

**IN THE GENERAL DIVISION OF THE HIGH COURT OF THE REPUBLIC
OF SINGAPORE**

[2021] SGHC 107

Tribunal Appeal No 1 of 2021

Between

Ng Chee Seng

And

Professional Engineers Board,
Singapore

... Appellant

... Respondent

GROUND OF DECISION

[Professions] — [Engineers]

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Ng Chee Seng
v
Professional Engineers Board, Singapore

[2021] SGHC 107

General Division of the High Court — Tribunal Appeal No 1 of 2021
Chan Seng Onn J
29 March 2021

4 May 2021

Chan Seng Onn J:

1 This was an appeal by the appellant, Ng Chee Seng (“Ng”), to set aside the decision made by the Disciplinary Committee of the Professional Engineers Board, Singapore (“DC”) dated 15 December 2020 (the “Order”) made under s 31(H) of the Professional Engineers Act (Cap 253, 1992 Rev Ed) (“PEA”).

2 After hearing parties’ submissions on 29 March 2021, I dismissed Ng’s appeal. I now set out the grounds of my decision.

Facts

3 Ng is a registered professional engineer. He is also registered with the Energy Market Authority (“EMA”) as an engineer grade licensed electrical worker (“LEW”).¹

4 In or about September 1999, Ng was appointed as the licensing LEW (“LLEW”) of an electrical installation at the premises of Dawn Shipping & Transportation Company Pte Ltd (“Dawn Shipping”).² The electrical installation had been installed by another LEW, whose identity is unknown, (the “installing LEW”) and was operational five years before Ng’s appointment. Ng was the LLEW for 13 years from 1999 to 2012. During this time, he made the requisite annual applications for the renewal of the electrical installation licenses for Dawn Shipping.

5 In the application for renewal, Ng was required to submit a certificate of fitness (“COF”) certifying that the electrical installation was “fit for operation” to the EMA. However, a single line drawing (“SLD”) was not required unless there have been additions and/or alterations (“A&A”) to the electrical installation.³

6 It was not disputed that Ng had signed the COFs which were submitted to the EMA between November 1999 and November 2012. In November 1999, Ng signed a SLD reproduced from the previous LLEW’s SLD and submitted it to the EMA. For each renewal application after 1999, he did not submit any “updated” SLDs as no A&A works had been carried out to the electrical

¹ Appellant’s written submissions dated 10 March 2021 (“AS1”) at para 5.

² Record of Proceedings of 15 December 2020 (“ROP”) at pp B-11 to B-12.

³ AS1 at paras 99 to 101.

installation. However, pursuant to the declarations he made in the COFs, Ng confirmed each year that the SLD endorsed and submitted by him in November 1999 was still valid at the time of each renewal application (see *Public Prosecutor v Ng Chee Meng* [2017] SGMC 35 (the “State Court’s decision”) at [18] to [20]).

7 On 7 December 2012, a fatal electrocution occurred at the electrical installation where the deceased person suffered an electric shock while using a surface mounted switch socket outlet (“SMSSO”) which was not fitted with a residual current circuit breaker (“RCCB”).

8 For failing to ensure that the SMSSO was fitted with a functional RCCB, Ng was prosecuted for causing hurt to the deceased by a negligent act or omission in respect of an electrical installation under his control under s 83(3) of the Electricity Act (Cap 89A, 2002 Rev Ed). Following a trial, he was convicted on 13 April 2017 and sentenced on 12 May 2017 to a fine of \$7,000.00 in default of which he was to serve four weeks’ imprisonment (see the State Court’s decision at [145]). The State Court’s decision was not appealed against by Ng.

9 Following Ng’s conviction, EMA lodged a complaint against Ng with the respondent, the Professional Engineers Board, Singapore (“PEB”). The PEB appointed an Inquiry Committee (“IC”) to look into the complaint and make its recommendations to the PEB.⁴ The IC recommended that a letter of warning be issued to Ng. However, the PEB declined to accept the recommendation and charged Ng in the proceedings below on 3 August 2020 for a breach of

⁴ Respondent’s written submissions dated 12 March 2021 (“RS1”) at para 10.

paragraph 2 of Part II of the Schedule to the Professional Engineers (Code of Conduct & Ethics) Rules (Cap 253, R 3, 1991 Rev Ed) (“PE (CCE) Rules”).

The decision below

10 In the proceedings below, the particulars of the charge against Ng were as follows:

Charge

That you, Ng Chee Seng (PE registration no. 1881) a professional engineer registered under the provisions of the Professional Engineers Act (Cap 253) [hereinafter referred to as "the said Act"] are charged that as the qualified person and consultant and/or engineer, namely, the Licensed Electrical Worker (LEW) in charge and/or in control of the Electrical Installation (EI) of Dawn Shipping & Transport Company Pte Ltd situated at 32 Pioneer Road North, Singapore 628473 you have between November 1999 and November 2012, for the purposes of obtaining a renewal of the licence from the relevant authority (EMA) for operation of the EI at the aforesaid premises signed off on "Updated" SLDs and certificates of Fitness which neither he nor any member of his staff under his supervision verified or checked and you are thereby guilty of contravening Rule 2 read with [paragraph] 2 of Part II of the Schedule to the Professional Engineers (Code of Professional Conduct & Ethics) Rules by reason whereof you are guilty of the conduct specified in s 31G(1)(c) of the said Act which conduct is punishable under s 31G(2) and 31G(3) of the said Act.

Particulars

(1) Er Ng was appointed by Dawn Shipping & Transport Pte Ltd to be the Licensing LEW for the EI located at their premises at the aforementioned address

(2) Er Ng's said appointment commenced on or about November 1999 and continued up to and including November 2012

(3) Er Ng's scope of duties included conducting annual inspections of the EI with a view to updating the Single Line Drawing (SLD) and issuing a Certificate of Fitness in order that

the licence for the said EI may be renewed by the relevant authority

(4) In submitting the several Updated SLDs and in issuing the several Certificates of Fitness for the period of time mentioned in (2) above, Er Ng failed and/or omitted to perform a physical tracing by way of verification of the said EI and to check that the SLDs were duly updated with protective devices which are actually present in the EI he purportedly inspected

(5) Er Ng instead relied on and submitted the previous SLDs as "Updated" SLDs without performing actual checks to satisfy himself that the said SLDs accurately depicted the physical state of the EI

(6) In fact one of the outdoor surface mounted switch socket outlet was not fitted with the requisite RCCB, an omission which could have been verified with reasonable care and attention

11 After a hearing, the DC found that Ng had breached paragraph 2 of Part II of the Schedule to the PE (CCE) Rules.⁵ Paragraph 2 provides the following:

2. A professional engineer shall not, for the purpose of obtaining any permit, license or approval of any public authority, sign any plans or calculations which neither he nor any member of his staff under his supervision verified, checked or prepared.

12 Section 31G(1)(c) of the PEA provides that where, upon due inquiry into a complaint or matter, a DC is satisfied that the registered professional engineer concerned has contravened any provision of the prescribed code of professional conduct and ethics, the DC may exercise the powers referred to in s 31G(2) of the PEA. Section 31G(2)(c) of the PEA allows the DC to impose on the registered professional engineer a penalty not exceeding \$50,000.00 while s 31G(3) of the PEA allows the DC to order the registered professional engineer

⁵ ROP at p B-5.

to pay the costs and expenses of the disciplinary proceedings up to a maximum of \$50,000.00.

13 In the Order, the DC made the following findings:

(a) Paragraph 2 of Part II of the Schedule to the PE (CCE) Rules was relevant to electrical works.

(b) It was not for the DC to override the State Court’s decision especially since Ng had the opportunity to appeal the decision but did not do so.

(c) While it would be “exhaustive [*sic*] for LEWs to conduct checks on all socket outlets and [RCCBs]⁶ for big developments”, Ng was at least required to do his due diligence to verify the A&A to the electrical installation instead of depending on the SLD submitted in 1999.⁷

14 As such, considering that a fatality was involved, the DC imposed a penalty of \$7,000.00 on Ng under s 31G(2)(c) of the PEA. It also ordered that Ng pay to the PEB the legal costs and expenses for the proceedings under s 31G(3) of the PEA.⁸

The law

15 The High Court has broad powers of rehearing in exercise of its appellate jurisdiction (see s 22 of the Supreme Court of Judicature Act (Cap

⁶ The term used by the DC was “ELCB” (earth leakage circuit breaker), another name for RCCB (see AS1 at [33]).

⁷ ROP at p B-5, para 8.2.

⁸ ROP at p B-5, para 8.5.

322, 2007 Rev Ed)). In this context, I noted that the specific threshold for appellate intervention for such an appeal is set out in s 31H(3) of the PEA, which states the following:

(3) In any appeal to the General Division of the High Court against a decision referred to in section 31G(2), (3) or (4), the General Division of the High Court shall accept as final and conclusive any finding of the Disciplinary Committee relating to any issue of ethics or standards of professional conduct unless such finding is in the opinion of the General Division of the High Court *unsafe, unreasonable or contrary to the evidence*.

[emphasis added]

16 As recognised by the High Court in *Fong Chee Keong v Professional Engineers Board, Singapore* [2016] 3 SLR 221 at [19]–[21], the High Court would only intervene if: (a) it found that there was something clearly wrong in either the conduct of the disciplinary proceedings and/or the legal principles applied; or (b) the findings of the disciplinary committee were sufficiently “out of tune with the evidence to indicate with reasonable certainty that the evidence has been misread”. Furthermore, a court would be “slow to interfere with the findings of a disciplinary committee as the latter is a specialist tribunal with its own professional expertise and understands what the profession expects of its members”.

The main issue

17 The main issue that arose before me was whether the findings of the DC were “unsafe, unreasonable or contrary to the evidence” such that the Order should be set aside.

18 Ng contended that they were because the DC purely relied on the State Court’s decision without considering that the IC took the view that there was no

misconduct.⁹ Alternatively, the Order should be set aside because of procedural improprieties and breaches of the rules of natural justice.¹⁰

19 On the other hand, the PEB submitted that the Order should be affirmed because the findings were not unsafe, unreasonable or contrary to the evidence.¹¹

My decision

20 After hearing the parties’ submissions, I was not satisfied that the findings in the Order were unsafe, unreasonable or contrary to the evidence for the following reasons.

21 First, the DC’s finding that Ng contravened paragraph 2 of Part II of the Schedule to the PE (CCE) Rules (see [11] above) was not unsafe or unreasonable or contrary to the evidence.

22 Ng argued that the DC erred because paragraph 2 did not apply to LEWs but was directed only toward “plans” and/or “calculations” submitted by civil and structural engineers at the preparation and construction stage.¹² Thus, he had not breached the provision since a SLD is a diagram or drawing but not a plan.

23 I rejected this argument. From the literal wording of paragraph 2, the term “professional engineer” did not limit its application only to civil and structural engineers. I was also not persuaded that the SLD cannot be considered a “plan” within the meaning of paragraph 2. Since paragraph 2 governs the

⁹ AS1 at para 292(a).

¹⁰ AS1 at para 292(b) to (c).

¹¹ DS1 at para 18.

¹² AS1 at paras 242 to 248.

conduct of professional engineers in verifying, checking or preparing “any plans or calculations” submitted for the purpose of obtaining “any permit, licence or approval or any public authority”, a broad reading of the word “plan” is warranted to safeguard the trust that authorities place on documents signed by professional engineers. I accept the respondent’s argument that — when read in the light of s 10 of the PEA (*ie*, the parent legislation), which makes reference to the privilege of professional engineers to “draw or prepare any plan, sketch, drawing, design, specification or other document relating to any of the prescribed branches of professional engineering work”¹³ — paragraph 2 should be read to encompass the SLD.

24 It was undisputed that Ng only inspected the switch room and did not inspect anything outside of the switch room.¹⁴ I did not agree with Ng that his duties were confined to only examination of the switch room. Before signing the declaration that the SLD was still valid at the material time for submission to the EMA for the renewal application, there were other important parts outside the switch room (*eg*, the distribution boards) that he should have inspected. In fact, Ng conceded before me at the hearing that he should have inspected at least the distribution boards. If he had done so, the missing RCCB would have been immediately discovered by him. Since Ng submitted the COF and declared the validity of the SLD to the EMA for the purpose of renewing the electrical installation license for Dawn Shipping but had not verified or checked the validity of the SLD itself, Ng was in breach of paragraph 2.

¹³ DS1 at para 12.

¹⁴ AS1 at para 97.

25 Second, Ng’s contentions relating to double jeopardy, procedural improprieties, the lack of a fair hearing and rules of natural justice were unmeritorious.

26 Ng’s contention that there was double jeopardy was a non-starter. The doctrine of double jeopardy cannot be invoked “when a person is faced with different proceedings which are of a completely different nature (*eg* civil, *contra* criminal, *contra* disciplinary), even if these may arise from the same set of facts” (*Tan Wee Tin and others v Singapore Swimming Club* [2017] SGHCR 21 at [43(c)], citing *Law Society of Singapore v Nathan Edmund* [1998] 2 SLR(R) 905). This is apposite in the present case since Ng’s trial before the State Courts was criminal in nature while the proceedings before the DC was disciplinary in nature.

27 Ng further contended that under s 29(6)(b) of the PEA, the complaint against him ought to have been dismissed and the PEB was not permitted to refer the complaint to an IC in the first place.¹⁵ However, this was based on a misreading of the provision. Section 29(6) of the PEA provides as follows:

(6) On the completion of a review under this section, the Registrar shall —

(a) dismiss the complaint or information, if he finds that the complaint is frivolous, vexatious, misconceived or without merits, or that the information is unsubstantiated;

(b) in a case where the complaint or information relates to the conviction (whether in Singapore or elsewhere) of the registered professional engineer of an offence that —

(i) involves fraud or dishonesty; or

¹⁵ AS1 at paras 135 to 139.

(ii) implies a defect in character which makes the registered professional engineer unfit for his profession,

recommend to the Board to refer the matter to a Disciplinary Committee for a formal inquiry; and

(c) in any other case, recommend the Board to refer the matter to an Investigation Committee for an inquiry.

28 Since Ng’s conviction did not involve fraud or dishonesty or implied a defect in character which made him unfit for his profession, s 29(6)(b) did not apply. However, this did not necessarily mean that the complaint against him ought to have been dismissed. The complaint fell within s 29(6)(c) where the Registrar shall “recommend the Board to refer the matter to an Investigation Committee for an inquiry”. This was precisely what was done.

29 Further, Ng cast aspersions against the PEB’s decision to refer the EMA’s complaint to the DC only 18 months after the IC had made its findings.¹⁶ The crux of his contention was that the time delay suggested that the PEB had been pressured by the EMA to commence disciplinary proceedings contrary to the IC’s recommendation, which he believed had recommended otherwise.¹⁷ I found this quite unwarranted. It was well within the purview of the PEB to “make such other order as the Board thinks fit” including referring the complaint to a DC after it had reviewed the findings and recommendations of the IC under s 31B(1)(c) of the PEA. As the word “recommendations” make clear, the PEB was entitled to disagree with the recommendations of the IC and proceed to make any other order it saw fit.

¹⁶ AS1 at paras 157 to 172.

¹⁷ AS1 at paras 158 to 162.

30 Ng also asserted that the DC had prejudged him and simply relied on the State Court's decision.¹⁸ The prohibition against prejudgment is an aspect of natural justice. The duty to act in accordance with natural justice is consonant with a duty to act fairly and its content varies with the circumstances of each case (see *Kay Swee Pin v Singapore Island Country Club* [2008] 2 SLR(R) 802 at [6]).

31 Ng had not satisfied me that he was denied a fair hearing. It was clear from the Order that the DC applied their mind to the applicability of paragraph 2 of Part II to the Schedule of the PE(CCE) Rules to electrical works and Ng's due diligence on the facts in coming to its decision. The DC could not be said to have denied Ng a fair hearing simply because the DC had regard to the legal duties owed by a LLEW of an electrical installation as set out in the State Court's decision. This did not, *ipso facto*, constitute prejudgment. The State Court's decision on the legal issues raised was final and conclusive unless and until a court of higher jurisdiction overruled it. The DC was correct to take cognisance of the State Court's decision. If Ng disagreed with the State Court's interpretation of the law, he could have appealed against the State Court's decision but did not do so. It would not lie in his mouth to now assert that the rules of natural justice have been breached simply because the DC relied on the State Court's decision.

32 Finally, I did not consider the DC's imposition of a \$7,000.00 penalty manifestly excessive.

33 In the premises, I dismissed Ng's appeal.

¹⁸ AS1 at paras 251 to 252.

34 I fixed costs and disbursements at \$5,000.00 to be paid by the appellant to the respondent.

Chan Seng Onn
Judge of the High Court

The appellant in person;
Chan Tuck Kiang Benedict (Benedict Chan & Company) for the
respondent.
