Borissik Svetlana v Urban Redevelopment Authority
[2009] SGHC 154

Case Number : OS 116/2009, SUM 734/2009

Decision Date : 02 July 2009

Tribunal/Court : High Court

Coram : Tan Lee Meng J

Counsel Name(s) : Gopalan Raman (G R Law Corporation) for the applicant; Michael Hwang SC (Michael Hwang) for the respondent

Parties : Borissik Svetlana — Urban Redevelopment Authority

Administrative Law – Judicial review – Whether declaratory relief available under O 53 Rules of Court (Cap 322, R 5, 2006 Rev Ed) – Exhaustion of remedies – Whether ministerial bias to be inferred from potential conflict of interest of advisors – Application of judicial review principles to decision of public body concerning land planning and redevelopment in Singapore

2 July 2009

Tan Lee Meng J:

1 The applicant, Mdm Borissik Svetlana, and her husband, Mr Low Eng Pah ("Mr Low"), are joint owners of a semi-detached house, No 2 Jalan Chengam ("No 2"). No 2 is attached to another semi-detached house, No 1A Jalan Chengam ("No 1A"). The applicant, who is dissatisfied with the decision of the Urban Redevelopment Authority ("URA") rejecting the application that she and Mr Low submitted through their architect for the demolition of the semi-detached house standing on No 2 and for its replacement with a detached bungalow, obtained leave on 12 February 2009 to apply for a mandatory order to quash the said decision.

2 After hearing the parties on 3 April 2009, I dismissed the application with costs and now give the reasons for my decision.

Background

3 A "detached house" is defined in the URA's handbook on development control parameters for residential development ("the handbook") as a free standing dwelling unit within a plot of land. Outside the areas designated as "good class bungalow" areas, they should have a minimum plot size of not less than 400m^2 unless the existing lots are already been subdivided with a smaller area.

4 A "semi-detached house" is defined in the handbook as a dwelling house "partially attached on one side to any number of other units, including a semi-detached house, a semi-detached terraced house (also known as a corner terrace) and a back-to-back semi-detached house; or abutting the common boundary as a result of the adjoining unit being demolished or redeveloped into other housing forms". A semi-detached house has a smaller minimum plot size requirement of 200m^2 per plot. This means that a pair of semi-detached houses must stand on at least 400m^2.

5 Before 1996, the URA did not issue any guidelines that dealt specifically with the redevelopment and conversion of semi-detached houses into other forms of housing although the URA had issued a Press Release in 1991, announcing the minimum plot size and plot width requirements of 400m^2 and

10m respectively for a detached house and 200m^2 and 8m respectively for a semi-detached house ("the 1991 guidelines").

6 In 1996, the URA released a circular to professional institutes ("the 1996 guidelines"), which sets out guidelines for semi-detached houses standing on large plots of land to be re-developed into other housing forms, including detached houses provided the new housing form complied with the 1991 guidelines for minimum plot size and plot width. Thus, under the 1996 guidelines, if a semi-detached house ("house A"), which is attached to another semi-detached house ("house B"), stood on at least 400 m^2 of land with a plot width of at least 10m, it could have been knocked down and replaced with a detached house regardless of the size of the land on which house B stood. Such redevelopment of house A would leave house B standing on the boundary line between the two properties.

7 In 2002, restrictions were imposed on the redevelopment of semi-detached houses after the URA received feedback on the houses that broke away from the original pair of semi-detached houses. The URA's key concern was that in some cases, the redevelopment of some semi-detached houses into detached houses left the remaining half of the original pair of semi-detached houses with a lop-sided appearance if the land on which it stood was too small for a detached house to be built on it. The URA's revised guidelines for redevelopment of semi-detached houses were stated as follows in a circular on 25 July 2002 ("the 2002 Circular"):

> A semi-detached house can break away if the adjoining semi-detached house is also capable of redeveloping into a standard detached house under prevailing guidelines. This means that the *adjoining* semi-detached plot *must have a plot size of at least 400 m^2* and a plot width of 10m.
>
> [emphasis added]

8 The 2002 Circular was incorporated into the Development Control Parameters for Residential Development, which is available on the URA Website. In a nutshell, its effect is that no semi-detached house can be converted to a detached house unless *both* that semi-detached house and the house to which it is attached each stand on at least 400m^2 of land.

9 At this juncture, the history of the redevelopment of No 1A, the semi-detached house to which No 2 is attached, must be mentioned. Long before the 2002 circular was issued by the URA, No 1A and the present No 1 were part of the same parcel of land ("the original No 1") which had a plot size of around 653m^2. On 14 October 1992, the owners of the original No 1 applied for and received written permission to reconstruct their existing single storey semi-detached house into a two-storey semi-detached house and to erect a two-storey detached house on the said land. For this purpose, the original No 1 was subdivided into No 1A, which had a plot size of 244.51m^2, and the present No 1, which had a plot size of 408.47m^2. The new semi-detached house stood on No 1A whereas the new detached bungalow was built on the present No 1.

10 On 2 December 1995, the then owner of No 2, Mr Sathivelu Suppiah, who claimed that he had a "linked bungalow", complained that No 1A did not have a setback from his house and that this affected his privacy. However, he was informed by the URA that approval for the construction of the semi-detached house at No 1A was given on the basis that the development had previously been approved as a semi-detached house and not as a linked bungalow. He was assured that no windows had been approved at the boundary line as such windows would affect his privacy.

11 Long after the redevelopment of the original No 1 and several years after the issuance of the 2002 Circular, the applicant purchased No 2 in 2007. The requisitions in relation to the purchase of the property clearly showed that the applicant was buying a semi-detached house.

12 On 19 November 2007, the applicant's husband, Mr Low, applied through his architect, CSL Architects, to the URA for planning permission to redevelop No 2 ("the redevelopment plan"). The redevelopment plan was entitled "Proposed Erection of a 2-storey Detached Dwelling House with a Basement, an attic and a swimming pool… at 2 Jalan Chengam."

13 If the redevelopment plan had been approved, the link between the applicant's semi-detached house and the semi-detached house on No 1A would have been severed, leaving the house at No 1A unattached to any other property. Although the applicant's land met the minimum plot size for a detached house as it is around 419 m^2, the development proposal ran afoul of the requirement in the 2002 circular that the house to which No 2 is attached, namely No 1A, which is only 244.5m^2, must also have a plot size of at least 400m^2. If the development plans were approved, No 1A would become the type of lop-sided semi-detached house that the 2002 circular was drafted to prevent. Mr Low's architect was advised by the URA on 13 December 2007 that the proposal to build a detached house on No 2 could not be supported as it had "deviated from the planning intention [or] guidelines". The architect was advised to submit a revised proposal for a semi-detached house within 6 months from 13 December 2007 and to amend the project title to "Proposed Erection of a 2-storey Semi-Detached House". The URA further stated that if the revised proposed was not submitted by 13 June 2008, it would be deemed as withdrawn and there would be no refund of the processing fee paid for the application for planning permission. A copy of this advice was forwarded to Mr Low and the applicant as owners of No 2.

14 Neither Mr Low nor his architect responded to the URA's advice for 3 months, after which Mr Low and his counsel, Mr G Raman, exchanged letters with the URA. On 9 April 2008, Mr Raman, requested the URA to review its decision. He pointed out that the URA had approved the redevelopment of No 1 Jalan Chengam ("No 1") and No 3 Jalan Chengam and there was no reason why a detached bungalow could not be constructed on his client's land as its size was 419.3m^2.

15 On 21 April 2008, the URA replied as follows:

> 2 We would like to clarify that we cannot support your proposal to redevelop the existing semi-detached house into a detached house because your proposal involves a breakaway from the adjoining semi-detached house. To qualify for the breaking away, not only must your site have a plot size of 400m^2 with plot width of 10m, the adjoining semi-detached house must also have a site area of 400m^2 and plot width of 10m so that it is capable of redevelopment into a standard detached house as well. This redevelopment criteria involving breaking away of semi-detached house is stated in URA's circular dated 25 Jul 2002. A copy of the circular is attached for your reference.
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> 3 No 1A Jalan Chengam, with a plot size of 244.5m^2 cannot redevelop into a detached house. Allowing your site to breakaway from this property will result in a creation of a permanent blank wall and a half semi-detached house in the neighbourhood which is not desirable. Hence, we are unable to support your request to breakaway from the adjoining semi-detached house.

4 We would also like to take this opportunity to clarify that the redevelopment of No 3 Jalan Chengam was approved as it satisfied the criteria for breaking away into a detached house. No 1 and 1A were approved prior to 2002 where it satisfied the prevailing guidelines then for redevelopment.

16 The URA extended a number of invitations to the applicant and her husband to meet its officers to discuss ways to help them to move forward with their development plans, but they insisted on building a detached bungalow on No 2 and appealed to the Member of Parliament for Ang Mo Kio GRC, Mr Inderjit Singh.

17 As neither the Architect nor Mr Low submitted a revised proposal for a semi-detached house on No 2, the proposal to redevelop the said property was treated as withdrawn on 13 June 2008.

18 On 19 August 2008, the URA informed Mr Raman that his client may redesign and rebuild her existing semi-detached house such that "the abutment with the adjoining semi-detached house be confined to just the car porch and a room at the 1st or 2nd storey." However, the applicant chose to apply for judicial review of the URA's decision.

Whether the Application should be allowed

19 The application before the court was brought under O 53 of the Rules of Court and concerns judicial review of the decision of the URA. As such, it is surprising that the applicant has also sought a declaration and a number of orders that are outside the ambit of judicial review by the courts.

20 To begin with, the applicant should not have applied for a declaration that the approval granted for the redevelopment of the original No 1 Jalan Chengam is against the planning policy and principles of the URA ("the declaration") because the courts are not empowered to grant a declaratory order with respect to applications brought under O 53 of the Rules of Court: see *Ung Yoke Hooi v AG* [2008] SGHC 139.

21 Secondly, the applicant should not have applied for a mandatory order that the URA unconditionally approves her redevelopment plan and refund the processing fee. In *R v Justices of Kingston* 86 LTR 589, Channel J stressed that it is important that it be thoroughly understood that the court does not by mandamus direct any public body or anybody else upon whom a duty is cast "how and in what manner they are to perform their duty". This view was endorsed by FA Chua J in *Re San Development Co's Application* [1969-1971] SLR 561.

22 Thirdly, the applicant should not have applied for damages to be assessed as this is clearly outside the ambit of judicial review by the courts.

23 When the ambit of an application under O 53 of the Rules of Court was outlined at the hearing on 3 April 2009, the applicant's counsel, Mr G Raman, informed the court that the only relief sought by his client was an order to quash the URA's decision to reject the redevelopment plan for No 2. As such, the rest of this judgment will only concern this quashing order sought by the applicant.

(1) Exhaustion of remedies

24 The URA submitted that the application for a quashing order should be dismissed on the ground that the applicant had not exhausted all her remedies before coming to court.

25 As a general rule, a person seeking judicial review of a decision by a public body must exhaust all alternative remedies before invoking the jurisdiction of the court for judicial review. The position is stated in *Singapore Civil Procedure 2007*, Thomson Sweet & Maxwell, Singapore at 53/8/13 as follows:

> The courts will not normally grant public law remedies if the applicant has not exhausted alternative remedies available to him. (*R v Epping and Harlow General Commissioners, ex p Goldstraw* [1983] 3 All ER 257, CA "…it is the cardinal principle that save in the most exceptional circumstances that jurisdiction will not be exercised where other remedies were available and have not been used"…… *R v Secretary of State for the Home Department ex parte Swati* [1986] 1 WLR at 485 …. CA, "… where Parliament provides an appeal procedure, judicial review will have no place unless the applicant can distinguish his case from the type of case for which the appeal procedure was provided.)

26 Section 22 of the Planning Act (Cap 232, 1998, Rev Ed) provides as follows:

> (1) Where an application for written permission under section 13 is -
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> (a) refused by the competent authority;
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> (b) granted by the competent authority subject to condition; or
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> (c) granted provisional permission under section 17 by the competent authority subject to conditions;
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> the applicant who is aggrieved by that decision may appeal to the Minister against that decision.
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> (2) An appeal shall be made in the form and manner prescribed and within 60 days of the date of the notification of the decision.
>
> (3) Where an appeal is brought under this section against a decision of the competent authority, the Minister may dismiss or allow the appeal unconditionally or subject to such conditions as he considers fit….
>
> (7) *The decision of the Minister shall be final and shall not be challenged or questioned in any court*.
>
> [emphasis added]

27 It is common ground that the applicant did not appeal to the Minister against the decision of the URA within 60 days from 13 December 2007.

28 The URA rightly argued that it is improper for the applicant to circumvent the process of appeal to the Minister as s 22(7) of the Planning Act provides that any decision of the Minister "shall not be challenged or questioned in any court". The modern approach towards provisions such as those in s 22(7) of the Act was stated as follows by *De Smith's Judicial Review*, Sweet & Maxwell 2007, 6th ed ("*De Smith*") at 4-05 as follows:

In situations where the jurisdiction of the courts is ousted or limited, the courts now take account not the concept of jurisdictional error, but a number of practical matters. These include the need in the circumstances for legal certainty and the need for finality on which the affected person may rely; the degree of expertise of the decision-making body; the esoteric nature of the traditions or legal provisions decided by the decision-making body; and the extent to which interrelated questions of law, fact and degree are best decided by the body which hears the evidence at first hand, rather than the courts on judicial review. In particular, account will be taken as to whether there has been previous appropriate opportunity for the claimant to challenge the relevant decision. The House of Lords considered whether the validity of a decision by the Secretary of State for Social Security on the question of a maintenance assessment under the Child Support Act 1995 could be challenged in a magistrates' court. Section 33(4) of the Act provides that "the court …. shall not question the maintenance assessment". It was held that since the Secretary of State's decision could be challenged by way of appeal to an appeal tribunal, the scheme "provided an effective means to challenge the Secretary of State's decision: "Given the existence of this statutory right of review and appeal, it would be surprising and undesirable if the magistrate's court were to have parallel jurisdiction to adjudicate upon the same question." In other cases where challenge to the courts is precluded but challenge to an appropriate tribunal is provided, the courts have upheld the preclusive clause on the ground that the statutory scheme provides "proportionate and adequate protection to the rights of the litigant".

29 The URA's counsel, Mr Michael Hwang SC, rightly pointed out that the ouster clause in s 22(7) of the Planning Act shows that the legislature intended that the courts should not interfere with issues of planning permission as these involve interrelated considerations of fact, law degree and policy, which are better dealt with by an appeal procedure to the Minister. The applicant had no proper reason for not appealing to the Minister, who is empowered to grant the remedies sought by her. Her counsel, Mr Raman, said that she feared that the Minister would be advised by the people who had rejected her proposal and she implied that she would not get a fair hearing. It was also pointed out that the Chief Executive Officer of the URA was concurrently the Deputy Secretary of Special Duties. However, as was made clear in *Re Wong Sin Yee* [2007] SGHC 147, the issue is not whether the person advising the Minister is biased but whether the Minister is biased. There was not a shred of evidence that had the applicant appealed, the Minister would not have acted impartially or that her appeal would not be treated fairly.

30 More alarmingly, the applicant took the position that she was not prepared to appeal to the Minister because s 22(7) of the Planning Act provides that the Minister's decision shall be final and shall not be challenged or questioned in any court. This is certainly not a valid reason for failing to appeal to the Minister, who is required to accord her a fair hearing. It follows that the application must be dismissed on the ground that the applicant had failed to exhaust her remedies before coming to court.

(2) Whether the URA's decision was procedurally improper, illegal or irrational

31 Even if the question of exhaustion of remedies is left aside for the moment, the application for judicial review did not rest on solid ground. The issue before the court was whether URA's decision was illegal, procedurally wrong or irrational in the sense outlined in *Associated Provincial Picture Houses v Wednesbury Corporation* [1948] KB 223 ("*Wednesbury*").

32 The question of procedural impropriety does not arise as Mr Low had ample opportunities to state his case. After receiving Mr Low's application to redevelop No 2, the URA deliberated on the application and gave the reasons for its decision to reject the redevelopment plan. Mr Low was given 6 months to resubmit an amended redevelopment proposal. He was also guided on the amendments required to his development plans for approval to be given to him. Furthermore, the URA invited him to meet its officers to discuss the redevelopment plans. In short, Mr Low was not prevented from airing his views, which were given due consideration by the URA.

33 As for the question of bad faith, in *Teng Fuh Holdings Pte Ltd v Collector of Land Revenue* [2007] 2 SLR 568, the Court of Appeal made it clear that mere suspicion is not sufficient to establish bad faith and that there must be sufficient evidence that establishes a prima facie case of reasonable suspicion of bad faith. In the present case, there was no evidence that the URA had acted in bad faith.

34 As far as legality is concerned, in *Council of Civil Service Unions v Minister for the Civil Service* [1985] AC 374 ("the *GCHQ* case"), Lord Diplock explained at p 410 that when considering "illegality" as a ground for judicial review, what is meant is that the "decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it". In the present case, the URA is empowered to decide whether applications for planning permission should be approved under s 12 of the Planning Act. There is no evidence that the URA had taken into account any extraneous objective when it rejected the development proposal.

35 The applicant complained of a breach of Article 12 of the Constitution, which provides that all persons are equal before the law and entitled to the equal protection of the law. This complaint cannot be taken seriously. The redevelopment of semi-detached houses into detached houses has been applied to everyone since 2002. Furthermore, the 2002 guidelines on redevelopment of semi-detached houses provide an intelligible differentia based on the plot size of the adjoining semi-detached house being larger or smaller than 400 m^2. This basis of classification has a rational nexus to the object of the Planning Act.

36 The applicant pointed out that she should be allowed to replace the existing housing unit at No 2 with a detached house because a number of semi-detached houses at Jalan Chengam had already been allowed to be redeveloped into detached houses. However, the other cases referred to by her are clearly distinguishable from her case. In regard to No 3 Jalan Chengam, which received approval for such redevelopment in early 2009, it has a plot size of 432.8m^2 and the semi-detached house to which it was attached, namely No 4 Jalan Chengam, stands on 446.3m^2 of land. Similarly, the semi-detached house at No 7 Jalan Chengam and the house to which it was attached, namely No 8 Jalan Chengam, have plot sizes of 487 m^2 and 500.7 m^2 respectively. As such, the rejection of the applicant's development proposal does not involve any violation of Article 12 of the Constitution.

37 As for the question of irrationality, in the *GCHQ* case, Lord Diplock said at p 410 as follows:

> By "irrationality" I mean what can by now be succinctly referred to as "Wednesbury unreasonableness" (see *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223). It applies to a decision which is so outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it.

38 In the present case, the URA's duty is to decide whether applications for planning permission should be approved under s 12 of the Planning Act, which is, according to its long title, an "Act to

provide for the planning and improvement of Singapore and for the imposition of development charges on the development of land and for purposes connected therewith". It is thus only to be expected that the URA will develop its planning policies and guidelines over time and amend them as and when required.

39 While an administrative body vested with a statutory discretion is entitled to formulate policies, it must not fetter its discretion by blindly applying a guideline. In *Lines International Holding (S) Pte Ltd v Singapore Tourist Promotion Board* [1997] 2 SLR 584, Judith Prakash J explained the position as follows at [78] :

> The cases show that the adoption of a general policy by a body exercising an administrative discretion is perfectly valid provided that:
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> (i) the policy is not unreasonable in the special sense given to the term in *Associated Provincial Picture Houses v Wednesbury Corporation* [1948] 1 KB 176 ….
>
> (ii) In considering unreasonableness in the *Wednesbury* sense, the courts are not entitled to substitute their views of how the discretion should be exercised with that actually taken : see *Chan Hiang Leng Colin v PP* [1944] 3 SLR 662 nor is unreasonableness established if the courts merely come to the view that such a policy or guideline may not work effectively as another since the courts are not exercising an appellate function in respect of administrative decisions… and the burden of proving that the policy or guideline is illegal or ultra vires is on the plaintiffs ….
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> (iii) They are made known to the persons so affected; and
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> (iv) [The decision maker does not fetter] its discretion in the future and is prepared to hear out individual cases or is prepared to deal with exceptional cases ….

40 The above paragraph was approved by the Court of Appeal in *City Developments v Chief Assessor* [2008] SGCA 29.

41 I do not accept the applicant's assertion that the URA had not been transparent in its processing of the redevelopment plan or had not given her case genuine consideration. The evidence is that in rejecting the development proposal, the URA had thoroughly considered the issues at hand and had not fettered its discretion. The URA had studied the planning approval granted in 1956 for the estate in which the applicant's property is situated and the basis for approving the sub-division of the original No 1 Jalan Chengam into No 1 and No 1A. After genuinely considering the applicant's plan to detach her semi-detached house from that now standing on No 1A Jalan Chengam, the URA had explained that approval of the applicant's redevelopment proposal would result in one single semi-detached house sandwiched in between 2 bungalow lots of at least 400 m^2 and would create a near permanent anomaly in the planning of the Jalan Chengam area, which will be difficult to correct. It is also noteworthy that the URA had extended several invitations to the applicant to discuss the development proposal and see what else can be done in the particular circumstances of this case.

42 All that the applicant could offer as evidence of "irrationality" was that the redevelopment plans were not approved by the URA. It can never be overstated that judicial review is concerned with the legality of the URA's decision and not with the merits of the decision itself. In *Chief Constable of North Wales Police v Evans* [1982] 3 All ER 141, Lord Brightman reiterated at p 154 that judicial review

"is concerned not with the decision, but with the decision-making process" and that unless this restriction on the court's power is observed, the court will "under the guise of preventing the abuse of power, be itself guilty of usurping power".

43 Lord Brightman's view was endorsed in *Mohan Singh v AG* [1987] SGHC 31 by Lai Kew Chai J, who stated at [30] as follows:

> The scope of judicial review does not extend to this court purporting to act in an appellate capacity and assessing the sufficiency of the evidence before the Minister for Home Affairs. He had acted within his jurisdiction and it is plainly not for this court to substitute its views on what should be the effect of the evidence before him.

44 In essence, the applicant wanted to set the clock back for No 1A and No 1, claiming that had the original No 1 not been sub-divided in 1993 and retained its size of around 652 m^2, she would have been able to build a detached house on No 2. In her affidavit in support of the application, she went so far as to claim that she is entitled to an order that the semi-detached house standing on No 1A should be torn down. Apart from the fact that the owner of No 1A is not a party to the present proceedings, an order for the tearing down of No 1A is not a type of relief to be sought in judicial review proceedings.

45 I have no doubt whatsoever that the decision of the URA is not unreasonable or irrational in the *Wednesbury* sense.

Legitimate expectation

46 Finally, the applicant's claim that she had a legitimate expectation that the proposal to redevelop No 2 would be approved will be considered.

47 The question of a legitimate expectation was considered by the House of Lords in *Council of Civil Service Unions v Minister for Civil Service* [1985] AC 374, where Lord Fraser said as follows at p 401:

> [E]ven if a person claiming some benefit or privilege has no legal right, as a matter of private law, he may have a legitimate expectation of receiving the benefit or privilege, and if so, the courts will protect his expectation by judicial review as a matter of public law…. legitimate or reasonable expectation may arise wither from an express promise given on behalf of a public authority or from the existence of a regular practice which the claimant can reasonably expect to continue.

48 Lord Fraser's approach was adopted in *Re Seah Mooi Guat* [1988] SLR 726.

4 9 *De Smith* lists four conditions for the creation of a legitimate expectation, namely that the expectation must be:

(i) clear, unambiguous and devoid of relevant qualification;

(ii) induced by the conduct of the decision maker;

(iii) made by a person with actual or ostensible authority; and

(iv) applicable to the applicants, who belong to the class of persons to whom the representation is reasonably expected to apply.

50 In the present case, the applicant could not point to any promise made to her by a person with actual or ostensible authority to justify any legitimate expectation of the sort claimed by her. She also did not establish that the URA's officers had conducted themselves in a way that could have led her to have a legitimate expectation that her redevelop plans would be approved.

51 The applicant's assertion in her affidavit at [11] that "hardship has been caused not only to the present owners of No 2 but all future owners of this house, No 2", this adds nothing to her case. The URA's Deputy Director of Development Control (East) Department, Mr Adrian Patrick Lim Ban Whatt, aptly stated in his affidavit at [83] that if the applicant has not conducted proper checks on present guidelines herself, she cannot assume that the Competent Authority will allow No 2 to be redeveloped as a detached house and then claim that she has suffered hardship when her own assumption turned out to be wrong.

52 As the applicant purchased her property in 2007, she obviously could not rely on a former policy that had been changed many years ago in 2002. That public bodies must be allowed to change their policies is undoubted. In *R v North and East Devon Health Authority ex p Coughlan* [2001] QB 213, Lord Woolf, who delivered the judgment of the English Court of Appeal, explained at [65] that the court's task is "not to impede executive activity but to reconcile the continuing need to initiate or respond to change with the legitimate interests or expectations of citizens or strangers who have relied, and have been justified in relying, on a current policy or an extant promise". In short, after the 2002 circular was issued, the legitimate expectation of all semi-detached homeowners in 2007 must be that the URA would act in accordance with existing guidelines, namely those issued in 2002 unless the circumstances are such that an exception has to be made.

53 Before concluding, it ought to be noted that while advancing her claim that she had a legitimate expectation when she clearly had none, the applicant had no regard whatsoever for the legitimate expectation of her neighbour at No 1A. She suggested in her affidavit that No 1A ought to be torn down so that she can build a detached house on her own land. Surely, the owner of No 1A has a legitimate expectation that his semi-detached house, having been approved by the authorities in 1993, would not be torn down to suit the building plans of the new owners of No 2, who had purchased their property many years after the 2002 guidelines on conversion of semi-detached houses into detached houses had been announced.

Conclusion

54 For the reasons stated, the application was dismissed with costs.