

Pre-Workshop 'Cheat Sheet'

Workshop:	Nuts & Bolts of Property Ownership, Managing ABSD Exposure and Inheritance Planning
When:	25 February 2022
Speaker:	Patrick Tan, CEO & Founder of Fortis Law Corporation
Moderator:	Allen Lim, Vice-President of AEPA
Produced by:	Publications Committee of AEPA based on publicly available resources

About the Workshop

Having a roof over one's head is a fundamental need of every human being. Singaporeans have satisfied this need with home ownership at nearly 90%ⁱ. Beyond owning just a family home, nearly 3 in 10 Singaporeans have at least 2 homesⁱⁱ. Property is the most significant asset where on average, over 42% of a Singaporean's assets is in propertyⁱⁱⁱ.

Cooling measures were imposed on 16 December 2021 with ABSD raised among other things^{iv}.

Types of Buyers		Rates from 6 Jul 2018 to 15 Dec 2021	Rates on or after 16 Dec 2021
Singapore Citizens	Buying first residential property	0%	0% (No change)
	Buying second residential property	12%	17% (Revised ↑)
	Buying third & subsequent residential property	15%	25% (Revised ↑)
Permanent Residents	Buying first residential property	5%	5% (No change)
	Buying second residential property	15%	25% (Revised ↑)
	Buying third & subsequent residential property	15%	30% (Revised ↑)
Foreigners	Buying any residential property	20%	30% (Revised ↑)
Entities	Buying any residential property	25% ¹ <small>(Plus additional 5% for Housing Developers² (non-remittable)³)</small>	35% ¹ <small>(Plus additional 5% for Housing Developers² (non-remittable)³)</small>

In this workshop, Private Client lawyer Patrick Tan will share and discuss 8 real-life case studies. Here is some backdrop information and some questions the speaker may look at.

Case Study #1 – Best Friend Dies Suddenly Without Mortgage Insurance^v

CK, aged 39 and single, passed away suddenly due to a heart attack. He had a \$1M condo with mortgage of

\$600K. He did not have a Will. He was survived by his elderly parents who were bus drivers.

1. Who inherited the condo?
2. Were his parents liable for the mortgage loan?
3. Shouldn't all mortgages be backed by insurance?

Case Study #2 – Elderly Spouse of Deceased Loses Right to Live in HDB Family Home^{vi}

Roger passed away without a Will in 2002 leaving behind his wife and 3 sons. He was the sole owner of an HDB flat while his wife was the occupier.

1. Can his wife inherit the home fully?
2. What rights does she have as occupier?
3. Can her sons insist on selling the home, and cause her to be 'homeless'?

Case Study #3 - Vicki Zhao's Husband Buys \$28M Penthouse on Trust^{vii}

To mitigate ABSD, he made their 10-year old daughter April Huang the beneficial owner of a luxury penthouse in Orchard Road.

1. If he changes his mind, can he take back the home?
2. When does April get the home fully? Can it be, say, when she turns 35?
3. Can the penthouse be sold meanwhile?
4. What if April passes away before she becomes the legal owner?

Case Study #4 – How Can a Child Inherit a Property?^{viii}

Jolene was the sole survivor of a 2008 Muar car crash in which her parents and siblings were killed. Her parents didn't have a will and left behind movables and a Simei condo.

Pre-Workshop 'Cheat Sheet'

1. Who are the beneficiaries of the estate?
2. Who can be her guardian?
3. Who can be the administrator and trustee of the estate?
4. How can the assets be safeguarded and used for Jolene's benefit?
5. When can Jolene receive the assets fully?

Case Study #5 – Can One Will Away a Joint Tenancy Property?^{ix}

Lucky Tan and Mdm Lee owned a semi-detached home in joint tenancy. When he died in January 1995, it was discovered that his Will gave his share of the joint tenancy to NKF.

1. Can a joint tenancy be willed away?
2. How can a joint tenancy be severed? Can it be done through the will?
3. What if Mdm Lee had paid for most of the home?
4. If the gift to NKF is successful, could Mdm Lee be kicked out of her family home?

Case Study #6 - Woman Loses Claim to Home Purchased Based on Oral Agreement^x

Susan Yeow provided funds to her friend Ramasamy to purchase a home in his sole name. They had an oral agreement that she was entitled to a 73% share of the \$1.7M home based on an oral agreement.

1. Are oral agreements between parties recognised in the purchase of properties?

ⁱ <https://www.singstat.gov.sg/find-data/search-by-theme/households/households/latest-data>

ⁱⁱ <https://sbr.com.sg/residential-property/news/nearly-3-in-10-singaporeans-own-more-one-house>

ⁱⁱⁱ <https://blog.seedly.sg/singapore-households-invest-portfolio/>

^{iv} [https://www.iras.gov.sg/taxes/stamp-duty/for-property/buying-or-acquiring-property/additional-buyer's-stamp-duty-\(absd\)](https://www.iras.gov.sg/taxes/stamp-duty/for-property/buying-or-acquiring-property/additional-buyer's-stamp-duty-(absd))

^v From the speaker's own experience.

^{vi} From the speaker's own experience.

^{vii} "Vicki Zhao's Husband Spent S\$28mil on a Two-Storey Luxury Penthouse Near Orchard Road," TodayOnline, 13 May 2020.

2. What recourse can one have if there was no formal written agreement?
3. Can financial contributions be considered as earning towards equity in the home?

Case Study #7 - Singaporean Buys Restricted Landed Properties for 3 Foreigners in her Name^{xi}

She was supposed to purchase the properties and transfer the properties to the foreigners when they become citizens in the future.

1. Why is this disallowed?
2. Can foreigners buy restricted property?
3. Are such practices difficult or easy to detect?

Case Study #8 - Implications of a Home Owned by a Company^{xii}

The home of our first Prime Minister Lee Kuan Yew, 38 Oxley Road, is owned by a company called 38 Oxley Road Pte Ltd.

1. Why own a property through a company rather than through individual names?
2. Who is empowered to make decisions regarding the home including transferring and selling?
3. What tax and stamp duties are payable when the shares of the company are transferred or sold?

Note: Members can access pre- and post-workshop notes by logging in at www.aepa.asia.

^{viii} "Relatives to set up trust fund for miracle survivor," Straits Times, 2 April 2008.

^{ix} "Madam Lee: 'I paid for this house with my sweat'", Straits Times, 29 April 1996.

^x "Woman loses claim to 73% share in \$1.7M house on appeal," Straits Times, 31 January 2022.

^{xi} "Woman admits flouting law by buying landed properties for 3 foreigners under her name," Straits Times, 14 December 2021.

^{xii} Based on Singapore Titles Automated Registration System report dated 18 June 2017 provided by Singapore Land Authority.