IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHC 224

Magistrate's Appeal No 9288 of 2016

Between

Ng Chye Huay

… *Appellant*

And

Public Prosecutor

… *Respondent*

GROUNDS OF DECISION

[Criminal Law] – [Statutory Offences] – [Vandalism Act (Cap 341, 1985 Rev Ed)]

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Introduction

1 On a contemporary understanding, the word "vandalism" is commonly associated with defacement, damage or destruction of property. Some 2,000 years ago however, the Germanic Vandals, from whom the word is thought to derive, did more than vandalise—they pillaged, sacked and looted the lands they invaded, which included parts of modern-day Europe and North Africa. The word "vandalism" came into use centuries later to describe intolerable "barbarian" acts of wilful and senseless destruction. Tempting as it is to explore further the fascinating etymology of the word, the central issue in this appeal was rather more prosaic. Essentially, the appeal turned on what an "act of vandalism" means as defined in s 2 of the Vandalism Act (Cap 341, 1985 Rev Ed) ("the VA") and whether offences under s 3 of the VA were consequently made out in the circumstances of this case.

2 The appellant claimed trial to six charges under s 3 of the VA for displaying and hanging on public property placards and banners containing messages about Falun Gong, a form of Chinese spiritual practice, and its practitioners. The alleged offences were committed over six separate dates, namely, 26 September 2013, 13 December 2013, 14 March 2014, 4 April 2014, 29 June 2014 and 18 November 2014. The District Judge found her guilty and convicted her on all six charges. She was fined $2,000 per charge in default two weeks' imprisonment, resulting in a total fine of $12,000 in default 12 weeks' imprisonment.

3 The appellant filed an appeal only against her conviction. The District Judge's findings and reasons for her decision are set out in her grounds of decision in *Public Prosecutor v Ng Chye Huay* [2017] SGDC 41 ("the GD"). After hearing the parties' submissions, I dismissed the appeal and I now set out the grounds for my decision.

The charges

4 The six charges in question were as follows:

> You [...] are charged that you, on the 26th day of September 2013, at or at about 9.02am, at the Esplanade Bridge, located at No. 1 Esplanade Drive (facing the Merlion Park), Singapore, did commit an act of vandalism, *to wit,* by hanging two banners on the railings of the Esplanade Bridge, a public property, by tying the four corners of each banner onto the railings, and which banners contained messages in English and Chinese, including: "The Chinese Communist Party Harvests Organs From Living Falun Gong Practitioners" and "More than 100,000,000 of the Chinese Quit Communist Party", and you have thereby committed an offence punishable under s 3 of the Vandalism Act (Cap 341, 1985 Rev Ed).
>
> You [...] are charged that you, on the 13th day of December 2013, at about 3.53pm, at the overhead bridge across People's Park Complex, located at No.1 Park Road, Singapore, did commit an act of vandalism, *to wit,* by displaying six placards by leaning them against the pillars of the overhead bridge, a

public property, and which placards contained messages in English and Chinese, including: "The respected Singaporean & Chinese People", "Transplant Doctor's Suicide Is Another Piece of Evidence Pointing to the Crime of Live Organ Harvesting", and "Methods Commonly Used to Torture Falun Gong Practitioners", and you have thereby committed an offence punishable under s 3 of the Vandalism Act (Cap 341, 1985 Rev Ed).

You [...] are charged that you, on the 14th day of March 2014, at or about 9.51am, at the Esplanade Bridge, located at No. 1 Esplanade Drive (facing the Merlion Park), Singapore, did commit an act of vandalism, *to wit,* by hanging three banners on the railings of the Esplanade Bridge, a public property, by tying the four corners of each banner onto the railings, and which banners contained messages in English and Chinese, including: "The Chinese Communist Party Harvests Organs From Living Falun Gong Practitioners", "Falun Dafa is Good; Truthfulness Compassion Forbearance Are Good", and "More than 100,000,000 of the Chinese Quit Communist Party", and you have thereby committed an offence punishable under s 3 of the Vandalism Act (Cap 341, 1985 Rev Ed).

You [...] are charged that you, on the 4th day of April 2014, at or about 4.30pm, along the covered walkway between Pearl Centre and People's Park Complex, located along Eu Tong Sen Street, Singapore, did commit an act of vandalism, *to wit,* by displaying three placards on the pillars of the walkway, a public property, by using metal clips to secure the three placards onto the pillars, and which placards contained messages in English and Chinese, including: "The awakening of the Chinese Communist Officials: Quitting all the Organizations of CCP" and "The CCP's History of Tyranny and Killing", and you have thereby committed an offence punishable under s 3 of the Vandalism Act (Cap 341, 1985 Rev Ed).

You [...] are charged that you, on the 29th day of June 2014, at or about 5.46pm, along the covered walkway between Pearl Centre and People's Park Complex, located along Eu Tong Sen Street, Singapore, did commit an act of vandalism, to wit, by displaying 32 placards on the floor and kerb of the walkway, a public property, and which placards contained messages in English and Chinese, including: "FALUN DA FA IS GOOD", "Falun Gong is practiced by over 100 million people around the world", "Falun Gong is practiced in 114 countries", and "The Evil Chinese Communist Party is Panic-stricken in Last Phase of the Age", and you have thereby committed an offence punishable under s 3 of the Vandalism Act (Cap 341, 1985 Rev Ed).

> You [...] are charged that you, on the 18th day of November 2014, at or about 11.00am, at the Esplanade Bridge, located at No. 1 Esplanade Drive (facing the Merlion Park), Singapore, did commit an act of vandalism, to wit, by hanging three banners on the railings of the Esplanade Bridge, a public property, by tying the four corners of each banner onto the railings, and which banners contained messages in English and Chinese, including: "FALUN DAFA IS GOOD" and "Stop the Organ Harvesting From Falun Gong Practitioners In China", and you have thereby committed an offence punishable under s 3 of the Vandalism Act (Cap 341, 1985 Rev Ed).

Background facts

5 The facts of this case are set out in the GD, to which I make reference. I need not reproduce them in detail. The material facts were not disputed. It was common ground that the appellant had, on the six occasions set out above, displayed placards or hung banners on public property with messages in English and Chinese about Falun Gong and the persecution of Falun Gong practitioners. The appellant did not have the written authority of an authorised officer to hang or display her banners and placards on public property.

6 In her defence, the appellant explained her motivation for committing the offences. As a practitioner of Falun Gong, she wanted to promote Falun Gong and to correct what she believed to be widespread public misconceptions about it. She also wanted to speak out against what she perceived to be extensive persecution of Falun Gong practitioners by the Chinese government. To this end, she would frequently travel to different parts of Singapore to hang banners or display placards relating to Falun Gong in public places. She was of the view that she did not require any permits to do so and had not committed any offence, as her banners and placards did not cause any damage to public property. She was at all times present and in close proximity to the banners and placards as they were being displayed or hung. She had personally removed the banners and

placards without assistance from any public authority. She asserted that her actions thus could not amount to acts of vandalism.

The District Judge's decision

7 Having duly considered the evidence adduced and the parties' submissions, the District Judge was satisfied that when the appellant hung her banners on the railings of the Esplanade Bridge and displayed the placards on the overhead bridge across People's Park Complex and the walkway between Pearl Centre and People's Park Complex, she had committed "acts of vandalism" as defined in s 2 of the VA (at [33] of the GD). The District Judge rejected the Defence's submissions and found that there was no requirement for the Prosecution to show any damage or destruction to public property (at [20] of the GD) or to show a *mens rea* of intent to cause disruption to society (at [32] of the GD). She accepted the Prosecution's submission that an "act of vandalism" need not be confined to instances where damage is caused.

8 The appellant was thus found guilty and convicted on all six charges. The key aspects of the submissions below pertained to the question of the interpretation of certain provisions in the VA, and these were similarly raised on appeal.

The appeal

The relevant statutory provisions

9 The primary issue on appeal was whether the appellant had committed "acts of vandalism" as contemplated in s 2 of the VA. Section 2 defines an "act of vandalism" thus:

> **Interpretation**
>
> 2. In this Act —

"act of vandalism" means —

(*a*) without the written authority of an authorised officer or representative of the Government or of the government of any Commonwealth or foreign country or of any statutory body or authority or of any armed force lawfully present in Singapore in the case of public property, or without the written consent of the owner or occupier in the case of private property —

(i) writing, drawing, painting, marking or inscribing on any public property or private property any word, slogan, caricature, drawing, mark, symbol or other thing;

(ii) affixing, posting up or ***displaying on any public property*** or private property any poster, ***placard***, advertisement, bill, notice, paper or other document; or

(iii) ***hanging***, suspending, hoisting, affixing or displaying on or ***from any public property*** or private property any flag, bunting, standard, ***banner*** or the like with any word, slogan, caricature, drawing, mark, symbol or other thing; or

(*b*) stealing, destroying or damaging any public property;

"private property" means movable or immovable property other than public property;

"public property" means movable or immovable property belonging to the Government or to the government of any Commonwealth or foreign country or to any statutory body or authority or to any armed force lawfully present in Singapore.

[emphasis added in bold italics]

10 Section 3 of the VA sets out the penalty for acts of vandalism:

Penalty for acts of vandalism

3. Notwithstanding the provisions of any other written law, any person who commits any act of vandalism or attempts to do any such act or causes any such act to be done shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $2,000 or to imprisonment for a term not exceeding 3 years, and shall also, subject to sections 325(1) and 330(1) of the Criminal Procedure Code 2010, be punished with caning with not less than 3 strokes and not more than 8 strokes:

> Provided that the punishment of caning shall not be imposed on a first conviction under this Act in the case of any act falling within —
>
> > (*a*) paragraph (*a*)(i) of the definition of "act of vandalism" in section 2, if the writing, drawing, mark or inscription is done with pencil, crayon, chalk or other delible substance or thing and not with paint, tar or other indelible substance or thing; or
> >
> > (*b*) paragraph (*a*)(ii) or (iii) of that definition.

Summary of the arguments on appeal

11 The *actus reus* of the offence in s 3 was not disputed to the extent that the appellant did not seek to challenge the District Judge's finding that her acts of "displaying" and "hanging" the placards and banners would fall within a plain reading of s 2 of the VA. The appellant's submissions were premised on the following arguments. First, the etymology of the word "vandal", its usage in common parlance and the Parliamentary Debates during the second reading of the Punishment for Vandalism Bill in 1966 (see *Singapore Parliamentary Debates, Official Report* (26 August 1966) vol 25) ("the 1966 Parliamentary Debates") suggest that vandalism should be associated with conduct that involves deliberate destruction and damage to (public) property. Second, reading s 2 of the VA purposively, and having regard to the 1966 Parliamentary Debates, there is a requirement that the impugned act results in alteration of the property and the need to effect restoration to the original state through the efforts and expense of a third party. Third, proof of *mens rea* of intent (a) to alter the property with some degree of permanence and (b) to cause social disruption is necessary. Finally, the appellant's constitutional rights to free speech and expression under Article 14 of the Constitution of the Republic of Singapore ("the Constitution") and to practise and propagate her religion under Article 15 of the same should not be circumscribed or pared down through the application of an overly-broad interpretation of the VA.

12 A key plank of the appellant's submission was that the requirement that the "vandalised" property be left altered by the offender would comport with the etymological underpinnings of the word "vandalism" and prevent an overly-broad and absurd range of potential application. She pointed to s 9A(4)(a) of the Interpretation Act (Cap 1, 2002 Rev Ed) which recognises the "desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the written law and the purpose or object underlying the written law". The appellant contended that her conduct would not constitute an offence since there was no permanent act of damage or alteration on her part, and no corresponding intent to cause damage or any social disruption. Moreover she had removed the offending items herself on every occasion.

13 The respondent in turn submitted that an offence of vandalism is made out even where there is no damage to property, given that the statutory definition of an "act of vandalism" in s 2 of the VA carries a broader meaning of the word than what may be understood in layman's terms. Damage is only an ingredient of the offence under s 3 if the charge is one under the more serious limb in s 2(*b*) of the VA involving "destroying or damaging any public property", which attracts the more severe punishment of mandatory caning, given that the proviso in s 3 of the VA would not apply. Further, the only *mens rea* requirement for a s 3 offence is to prove intent to commit the prohibited acts in question. There is no requirement for a specific intent to cause social disruption. Finally, the offence of vandalism does not involve a statutory derogation from the right to free expression and thus does not need to be circumscribed in its application. This is because the offence of vandalism under the VA concerns the criminalisation or prohibition of the range of *conduct* that amounts to an act of vandalism, not the *content* of what was said or communicated.

My decision

Meaning of an "act of vandalism"

14 As I intimated at the outset, the word "vandalism" may commonly and intuitively be understood to connote defacement, destruction or damage to property. Nevertheless, a general enquiry into the etymology of the word is neither helpful nor necessary for our purposes. As the respondent rightly pointed out, referring to Oliver Jones, *Bennion on Statutory Interpretation* (LexisNexis, 6th Ed, 2013) (at p 508), while a plain legal meaning should ordinarily be adopted in construing words in a statute, "a meaning is 'plain' only where no relevant interpretative criterion (whether relating to material within or outside the Act or other instrument) points away from that meaning". In other words, the plain meaning must be given, but "*only where there is nothing to modify, alter or qualify it*" [emphasis in original]. In the present case, s 2 of the VA specifies such interpretative criterion, inclusively listing a range of prohibited acts that the VA contemplates as falling within the definition of an "act of vandalism". It is therefore not open to the appellant to impose the plain meaning of the word "vandalism", derived from its etymological origins, in substitution of the clear statutory definition of the same. I note that the acts stated in s 2 of the VA are not necessarily types of conduct which are all capable of being read *ejusdem generis*. For example, stealing, destroying or damaging public property (see s 2(*b*) of the VA) have nothing in common with affixing or displaying a poster, placard, advertisement, bill, notice, paper or other document (see s 2(*a*)(ii) of the VA). But the various forms of conduct may give rise to criminal liability under s 3 of the VA all the same (although the prescribed punishments may be different).

15 It is pertinent also to note that s 9A(4)(*a*) of the Interpretation Act expressly recognises that an ordinary meaning of the text of the provisions

should be one that also takes into account "its context in the written law and the purpose or object underlying the written law". In this regard, the relevant context of the text in the VA cannot be any clearer when s 2 contains specific definitions of what an "act of vandalism" encompasses. The definition may be extensive but the statutory language is clear and unambiguous. It is unnecessary therefore to look elsewhere for a meaning that constrains the express words found in the legislation. As the District Judge correctly observed (at [20] of the GD), there are no such words of limitation or qualification in the VA.

16 I concurred with the District Judge's observations as set out at [20] to [22] of her GD, where she noted that the purpose of the VA is to formulate a scheme of punishment to deter acts of vandalism on public or private property. Section 2 enumerates the acts which Parliament sought to criminalise and punish. The VA does not state that the act of vandalism must have resulted in damage or destruction to property in order to be characterised as an offence. In the District Judge's words (at [20] of the GD):

> … It simply prescribed different types of punishment for different levels of culpability measured by the extent of the damage to the property. If the property is permanently damaged or defaced, it attracts the harsher punishment of caning. Otherwise, a sentence of jail or fine would suffice. The offence itself is not negated by the lack of damage to the property, permanent or otherwise.

Actus reus: alteration, damage or destruction

17 The appellant argued that an interpretation of an "act of vandalism" that imposes a requirement to show some alteration, damage or destruction of property would promote the purpose or object underlying the VA as evident from the 1966 Parliamentary Debates. With respect, as I have explained above at [15], this argument was misconceived as the VA contains no such words of

limitation or qualification. To impose such additional requirements extra-legislatively would be unwarranted and unjustifiable.

18 In any event, the 1966 Parliamentary Debates in fact confirm that Parliament intended from the outset to criminalise a range of conduct which can be said to amount to "defacing public property", even where the conduct does not result in lasting damage or destruction of the property. Mr E W Barker, the then Minister for Law and National Development, explained during the 1966 Parliamentary Debates (at col 300) that the different degrees of alteration to the property vandalised would result in different punishment. For example, caning would not be imposed on first conviction where the act of vandalism comprises drawing or marking with a delible substance (such as chalk) rather than with an indelible substance (such as paint). A person would also not be caned on first conviction for "affixing or displaying posters or hanging or suspending banners". This reinforced the point made earlier in the debate that even "affixing posters and banners on public and private property" would constitute acts of defacement (see 1966 Parliamentary Debates at col 299) which fall within the scope of the VA, even though there is no indication that this would result in alteration, damage or destruction of the property. The reason for not imposing caning on first conviction in such cases is that "posters can be torn off easily enough and banners taken down" (see 1966 Parliamentary Debates at col 300). In other words, the fact that there may be minimal or even no work required to restore the property to its original condition does not go to the question of *liability* (as the appellant argued), but may be relevant in mitigation and sentencing since it reflects a lower degree of harm and culpability.

19 In the present case, the appellant had removed the banners and placards on her own accord but this afforded her no defence to liability for the s 3 charges. It does not prevent her conduct being correctly characterised as "acts

of vandalism" as they fall properly within the spirit and the letter of the law in s 2 of the VA. There may have been no permanent alteration let alone any damage to the properties in question. However, for as long as the items were being displayed, there certainly was "defacement" of the property. The appellant's conduct constituted anti-social behaviour of the type the VA seeks to address. Given that Parliament adopted a calibrated approach to punishment for different acts of vandalism, if any damage had been occasioned by the appellant's acts, those acts could have attracted charges involving "destroying or damaging [of] public property" under s 2(*b*) of the VA, which in turn would have resulted in more severe penalties. The scheme of the provisions is a complete answer to the appellant's assertion that if there is no alteration or damage to the property in question, there can be no "act of vandalism".

Mens rea (I): intent to permanently alter property

20 In a related argument, the appellant submitted that there is an inherent *mens rea* requirement in s 2 of the VA such that the Prosecution must prove an intent to cause some degree of permanent alteration of the property. This alteration would require the intervention of third parties to effect restoration of the property or removal of the items. In the present case, however, the appellant's intent was only to display or hang the items temporarily, and to remove them personally after doing so. This argument is consistent with her view that the *actus reus* of the offence comprises actual alteration, damage or destruction of property. She therefore submitted that it was not Parliament's intention to criminalise such conduct under the VA.

21 With respect, I found this submission completely unmeritorious. As explained at [15] and [17] above, there is no limiting or qualifying language in the relevant provisions, and there is no basis for the courts to impute

requirements for an intent to cause some degree of permanent alteration that would require third party efforts for restoration of the property or removal of the items as additional prerequisites for the offence. Nothing in the 1966 Parliamentary Debates indicated that such requirements were contemplated by Parliament.

Mens rea (II): intent to cause social disruption

22 As an alternative argument, the appellant submitted that there should be a requirement for the Prosecution to prove a *mens rea* element of intent to cause social disruption. The appellant cited *Public Prosecutor v Yue Mun Yew Gary* [2013] 1 SLR 39 ("*Yue Mun Yew Gary*") where Quentin Loh J held (at [23]) that a statutory derogation of the right to free expression under Article 14 of the Constitution are typically circumscribed by a *mens rea* requirement or by a more objective requirement of likely harm to society. The consequence then for the present case, the appellant said, was that there had to be an inherent *mens rea* requirement to show anti-social intent, over and above merely showing an intent to do the prohibited acts enumerated in s 2 of the VA (in this case, hanging or displaying the banners and placards). Otherwise, the *mens rea* requirement would be far-reaching and over-inclusive, leading to absurd outcomes, such as deeming someone who leans his placard against a bench at a bus stop while waiting for the bus to have committed an "act of vandalism".

23 Referring again to the speeches made in Parliament during the 1966 Parliamentary Debates, the appellant maintained that it was clear that s 2 of the VA was created to punish and deter a specific type of "vicious social misdemeanour" perpetrated by people who do not respect community property and who find cruel joy in destroying and damaging public property: see the 1966 Parliamentary Debates at col 295. The appellant cited several case precedents

of vandalism which involved acts of wilful damage to public property such as painting graffiti on public property or painting of harassing words by unlicensed moneylenders. It was argued that the appellant's actions were starkly different and were not intended to cause social disruption. She hung her banners and displayed the placards to educate the man in the street about her beliefs. She placed them in a manner that would not obstruct the use of passageways by pedestrians and she removed all of them at the end of each day.

24 *Yue Mun Yew Gary* involved an offence of incitement to violence under s 267C of the Penal Code (Cap 224, 2008 Rev Ed). In relation to the *mens rea* element of this offence, Loh J observed (at [23]):

> … [S]tatutory derogations from the right to free expression are typically circumscribed either by a *mens rea* element or by a more objective requirement that there is likely harm to society. Section 267C is peculiar in that it contains no limiting mechanism to regulate the ambit of the offence, so that on the face of s 267C even satirical materials or off-hand comments can fall within its ambit.

25 Loh J opined that while s 267C was "conspicuously silent" on the issue of the offender's intention, this did not automatically entail strict liability (at [14]). He found that Parliament could not have intended to criminalise a wide swath of content when the possible potential for harm would probably only arise in certain cases (at [24]). Instead, an offender charged under s 267C must have intended to incite violence and the presumption of *mens rea* ought to apply having regard to the history of this provision, which traces its lineage from the Seditious Publications Ordinance 1915 (SS Ord No 11 of 1915) (at [31]).

26 The District Judge found that s 3 of the VA clearly lacks the usual words and terms associated with *mens rea* (at [30] of the GD). Examining the 1966 Parliamentary Debates, she opined that the mischief which the Bill sought to address was typically the anti-social conduct of those who steal, damage and

deface property, often for "sheer devilment and mischief", and those who flaunt their ideology by painting slogans on bus shelters, telephone booths, bridges and walls or by affixing posters and banners on property. She found no reference to public safety issues being a common and unifying requirement or concern. She further found nothing to suggest, whether expressly or by implication, that s 3 of the VA was intended to create a strict liability offence. The District Judge thus concluded that the presumption of *mens rea* at law was not displaced (at [31] of the GD).

27 She went on to find that the mischief which the VA targets is the occurrence of certain types of anti-social behaviour. Such behaviour might cause, and in most cases is likely to cause, social disruption. But again there is no indication from the relevant material that the intent to do so is a necessary ingredient for the offence under s 3. The offence is complete when one of the acts of vandalism is committed. There is no requirement that the act of vandalism must have resulted in some form of disruption to society. The requisite *mens rea* is thus simply the intent to commit one of the acts of vandalism listed in the definition section of the Act. In this instance, it was the intent to display the placards and to hang the banners. When the appellant placed her banners and the placards at the respective locations, it was with the specific intent to lay them out and exhibit them for all to see and take notice. Indeed, the appellant admitted that she had intentionally hung her banners and displayed her placards in order to preach her ideology to the man in the street. She did not display them inadvertently like a man who leans his placard against a bench at a bus-stop while waiting for the bus (at [32] of the GD).

28 I have set out the District Judge's reasoning and findings above at some length as I am in full agreement with them. All that s 3 of the VA requires is that the Prosecution must prove the *mens rea* of intending to commit one of the

acts of vandalism, and in the present case, this was proved without contest as the appellant admitted to hanging the banners and displaying the placards intentionally.

29 I add for completeness that in any event, I do not accept the appellant's argument that the VA represents an unlawful curtailment of her right to freedom of speech and expression under Article 14 or her right to freedom of religion under Article 15 of the Constitution. This is because the VA, like s 267C of the Penal Code which was considered by Loh J in *Yue Mun Yew Gary* or the offences under the Miscellaneous Offences (Public Order and Nuisance) (Assemblies and Processions) Rules (Cap 184, R 1, 2000 Rev Ed) read with the Miscellaneous Offences (Public Order and Nuisance) Act (Cap 184, 1997 Rev Ed) which were considered by Yong Pung How CJ in *Ng Chye Huay and another v Public Prosecutor* [2006] 1 SLR(R) 157 ("*Ng Chye Huay*"), validly restricts freedom of speech and freedom of religion. As Yong CJ noted in *Ng Chye Huay* (at [44]), Parliament is empowered to legislate restrictions on those rights, which were qualified rather than absolute. The statutory derogations contained in the VA, as interpreted by the District Judge and by this court, are by no means overly broad or expansive, but emanate from the plain terms of the VA that make it unambiguously clear what the provisions are intended to proscribe. Reference to the 1966 Parliamentary Debates provides ample support for and confirmation of the range of acts that fall within the ambit of the VA.

Further submission on appeal – the appellant as an agent of Falun Gong

30 In the appellant's written submissions, she sought leave from the court to rely on an additional ground of appeal that was not stated in her Petition of Appeal. This was her further submission that she did not commit an "act of vandalism" as she was not required to possess any licence or permit from the

Building and Construction Authority to display "signboards". This is because she was acting in her capacity as an agent of the Falun Buddha Society, which is a registered religious society. It was submitted that religious bodies are exempt from the requirement to apply for a licence under the Building Control (Outdoor Advertising) Regulations (Cap 29, Rg 6, 2004 Rev Ed) ("the BC(OA)R") for the display of an outdoor signboard.

31 The respondent objected to the introduction of this submission and pointed out that it was not founded on any evidential material adduced at the trial below. I concurred. Even if it was not disputed that the Falun Buddha Society is a registered society which is recognised as a religious body, the crucial point, as the respondent rightly emphasised, was that there was no evidence whatsoever that the appellant was acting as an agent of the Falun Buddha Society at any time. This would ultimately be a question of fact which was never placed before the trial court as the point was never pursued below. For this reason alone, the respondent's objection was well-founded and would suffice to justify disallowing the further submission.

32 I would add a further observation that while Reg 3(2)(*a*)(i) of the BC(OA)R allows a "religious body" to be exempt from any licensing requirement to display a "signboard", on the facts in the present case, it would appear that the appellant was displaying or hanging placards and banners which were plainly not "signboards" which serve any directional or identification purpose for the Falun Buddha Society. There is no evidence that her placards and banners were meant to identify the location of the Falun Buddha Society as a religious body or organisation or to provide directions to where it may be found in Singapore, having regard to how a "signboard" is defined in Reg 2(1) of the BC(OA)R. The material displayed was, in the appellant's own words, meant to promote awareness of Falun Gong and to correct perceived public

misconceptions about Falun Gong. In addition, she wanted to speak out against what she perceived to be the Chinese government's persecution of Falun Gong practitioners. *Prima facie*, it is manifestly untenable to maintain that the banners and placards which she had hung or displayed could be characterised as "signboards".

33 Based on what was put forward in the written submissions, therefore, I saw no merit in this further submission. I found no reason to think that it would cast any reasonable doubt on the correctness of the District Judge's decision.

Conclusion

34 I was not persuaded that the District Judge's interpretation of the applicable provisions was wrong. It was clear that an "act of vandalism" as defined in the VA would cover the appellant's acts in question. The District Judge had correctly found that the charges were proved beyond reasonable doubt. Accordingly, for the reasons set out above, I dismissed the appeal against conviction. There was no appeal against sentence, and I understand that the fines imposed have been paid in full.

See Kee Oon
Judge

Choo Zheng Xi, Jason Lee Hong Jet and Ng Bin Hong (Peter Low LLC) for the appellant;
Kumaresan Gohulabalan and Dwayne Lum (Attorney-General's Chambers) for the respondent.