by hitting the Condominium Manager on his head and arm and using criminal force on him by spitting in his face. She was sentenced to a fine of S\$2,100.00, in default 16 days imprisonment; and
 - b. Tang Lei was convicted of voluntarily causing hurt by hitting the Condominium Manager on his head and arm and using criminal force on him by spitting in his face and splashing the contents of a canned drink at him. She was sentenced to a fine of S\$2,500.00, in default 12 days imprisonment.
2. Both Tang Bei and Tang Lei appealed against their convictions.
3. Tang Bei brought civil proceedings (MC/MC 20766/2016) against the Condominium Manager, seeking S\$50,000.00 in damages from the Condominium Manager and his employer for alleged battery, harassment and breach of confidence arising from the incident on 28 April 2015 as well as other incidents.
4. Tang Lei also brought civil proceedings (MC/MC 20821/2016) against the Condominium Manager, seeking S\$5,000.00 in damages for alleged harassment by the Condominium Manager.
5. Following a 5-day trial where both matters were heard, the Magistrate's Court dismissed both civil claims by the sisters. The successful Defendants were represented by Mr Toh Kok Seng and Mr Daniel Chen of Lee & Lee.

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Tang Bei (MC/MC 20766/2016)

6. Tang Bei's allegations against the Condominium Manager centered on three incidents:
 - a. A 1st alleged incident of battery and harassment at the Management Office in February 2015;
 - b. A 2nd alleged incident of battery and harassment at the Management Office on 28 April 2015 (which was captured on camera and went viral online); and
 - c. An alleged breach of confidence.
7. Tang Bei also argued that the Condominium Manager's employer, the Managing Agent, was vicariously liable for the acts allegedly committed by the Condominium Manager.

1st alleged incident of battery and harassment at the Management Office in February 2015

8. In respect of this incident, Tang Bei alleged that the Condominium Manager uttered "something to the effect that he would fall in love with her and wrongfully assaulted her by bear-hugging her" and that when she attempted to break free, the Condominium Manager hugged her even tighter and repeatedly rubbed against her breast with his arms. She said that when she screamed for help, the Condominium Manager grabbed her throat and choked her forcefully. She alleged further that as she left the Management Office, the Condominium Manager shouted abusive words at her.
9. The Condominium Manager denied saying any of the words or doing any of the things alleged. He explained that there had been an argument over the issuance of access cards to the estate. At this time, he had been standing behind a service counter while Tang Bei was on the other side of the counter. Tang Bei lifted the service counter flap and attempted to force her way past the service counter, so he instinctively raised his hand to stop her and managed to do so.
10. The Court found that it was Tang Bei's act of suddenly lifting the service counter flap and forcing her way into the area behind the service counter that resulted in the Condominium Manager raising his hand to stop her. The Court held that any physical contact which resulted from this action did not constitute battery.
11. The Court also found it difficult to accept that the Condominium Manager would molest Tang Bei when she was in such an agitated state and angrily confronting him. Furthermore, another female employee of the Managing Agent was in the same room and she corroborated the Condominium Manager's account of what transpired.
12. Lastly, the Court found that there was nothing to support Tang Bei's allegation that the Condominium Manager had shouted the abusive words at Tang Bei.

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2nd alleged incident of battery and harassment at the Management Office on 28 April 2015

13. This was the incident captured on camera that went viral. Tang Bei alleged that at the height of the altercation, the Condominium Manager “hit her forcefully on the head” and that she “sustained bruising on her left cheek”. She claimed further that the Condominium Manager made racist and provocative remarks directed at her.
14. While the Condominium Manager admitted that he did swing his arm and make contact with Tang Bei, he argued that this was in necessary self-defense against Tang Bei and her sister’s slapping and spitting.
15. The Court agreed that the Condominium Manager swung his arm toward Tang Bei in necessary self-defense, and using no more force than reasonably necessary in the circumstances. The Court also took the view that in a scuffle of this nature, it was justifiable that the aggressor (Tang Bei) would receive some physical contact from the victim (the Condominium Manager). As such, the contact did not constitute battery.
16. The Court held that the alleged remarks “where do you come from” were not directed at Tang Bei but at Tang Lei. As regards the alleged remarks “Get out of Singapore and go back to China”, the Court held that this was not supported by the video. The Court also did not accept Tang Bei’s contention that these remarks occurred before the video started recording.

Alleged Breach of Confidence

17. Tang Bei gave evidence that she had received abusive calls and text messages from strangers following the incident on 28 April 2015. She alleged that this was because the Condominium Manager and/or his employer had disclosed her mobile phone number to members of the public.
18. The Condominium Manager and his employer denied having done so.
19. The Court observed that Tang Bei’s claim was based only on speculation and that there was no evidence to support it. The Court also noted that Tang Bei had admitted that her personal particulars may have been dug up and exposed by other internet users after the video of the 28 April 2015 was seen by them.

Alleged Vicarious Liability

20. The Court held that since the Condominium Manager was not liable to Tang Bei, there was no need to consider the alleged vicarious liability of the Condominium Manager’s employer.

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Tang Lei (MC/MC 20821/2016)

21. Tang Lei alleged that while she was in Simei Green on 29 and 30 April 2015, the Condominium Manager had said various things to her, such as something to the effect of “Get out of Singapore and go back to China! Get out of Simei Green”. This was in the days following the 28 April 2015 incident.
22. The Condominium Manager explained that he had been instructed by the Management Council of Simei Green to get Tang Lei to leave Simei Green. This was corroborated by a member of the Council.
23. The Court found that on at least one occasion the Condominium Manager did tell Tang Lei to leave Singapore and go back to China. The Court held that, although the words were unpleasant, they were said in the context of a heated argument, rather than with an intent to harass Tang Lei.
24. The Court held that it could not have been the intention of Parliament to regulate words said in a quarrel where both parties were exchanging angry words following on from an incident involving physical violence the previous day. Therefore, the defense of reasonableness would apply to exonerate the Condominium Manager for the words he had used as provided by Section 4(3)(b) of the Protection from Harassment Act (Cap 256A).

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